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Introduction by Samuel Moyn

**James Loeffler. *Rooted Cosmopolitans: Jews and Human Rights in the Twentieth Century*.** New Haven: Yale University Press, 2018. ISBN: 9780300217247 (hardcover, \$32.50).

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### Introduction by Samuel Moyn, Yale University

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James Loeffler's *Rooted Cosmopolitans* is one of the most important books that has recently appeared in modern Jewish studies and the history of human rights. In luminous prose and on the basis of stunning research, Loeffler's magisterial treatment returns to the central decades of the twentieth century to chronicle through the trajectories of five Jewish lives (Hersch Lauterpacht, Maurice Perlzweig, Jacob Robinson, Jacob Blaustein, and Peter Benenson) how human rights rose and fell as a mode of Jewish internationalism—and changed the way people thought about the role of morality in global affairs.

A first section of Loeffler's book examines the origins of Jewish participation in the embrace of international human rights in the 1940s, which is conventionally symbolized by the United Nations' passage of the Universal Declaration of Human Rights on December 10, 1948. Among his notable achievements, Loeffler bridges the divide often inserted between the 'minority rights' pursued by Jews in the international system before 1945, and the human rights announced after World War II.

Loeffler then proceeds to an excellent investigation of what 'human rights' meant and what political function they played for Jews of that storied period, with special insight into American Jewish organizations. How did the Universal Declaration fit, Loeffler reasonably asks, with the rise of Zionism, especially given that the United Nations helped pave the road to its success in the creation of a 'Jewish state' through a resolution passed only a year before the universal declaration of rights?

Finally, Loeffler examines how so many Jews subsequently lost faith in human rights as a slogan for themselves and universal justice alike, and came to perceive the movement that crystallized around human rights as an adversary of the Jewish people. Throughout, Loeffler is most attentive to the ways in which universalistic causes continued to incarnate, or mask, a continuing particularistic solidarity and for many even counted as one form of national self-expression. It is a major and provocative achievement.

Welcoming the book, Michael Barnett dwells on the compatibility between group and individual rights that Loeffler's narrative stresses, or even views as identical in their historical forms. In response, Barnett wonders if Loeffler's claims need to be keyed to the variety of Jews from East to West. For East European Jews, the quest for group rights may have been primary, with individual rights a potentially unfaithful translation of the cause. For Jews further west who experienced a 'weakening' Jewish identity or were more oriented to an individualist liberalism, by contrast, group rights could be synonymous with individual rights—if perhaps only on the condition that the latter came first.

In his commentary, however, Evgeny Finkel emphasizes that it may have been only by dint of their common East European origins that Loeffler's five innovators could have prioritized human rights at all. Even Peter Benenson—Amnesty International's founder whose trajectory is one of those Loeffler so beautifully reconstructs—was in some sense an 'outsider' as a child of immigrants, though he turned to the Christian religion along the way. Finkel also wonders, far more broadly, why it was Jews rather than other outsiders who did so much to vault human rights to international significance.

Finally, after inquiring about Loeffler's selection of individuals to chronicle and pondering the relation of group and individual rights herself, Janice Stein intelligently asks what the meaning of Loeffler's study is against the backdrop of current upheaval. It is, after all, a time when new American president Donald Trump has stigmatized those foreign to the 'American nation,' and Israeli Prime Minister Benjamin Netanyahu has

exacerbated his country's historic occupation – and embraced illiberal leaders like Hungary's Victor Orban – in the name of the pursuit of a homeland to protect the human rights of the members of some nations but not others. All told, Stein's review caps a rich discussion of an indispensable book.

**Participants:**

**James Loeffler** is Jay Berkowitz Professor of Jewish History at the University of Virginia. His publications include *Rooted Cosmopolitans: Jews and Human Rights in the Twentieth Century* (Yale University Press, 2018) and *The Law of Strangers: Jewish Lawyers and International Law in Historical Perspective* (Cambridge University Press, 2019). He is currently at work on a book about Raphael Lemkin and the future of the UN Genocide Convention.

**Samuel Moyn** is Henry R. Luce Professor of Jurisprudence and Professor of History at Yale University. His most recent book is *Not Enough: Human Rights in an Unequal World* (Harvard University Press, 2018). He is currently working on a project on the origins of endless and humane American warfare.

**Michael Barnett** is University Professor of International Relations and Political Science at George Washington University. His most recent book is *The Star and the Stripes: A History of the Foreign Policies of American Jews* (Princeton University Press, 2016). He is currently writing on subjects ranging from global governance to humanitarianism and human rights to atonement and historical change in world affairs.

**Evgeny Finkel** is an Associate Professor of International Affairs, Johns Hopkins University School of Advanced International Studies. He is the author of *Ordinary Jews: Choice and Survival during the Holocaust* (Princeton University Press, 2017), which analyzes how Soviet and Polish Jews chose their survival strategies under the Nazi occupation. His articles have appeared in the *American Political Science Review*, *Comparative Political Studies*, *Comparative Politics*, *East European Politics and Societies*, *Democratization*, and several other journals.

**Janice Gross Stein** is the Belzberg Professor of Conflict Management in the Department of Political Science and the Founding Director of the Munk School of Global Affairs and Public Policy at the University of Toronto. Her most recent publications are "The Micro-Foundations of International Relations: Psychology and Behavioral Economics," in *International Organization* 71 (2017) and "Loss Avoidance and Negotiation Outcomes: Understanding the End Game," forthcoming 2019. She is an Honorary Foreign Member of the American Academy of Arts and Science.

### Review by Michael Barnett, The George Washington University

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James Loeffler's engaging, smartly written, and erudite *Jews and Human Rights in the Twentieth Century* is a major contribution to two different areas of scholarship and debate – the history of human rights and Jewish internationalism. Jewish internationalism concerns how the transnational Jewish community has organized to protect Jews in danger and champion its values. Much of this work has focused on the nineteenth century, but Loeffler extends this story to capture its twentieth-century vernaculars. The other area is the history of human rights. There are various debates regarding when human rights began and who deserves credit for putting them on the global agenda. Loeffler makes a strong case for the role of Jews. The relationship between the Jews and international human rights is known in bits and pieces, but Loeffler puts these together to make the case that Jewish voices made singular contributions along the way. Students of human rights know most of the individuals showcased in his book, but their Jewish identity can no longer be seen as an afterthought – because it was central to how and why each contributed to the development of the idea and institutions of international human rights. By connecting Jewish internationalism and international human rights, Loeffler shows how human rights shaped Jewish politics and internationalism and how Jews contributed to the very shape of international human rights.

Loeffler organizes the book around five leading Jewish thinkers and doers, situating them in the historical times that shaped their understanding of human rights and the challenges they faced as they attempted to move rights from the realm of imagination to the realm of politics. Many Jewish personalities make cameos in the book, but the five stars are: Hersch Lauterpacht, who was born in Poland at the turn of the century, became a leading scholar of international law at Cambridge University, and influenced the crafting of several major international human rights statements; Maurice Perle, a British Zionist leader who established one of the first human rights nongovernmental organizations at the United Nations; Jacob Robinson, who was born in Lithuania and became a leading thinker and activist on minority rights; Jacob Blaustein, an American Jew who made his fortune in the oil business and then became head of the American Jewish Committee and a champion for human rights principles in American foreign policy; and Peter Benenson, a Jew who converted to Catholicism and who founded Amnesty International. Some are better known and made a greater impact than others, namely Lauterpacht and Benenson, but each is used as a window into the Jewish relationship to human rights. There are some Jews that are not on the list that might have been, including most famously the philosopher and political theorist Hannah Arendt and the French jurist Rene Cassin, but part of the charm of the book is that it reaches beyond the usual suspects and elevates some important but neglected voices. The historical narrative stops in the 1970s and with Amnesty International, but it does not take too much imagination on the part of the reader to imagine how the story continues (but never ends).

Any Jew who wanted to promote human rights had to contend with two contending discourses. The first, fairly well known, is state sovereignty. States are protective of their authority and have historically resisted any and all efforts to limit it. And this is precisely what international human rights intends to do. Discourses of human rights challenge the notion that the state's authority is absolute: it does not give them a license to kill, to intrude on the fundamental liberties of citizens and others, or to curtail basic human freedoms. What distinguishes human rights from international human rights is the idea that individuals can make claims on the 'international' and the 'international' has a voice and role to play in disseminating, establishing, monitoring, and enforcing human rights. It is hardly surprising, then, that state officials see human rights as an intrusion on their authority and treat sovereignty and human rights as having a zero-sum relationship. Human rights activists have to convince states that this is not so, or bring to bear pressure from more powerful, human rights-oriented, states to change their mind.

Jews who wanted to promote international human rights had to contend not only with state officials but also with other Jewish intellectuals and leaders who worried that human rights would weaken the Jewish community. In short, human rights, at least the liberal version, elevated the individual over the group. The idea of human rights suggests that rights are inherent to individuals and can be used to liberate them from those structural forces that might subordinate them to the group or community. Community standards, religious dogma, and tradition, for instance, cannot and should not be used to subordinate women; and their continued dominance cannot be defended in the name of the group. It also suggests that we owe duties not to other groups and communities but rather to other humans. When told about the pogroms in Russia, Rosa Luxemburg, the famous Jewish radical theorist and activist, retorted: “What do I want with these special Jewish pains?” She cared as much if not more for the victims of wretched working conditions in plantations and the “blacks of Africa with whose bodies the Europeans play ball.... I have no special corner in my heart for the ghetto.”<sup>1</sup>

Group rights are more complicated. Unlike the individual who can be located within the shell of the body, the group and its boundaries are harder to determine. The Jews are often used to illustrate this very problem. Are Jews defined by race, religion, a sense of shared history, or ethnic heritage? Different Jews will have different answers to these questions. And so, too, will anti-Semites. Group rights serve a function like human rights in that they are supposed to help protect the basic survival and self-determination of the group. To survive, the group needs physical security; this is why we have such things as the genocide convention. Groups also need to be able to maintain a sense of self, which is often tied to history, culture, and religion; this is why attempting to destroy another group’s cultural artifacts, and especially those that are considered sacred, can qualify as a crime against humanity. But what else does a group need in order to maintain a sense of sense and self-determination? Different groups will answer this question in different ways. And even members of the same group will debate what is critical and peripheral to their group identity.

These differences between human rights and groups rights have produced a heated debate in Jewish politics, and continue to do so. And, as I argue elsewhere, these tensions between universalism and particularism were not randomly distributed but rather were central to debates between Western and Eastern Jews regarding whether human or group rights should get priority among the Jewish people.<sup>2</sup> Residing in increasingly liberal states with a constitutional separation between religion and the state, Western Jews embraced human rights and were prepared to turn themselves into part of the civic nation and relegate Judaism to the private. Western Jews abandoned their native tongue for the national language, organized themselves around a secular, Christian time, and happily had their children instructed in public schools. Human rights meant that Jews would be treated just like any other citizens, and their normalization would be instrumental to their security. In short, the question for Jewish survival depended on their integration into a relatively inclusive body politic.

For Eastern Jews who were residing in increasingly chauvinistic and anti-Semitic states, human rights provided no such possible refuge. In response to these increasingly dire times, many Jews immigrated to the West and others turned to cosmopolitan movements such as socialism. Other Eastern Jews, as Loeffler

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<sup>1</sup> The quote can be found at Stephen Eric Bronner, *Rosa Luxemburg: A Revolutionary For Our Times* (University Park: Pennsylvania State University, 2010), 112.

<sup>2</sup> Michael Barnett, *The Star and the Stripes: A History of the Foreign Policies of American Jews* (Princeton: Princeton University Press, 2016).

chronicles, turned to forms of group rights, such as minority rights and, increasingly to Jewish self-determination and Zionism. For those who advanced group and minority rights, they advocated for the right to use Yiddish, follow a Judaic calendar, and maintain autonomy from the government on issues such as education. In their defense of Jewish rights and autonomy, Jewish intellectuals and leaders would cite: the dynamics of group survival; popular ‘each-to-its-own’ beliefs; convictions that because non-Jews were never going to help Jews (in fact, they are the cause of Jewish suffering), Jews must be prepared to act; and, as Hannah Arendt famously explained, ‘if one is attacked as a Jew, one must defend oneself as a Jew.’

These tensions between human rights and group rights, and between human rights and state sovereignty, could be reasonably managed by Jewish leaders as long as the Jews did not have a sovereign state. The ‘Jewish establishment’ in the West wanted to avoid any such tension either by opposing Zionism or by insisting that Jews and Arabs would have equal rights and equally constitute a new Jewish homeland in Palestine. This was all part of Zionist politics prior to the establishment of the state. But these kinds of tensions entered a new chapter with the creation of a Jewish state. Western Jews toned down their concern for the rights of minorities in Israel, either ignoring the challenges or sweeping them under the rug of national security; the debates between human and group rights thus fell to wayside. Post-1967, though, these tensions increasingly defined the landscape for two reasons. One obvious reason was the Israeli occupation of the territories and the question of the rights of the occupants. And the more concern there was for the occupied population, the more attention was drawn to the unequal rights of Israeli Arabs. The other reason, though not discussed by Loeffler, is the tension between human rights as applied to individuals and group rights as defined by religious authorities. Israel is a Jewish state, which means that the communal identity, one that is based on Judaism, has to exist somehow in relationship to individual rights. And if they cannot co-exist, then one has to trump the other.

These kinds of tensions play out against a growing international human rights regime. Loeffler traces the striking shift from an international human rights regime that was partially created by Jews for Jewish security to an international human rights regime that both increasingly ignores Jewish suffering and anti-Semitism and treats Israel as a major human rights violator. After World War Two, and because of the Holocaust, the Jew became the symbol of global suffering and cosmopolitanism. Israel was supposed to take care of some if not all of this suffering, but nevertheless ‘the Jew’ remained central to the politics of human rights. This began to change in the 1960s and especially after 1967. Loeffler’s chapters on the Swastika epidemic in the late 1950s and early 1960s and Amnesty International’s complicated relationship with Israel are fascinating in this regard. In the case of the former, anti-Semitism was devoured by the discourse of racism (and anti-colonialism). In terms of the latter, Amnesty International (and other human rights organizations) begin to investigate Israel’s treatment of the Palestinians. For many Jews who are staunch defenders of Israel, human rights became the enemy, a cudgel used by opponents of Israel and anti-Semites.

I want to conclude with three observations that I think are borne out by the book. The first is that the weaker the Jewish identity, the less tension is felt between human and group rights. This seems true for the American Jews discussed by Loeffler. It also seems particularly true of Peter Benenson, a Jew who converted to Catholicism. Loeffler counts Benenson as a Jew. Whether he is justified in doing so, of course, depends on some prior conceptualization of the category of ‘Jew.’ Leaving aside whether he passes my eyeball test, Benenson himself, according to Loeffler, did not see himself as Jewish but rather as Catholic. But if we worry less about where Benenson fits into our binary of Jew/non-Jew and think about him as having a weak Jewish identity, then it is no wonder that he is the figure in the book that appears to feel the least tension between human and group rights – the human trumps the group.

The second is that Jewish embrace of human rights is somewhat instrumental. Yes, there are ways to link contemporary human rights to Jewish texts. But there also are ways to link these same texts to the idea of ‘the chosen people,’ illiberalism, and a religious state. If some Jews gravitated toward human rights, and then found Jewish justifications for them, this might have been based on religiosity but it also might be because they believed that human rights were the best path forward for Jewish survival. Once Jewish survival became more assured in the 1970s because of the rise to political power of American Jews and Israel’s status as a regional superpower, then human rights becomes less useful. I am in agreement with Loeffler that the campaign to free the Soviet Jews had very little to do with human rights. American Jews were not organizing to defend the principle of freedom of movement – instead, they were asking for special favors for Jews because they were Jews. And American Jews had something better than the idea of human rights to use in the fight for Soviet Jews – they had American power. The divorce between organized Jewry and human rights is not a simple story of human rights turning against Jews, but also about Jews no longer needing human rights for their survival.

The third is whether the book is a testimony to the contribution of Jews to international human rights or the variation in Jewish politics over how to balance the relationship between human and group rights (I am using ‘rights’ in the broadest sense possible). For the American Jews there is no real tension – human and group rights, particularism and universalism, can exist in harmony. For those who believe that human rights threaten the group, such as Orthodox Jews, or those who believe that Jewish survival and security are under threat, then group rights deserve priority, or at least far greater attention. Either way, the five personalities under review all represent distinct ways of thinking about how to balance human and Jewish rights. Of all the intellectuals in *Rooted Cosmopolitans*, which one best captures the current moment? This is a difficult question, but my sense is that it is the one who gets the least amount of tension – Hannah Arendt. I do not see her as offering any solutions, but I do see her as confronting the tensions between the Jewish people, on the one hand, and human rights and state sovereignty, on the other, in ways that resonate with the current debate.

Review by Evgeny Finkel, Johns Hopkins University

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David Ben Gurion, Israel's first Prime Minister and founding father once famously remarked that what really matters is not what "the Gentiles say, but what the Jews do." "Um-shmum" (UN-Nothing),<sup>1</sup> he quipped derisively on a different occasion. These two quotations seem to perfectly encapsulate our contemporary understanding of the relationship between Zionism, the State of Israel, Jewish national rights, and international human rights concepts and organizations. At best, the conventional story goes, Jewish rights, Zionism, and universal human rights do not mesh together. At worst, they clash and are incompatible with each other. James Loeffler's *Rooted Cosmopolitans* is a very important work that challenges this conventional wisdom by presenting the forgotten Jewish, often Zionist, origins of the modern human rights ideas, concepts, institutions, and organizations.

Human rights, argues Loeffler, "did not spring fully formed from the foreheads of diplomats" shaken by the horrors of the Holocaust. They were largely a product of "a global network of Jewish activists deeply enmeshed in the central dramas of European and American Jewish communal life" (xii-xiii). *Rooted Cosmopolitans* centers on five key members of this group: Hersch Lauterpacht, a Cambridge University international law professor; Jacob Robinson, a lawyer and a former member of the Lithuanian parliament; Maurice Perlzweig, a prominent British rabbi; Jacob Blaustein, a Baltimore-based businessman and a major Democratic Party donor; and Peter Benenson, the founder of Amnesty International. By focusing on the lives and human rights activism of these individuals the book makes a number of important arguments.

First, Loeffler convincingly demonstrates the interwar-era, rather than post-Holocaust, origins of modern human rights. The most counterintuitive, intriguing yet unfortunately underdeveloped component of this interwar origin story is the crucial role played by Weimar Germany in promoting minority rights during the 1920s and early 1930s. The second, even more important argument rediscovers the close linkage between Jewish national activism, Zionism, and universal human rights. The discussion of this linkage inevitably leads Loeffler to confront the bitter truth: legal rights not backed by the political power of a state were and are meaningless (114). Yet at the same time Jewish statehood also could not ensure the collective and individual rights of Jews in the Diaspora. Starting with the 1960s era of decolonization "Jewish rights seemed to be in direct contradiction to human rights" (260).

And hence, ultimately, *Rooted Cosmopolitans* is a story of how lofty ideals were defeated by the crude, cynical political realities of the Westphalian international system, Cold War alliances, and the actions of the Israeli state. But this defeat does not make the book any less important both as an example of first-rate scholarship and as a lesson from which to learn.

Illuminating and innovative though it is, the book nonetheless leaves a number of key questions unanswered. The first question is the biggest one: *why Jews?* What explains the *Jewish* effort to establish and promote human rights that Loeffler so masterfully rescues from oblivion? An obvious answer might be the twin experiences of statelessness and persecution, which for centuries had been the key pillars of Jewish existence.

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<sup>1</sup> "Um" is Hebrew for the UN. Emanuel Adler, "Israel's Unsettled Relations with the World: Causes and Consequences," in Adler, ed., *Israel in the World: Legitimacy and Exceptionalism* (London: Routledge, 2012), 1; Avi Shlaim, "Conflicting Approaches to Israel's Relations with the Arabs: Ben Gurion and Sharett, 1953-1956," *Middle East Journal* 37:2 (1983), 183.

Yet Jews were not the only persecuted and stateless group out there. The Armenians, for instance, were also stateless and experienced a genocide during WWI. Yet Armenian lawyers and community activists were not among the key leaders of the universal human rights movement in the first half of the twentieth century. So does the explanation lie in Judaism and Jewishness as such, rather than simply a history of persecution and statelessness, or in the interaction between the two?

The first unanswered question leads to the second one. The individuals Loeffler focuses on are undeniably Jewish by birth, but what remains largely unexplored is the *content* of their understanding of Jewishness and Judaism. In other words, is there something unique about how these people understood their Jewish identity that drove their human rights activism? Admittedly, the book does briefly address this issue, for instance by discussing Perlzweig's move from Orthodox to Reform Judaism. Yet ironically it is only Benenson, the convert from Judaism to Catholicism, whose identity and beliefs are analyzed in-depth. The same goes for ideology. Zionism means different things to different people at different times. For the 1920s Robinson, "Zionism, minority rights, Lithuanian independence and European democracy—all went hand in hand" (42). But then minority rights crumbled, European democracy failed, and Lithuanian independence disappeared altogether. Unfortunately, Loeffler does not tell us much about how Robinson, Lauterpacht, Perlzweig or young Benenson understood the *content* of their Zionist ideology and beliefs, how these understandings evolved and what it meant for their human rights work.

The third question is *why these specific Jews?* The book never fully outlines the 'case selection' process and why the focus is on these five personalities. More specifically, the rationale for focusing on Lauterpacht, Robinson, Perlzweig and Blaustein is obvious, as these four individuals were contemporaries and were involved as allies, interlocutors, or adversaries in very same campaigns and debates. Yet the inclusion of Benenson raises as many questions as it answers. A member of a later generation who left Judaism and converted to Catholicism, Benenson was not involved in the debates and campaigns that preoccupied the other four main characters of *Rooted Cosmopolitans*. When Benenson became involved with human rights he also faced a very different international reality and by and large did not have to grapple with the predicament of Jewish statelessness in his human rights activism. Benenson's story is extremely useful for demonstrating how and when the divergence between Zionism and the global human rights movement came about, yet it has rather little to offer to the book's key focus on the Jewish origins of human rights as ideas, concepts, and international legal documents. Even more puzzling than the inclusion of Benenson is the exclusion of Raphael Lemkin, the Polish-American lawyer of Jewish origin who coined the term 'genocide' and was the driving force behind the UN Convention on the Prevention and Punishment of the Crime of Genocide. Demographically and biographically Lemkin was quite similar to Lauterpacht, Robinson, and Perlzweig, undoubtedly more so than Benenson. However, with the exception of a handful of references, Lemkin's name is barely mentioned in the book and the reader is left to wonder why this is the case. Does Loeffler see a fundamental distinction between the crime of genocide and human rights? There is no shortage of recent biographies of Lemkin, including a book that puts his and Lauterpacht's lives and work side by side, which may have made Lemkin's inclusion less necessary.<sup>2</sup> Unfortunately, Loeffler does not offer a clear explanation of his inclusion and exclusion decisions.

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<sup>2</sup> Douglas Irvin-Erickson, *Raphaël Lemkin and the Concept of Genocide* (Philadelphia: University of Pennsylvania Press, 2016); Dominik J. Schaller, and Jürgen Zimmerer, eds., *The Origins of Genocide: Raphael Lemkin as a Historian of Mass Violence* (New York: Routledge, 2009); Philippe Sands, *East West Street* (London: Weidenfeld & Nicolson, 2017).

Why these specific Jews? Loeffler presents five historical figures who were undeniably crucial for the development of human rights ideas, concepts, and doctrines. Then what, if anything, do these five prominent human beings have in common that led them to become so interested in human rights in the first place? Loeffler's answer is that it was the very basic fact of their Jewish ethnicity and origin (and the baggage that comes with such an origin). At first glance, besides their gender, this is the only thing that Lauterpacht, Robinson, Perlzweig, Blaustein, and Benenson all share. It is not even their Jewish identity, as Benenson left Judaism for another religion. These five people came from different socio-economic backgrounds, were not all lawyers and legal scholars by training, and were bitterly divided when it came to the questions of Jewish nationalism and Zionism.

But there is another common characteristic that Loeffler presents mainly as a biographical detail rather than as a potential explanation. All these five figures (with a partial exception of Benenson) were *Ostjuden*, East European Jews in Western societies, immigrants (Lauterpacht, Robinson, and Perlzweig) or children of immigrants (Benenson and Blaustein). Among the established Jewish elites of their host societies these people were largely outsiders and even Benenson's Eton education only partially mitigated his outsider status. It is instructive that there are no *bona fide* Western Jews on Loeffler's list and it is possible that this double outsider status affected the interest in human rights of all five men.

These open questions are not meant to diminish the importance or novelty of *Rooted Cosmopolitans*. As Loeffler writes in the book's last sentence, the "gift [of human rights] lives on waiting to be rediscovered, reopened, and reimagined" (301). One can only hope that the still-unanswered questions will convince Loeffler and other scholar to do some more reopening and rediscovering for the benefit of us all.

### Review by Janice Stein, University of Toronto

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This book is mistitled. It is not a story about Jews and human rights, but a story of Jews and international human rights. The difference between the two matters. Human rights, which some believe are universal across culture and space, are legislated by states and guaranteed by domestic courts. Although broadly inspired by shared traditions and common values, human rights as lived experience by citizens are fundamentally a sovereign project.

Not so international human rights, which are nested in international treaties, laws, and conventions. They can at times be in direct conflict with state sovereignty. When states abuse their citizens, violate their rights, persecute their minorities, those who defend international human rights want something amorphous and vague that we have come to call ‘the international community’ to intervene and persuade or compel sovereign states to meet their obligations under international law. Unlike national governments, however, international institutions have little power to enforce human rights.

This is the story that James Loeffler tells in his elegant and compelling history of five Jews—Hersch Lauterpacht, Maurice Perlzweig, Jacob Robinson, Jacob Blaustein, and Peter Benenson—who, in their very different ways, led the struggle for international human rights in the mid-twentieth century. Lauterpacht wrote preliminary drafts of the International Bill of Human Rights, Blaustein first infused ‘human rights’ into U.S. foreign policy, Perlzweig created the first human rights international non-governmental organization at the League of Nations, Robinson played a consequential role in designing the UN Commission on Human Rights and the Nuremberg trials, and Peter Benenson went beyond international institutions to found Amnesty International and root international human rights in global civic action.

The stories of each of these five, as they engaged with each other over the years from 1920 to 1970, are very different, but there are two common threads. First, they are all Jewish men, who seem to have had a consequential effect on the development of international human rights. The question jumps off the page: why Jewish and why men? Do they mirror the trajectory of human rights in the first half of the twentieth century or do they reflect how diaspora Jews thought about human rights? Second, we can locate all these stories along a spectrum that is bounded at one end by individual human rights and at the other by collective or group rights. Why, during these fifty years, did the dialogue between individual and collective rights develop the way it did? What about the world pushes the conversation to one or the other end of the spectrum?

It is interesting that Loeffler chose five Jewish men, each of whom made a significant contribution to the development of international human rights. These kinds of choices—who is in and who is out of a biography of human rights in the mid-twentieth century—are always the decision of an individual historian. Here the choices seem to be crafted to tell the story of Jews who, as Michael Barnett explains in his *The Star and the Stripes: A History of the Foreign Policies of American Jews*, sought to solve the ‘Jewish question.’<sup>1</sup> These five men all struggled with the fate of Jews, individually or collectively, after World War I. Some saw the solution in the embedding of universal human rights in international institutions and others emphasized the protection of minority rights, but they were all apprehensive about the safety of Jews in post-war Europe. This is then at

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<sup>1</sup> Michael Barnett, *The Star and the Stripes: A History of the Foreign Policies of American Jews* (Princeton: Princeton University Press, 2016).

least partly ‘an elephant and a Jew’ story, an orthogonal tale about the evolution of human rights from the perspective of Jews who sensed the fragility of Jews in Europe and worried about their future.

Even then, the choice puzzles a little bit. Why leave out Hannah Arendt? She was among the most influential philosophers and writers of her time. Her Judaism was fundamental to her work, culminating in the publication of her *Eichmann in Jerusalem*, an unequivocal defense of universal human rights. She began as a deeply rooted cosmopolitan but as the years went by, increasingly left her roots behind. Her thinking traces the story that Loeffler is telling of the tension between collective and individual rights. Arendt makes several cameo appearances in Loeffler’s history as he tracks her evolution from articulating a close connection between roots and rights to an unqualified defense of universal values. It is perhaps reflective of these fifty years of history that women are still relegated to cameo roles in both Jewish history and the history of human rights.

The central story Loeffler tells is one of the complementarities and contradictions between individual human and group rights, as expressed in international treaties and organizations. The title of the book says it all. It is, of course, a riff on the traditional anti-Semitic trope of ‘rootless cosmopolitan,’ the kind of trope that we have heard again most recently in the relentless attack by the government of Viktor Orban on the philanthropist and activist George Soros. The Prime Minister of Hungary uses ‘cosmopolitan’ as an insult. Loeffler does not. The Jews that he writes about are cosmopolitans in the best sense of the word, people who embraced universal values. That was Hannah Arendt at the end of her life. But these are not just universalists; other than Benenson, they were deeply ‘rooted’ in their Jewish experience. The challenge for Loeffler is first to explain how the Jewish experience in Eastern Europe at the turn of the century shaped their commitment to human rights and how these men resolved the contradictions between the individual and the collective, their rootedness, and their embrace of universal values.

He succeeds only in part, for many reasons. First and most apparent, there are real tensions between individual and group rights, tensions that require constant rebalancing of one or the other category of rights as the environment evolves. Modern Canada, for example, has continuously adjusted the rights of the French-speaking nation and of its indigenous peoples in the broader constitutional context that also guarantees the individual rights of all Canadians. Canadian judges have repeatedly asserted that one right does not trump another and must always be interpreted in context.

The challenge was much greater for these Jewish thinkers as modern Zionism developed and the State of Israel was created. For the first time in two thousand years, Jews who lived as a minority in someone else’s majority state had to grapple with the presence of a Jewish state and with the challenges of statecraft. ‘Minority rights,’ code here for the protection of Jewish minorities in European states that had weak or non-existent liberal democratic traditions, were a fundamental concern for some of the men who are central to the story Loeffler tells.

Jews were not the only minority that needed protection in Europe, but they were front and centre for those Jews who led the fight for international human rights. Another curious omission from Loeffler’s book is Rafael Lemkin, who was instrumental in the creation of the Convention on Genocide. Lemkin, more than any other Jewish leader that Loeffler writes about, fought for minority protection within the broader framework of group rights.

Some of the others wished away any contradiction between individual and group rights, and having persuaded themselves that the two were wholly compatible, sallied forth to battle for human rights convinced that they could achieve both. Their willful naiveté, laced with idealism from the 1920s to the 1950s, is almost painful to read about. Only as it became obvious that they had failed utterly to secure international protection of group rights did they acknowledge—grimly—that international human rights rode on the back of state power. Even the great liberal democracies sacrificed the rights of minorities to achieve national interests.

Jewish leaders in the United States abandoned the language of international human rights when the protection of the Jewish minority in the Soviet Union became an issue in the 1970s. Clear-eyed realists now, they aligned themselves with America's national interests and urged American lawmakers to facilitate the emigration of Jews from the Soviet Union within the larger context of the Cold War. They now had little in common with Hersch Lauterpacht. Loeffler's epilogue makes for sober reading, a footnote to those disillusioned by their own failure.

There is one more important omission in Loeffler's history of Jews and the promotion of international human rights. *Rooted Cosmopolitans* can be read as the story of Jews from Eastern Europe who were deeply worried about the future of the Jewish minority and turned to the universal language of rights to solve the particular problem of the protection of their own community. Some, like Hannah Arendt and Peter Benenson, a Jew who converted to Catholicism, found salvation only in the universal, or as Stephen Hopgood calls it in *The Endtimes of Human Rights*, the "church of human rights."<sup>2</sup> Others, like Perlzweig, held that the protection of minorities was wholly compatible with universal human rights.

There was a third group of Jews from Eastern Europe, who are given no voice at all in Loeffler's story. These are, of course, the Zionists who saw salvation for Jews only in the creation of their own state. Deeply sceptical at the outset of what international treaties and international institutions could do, they insisted that only an independent state could provide refuge for Jews who would live within its borders and protection for those Jews who lived as minorities elsewhere. They left Europe, in which they had lost all hope, and moved to Palestine to build a state for the Jews. Israel's first Prime Minister, David Ben Gurion, and his colleagues believed in a democratic state for Jews that would protect the minority Arab population that lived within its borders, but in the first eighteen years of Israel's history, governed this population through a military administration. Hardly the stuff of minority rights. Ze'ev Jabotinsky, born in Odessa, and other Revisionist colleagues, had no faith whatsoever that liberal democracies would protect the Jewish minorities in Europe; indeed, Jabotinsky predicted something like the Holocaust. For them, the only solution was a Jewish state that trumped minority rights.

Histories are read when they are written, and readers infuse history with meaning they bring with them from the times in which they live. Defenders of human rights, living in the context of the Donald Trump presidency, look back with understandable longing to the period Loeffler describes. Reading Loeffler's book today is like an out-of-body experience as the United States, led by a populist president, abandons entirely the promotion of human rights and targets its own minorities. Those who hoped for the protection of minorities through international human rights conventions and laws have had their hope washed away by Srebrenica, Rwanda, and everything that has followed. Those who proclaim the universality of human rights today seem

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<sup>2</sup> Stephen Hopgood, *The Endtimes of Human Rights* (Ithaca: Cornell University Press, 2013), 24.

like voices in the wilderness as western liberal democratic states, propelled by populist surges, become increasingly xenophobic and committed to the promotion of 'national' values.

Jewish readers, especially those living in liberal democracies, bring an added layer of complexity. Defenders of human rights but concerned also with the protection of Jewish minorities wherever they are at risk, the heirs to the Jews that Loeffler describes are torn. They too mourn the failure of international human rights regimes to protect the weak and the vulnerable, but take comfort from the existence of Israel as a place of refuge for persecuted Jewish communities. It may well be, even the most liberal concede, that the Jewish sceptics of international human rights who are nowhere in Loeffler's story are those whom history has vindicated, at least for the moment. Those who made a big bet on the creation of a state to protect Jews were right; the state has indeed provided refuge for Jewish minorities from around the world when they needed protection.

That hope was sustainable as long as it was uncomplicated. For diaspora Jews in liberal democracies, Israel needed to be both a place of refuge and a democratic state that protected the rights of its minorities. That hope has become increasingly difficult to sustain after fifty years of occupation that has relentlessly narrowed Palestinian rights. Even the mandate to fight anti-Semitism around the world on behalf of Jewish communities seems at risk. The dissonance was jarring when Prime Minister Benjamin Netanyahu welcomed Viktor Orban to Israel. It is, after all, the Prime Minister of Hungary who celebrates 'illiberal democracy' and openly uses anti-Semitic tropes. It is no wonder that readers and reviewers alike look back with nostalgia to the golden age that Loeffler describes. Nostalgia, unfortunately, is a poor interpreter of the past and an even poorer guide to the future.

Author's Response by James Loeffler, University of Virginia

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I am grateful to Tom Maddux and Diane Labrosse for organizing this H-Diplo symposium, and I thank Michael Barnett, Evgeny Finkel, and Janice Stein for their generous, probing responses, and Samuel Moyn for his thoughtful introduction.

The modern international human rights movement accords Jews a special place in its common origins story as a key inspiration for the post-World War II human rights boom. Yet it rarely considers Jewish politics as part of its own history. Without that political context, I argue in *Rooted Cosmopolitans: Jews and Human Rights in the Twentieth Century*, we cannot properly understand how human rights went from a Western philosophical ideal to international law over the course of the twentieth century. Nor can we properly reconstruct the relationship between the Holocaust, decolonization, and the emergence of a global discourse of human rights.

To retrieve that Jewish political context, I structure *Rooted Cosmopolitans* around five individuals whose intersecting lives reveal the heavy imprint of Jewish politics on their human rights work. Evgeny Finkel approves of my empirical claim that these transnational Jewish activists fulfilled a crucial, under-appreciated role in the interwar “origins of modern human rights.” But he is still unsatisfied by my account of what part *Jewishness* played in spurring their activism. Why, he asks, have I chosen these specific five men, and what can the contents of their Jewish identities explain about their internationalist commitments? Beyond the shared experience of “persecution and statelessness,” what was specifically *Jewish* in these Jewish visions of human rights?

Before discussing what was present, we should first stipulate what was absent: the religion of Judaism. In striking contrast to the Christian human rights traditions chronicled in Moyn’s work, these Jewish progenitors of human rights did not source their ethical commitments in theology.<sup>1</sup> Indeed, they make conspicuously few references to rabbinic precepts or biblical prophecy. Even when they did invoke Judaism, as in the obvious case of Maurice Perzlweig, a practicing rabbi, it was as an historical model for current-day secular politics rather than an ethical inspiration or divine obligation deriving from rabbinic law. Despite first appearances, Peter Benenson fits this pattern as well. A Catholic convert, he nevertheless rejected the core features of Catholic dogma, including natural law and baptism. He also rejected his Jewish roots as parochial tribalism, and disputed the idea put forward by his *Amnesty International* colleagues that Jewish religious ethics had any influence on his thinking.

What, then, inspired this burst of Jewish moral idealism? It is tempting to ascribe it to some deep-rooted Jewish passion for this-world justice. But such a vague construction risks essentialism. More to the point, the Jewish pursuit of global justice could and did lead equally in many other directions, including toward revolutionary Marxism, which dispensed completely with rights and international law as bourgeois fictions. We might also speculate about the persistence of the Jewish political tradition of seeking vertical alliances with royal authorities, the highest realm of power in both Christian and Muslim societies. For millennia, diaspora Jews sought legal protection from princes, kings, and emperors against formal religious discrimination and

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<sup>1</sup> Samuel Moyn, *Christian Human Rights* (Philadelphia: University of Pennsylvania Press, 2015).

popular violence.<sup>2</sup> In an early twentieth-century world of crumbling empires and rising nation-states, it made sense for Jews to seek out new protection in international law as a supranational form of political authority, or what Perlzweig called “the sovereignty of a higher law.”<sup>3</sup> But this vision of the world ordered by law turns out to have been the endpoint, not the beginning, for Jewish international rights-discourse. When I looked across the spectrum of Jewish human rights activism, I found time and again that the common starting point for rethinking the world in legal terms was an engagement with the ideas and ideologies of Zionism.

Not all Jewish human rights activists were Zionists, by any stretch. One of the reasons I chose these five individuals was precisely to highlight the diversity of Jewish political identities and attitudes inside the very same activist network. But Zionism mattered for all of them in terms of how they thought about international rights-protection. That claim is rooted in an under-appreciated aspect of Zionist politics before 1948. Zionist leaders early on recognized the underlying conceptual link between national self-determination and international minority rights in the World War I era. Even as they seized on international law’s potential to amplify the power of Jewish rights-claims to territory in Palestine, Zionist legal thinkers insisted that diaspora Jews should be treated like a single global nation with a public legal personality and collective rights. In doing so, they shaped the basic logic of Jewish legal internationalism.<sup>4</sup>

Hence whatever else it may have been or subsequently became, interwar Zionism functioned as a creative intellectual force, sparking the Jewish imagination of international human rights—and framing the terms of the debate. It not only emboldened lawyers like Hersch Lauterpacht and Jacob Robinson to press claims about how to reorder the world in terms of minorities and majorities but also impelled non-Zionists like Louis Marshall and Jacob Blaustein to respond with their own visions of the proper scope and scale of international Jewish rights. This should not surprise us if we recall that before the 1970s human rights was much less a project of universalist ethics or domestic civil rights than one of international law. As such, Jewish human rights, like international law itself, derived from the global interaction between imperialism and nationalism.<sup>5</sup> The Jewish vision of international law as a check on state power and legal entitlement to individuals and groups arrived intertwined with a vision of a reordered world of discrete nation-states.

If Jewish legal internationalism derived from political interests shaped through nationalism, Michael Barnett suggests, then the overall “Jewish embrace of human rights” looks much more “instrumental” than idealist.

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<sup>2</sup> Yosef Yerushalmi, “‘Servants of Kings and Not Servants of Servants’: Some Aspects of the Political History of the Jews” (2005), reprinted in David N. Myers and Alexander Kaye, eds., *The Faith of Fallen Jews: Yosef Hayim Yerushalmi and the Writing of Jewish History* (Waltham: University Press of New England, 2013), 245-276.

<sup>3</sup> James Loeffler, *Rooted Cosmopolitans: Jews and Human Rights in the Twentieth Century* (New Haven: Yale University Press, 2018), 145.

<sup>4</sup> For further discussion of Zionist legal internationalism, see James Loeffler, “‘The Famous Trinity of 1917’: Zionist Internationalism in Historical Perspective,” *Jahrbuch Des Simon-Dubnow-Institut* 15 (2016): 211-238.

<sup>5</sup> Natasha Wheatley, “Spectral Legal Personality in Interwar International Law: On New Ways of Not Being a State,” *Law and History Review* 35:3 (2017): 753-787; Nathaniel Berman, *Passion and Ambivalence: Colonialism, Nationalism, and International Law* (Leiden: Brill, 2011); and Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge: Cambridge University Press, 2001).

This is an intellectually important and politically sensitive observation. In his own pioneering work on American Jewish human rights and humanitarianism, he has stressed how political history must replace popular narratives of Holocaust consciousness or facile readings of Jewish religious tradition as explanations for Jewish moral cosmopolitanism.<sup>6</sup> Like Barnett, I aim to de-exceptionalize Jewish human rights history by pointing out the political strategies and material conditions at work in shaping Jewish activism. But I am less convinced than he is that we can retrospectively expose a firm dichotomy between particularistic self-interest and selfless universalism. Even those Jewish radicals such as Rosa Luxembourge who disavowed any stake in the Jewish fate and claimed to speak only for the world at large exercised a politics of vicarious identification that we now recognize as bound up in a specifically Western kind of European humanitarianism.<sup>7</sup> Likewise, when mid-century American Jews spoke of human rights as part of “freedom’s war,” this, too, reflected an American liberal internationalism that combined primacy and idealism in equal measure.<sup>8</sup>

As for contemporary resonances, I am also not certain that American Jews today experience “no real tension” between Jewish rights and human rights. While the Cold War fostered a consensualist American Jewish political culture that harmonized U.S. foreign policy, the plight of Soviet Jewry, and Israel advocacy, the post-9/11, post-Oslo era has seen the renewal of deep ideological conflicts over the Israeli-Palestinian conflict framed in terms of competing rights claims. So too the recent debates about rising antisemitism in relation to contemporary racism, Islamophobia, and sexism suggest that the American Jewish security may center on all-too-familiar questions of individual and group rights. So, yes, I agree that we have arrived back at Hannah Arendt’s hard questions about Jews, sovereignty, and human rights.

Janice Stein also finds Arendt crucial, but underserved in my account. She sees in Arendt’s “several cameo appearances” in a narrative built around five men’s lives a kind of occlusion typical of that time period in both Jewish history and human rights history. I agree completely with her assessment of the dearth of women in the literature. In my thinking, Arendt’s present absence is evocative of her actual place as an essential interlocutor who nonetheless stood apart from the male cohort of activists whose work she critiqued from afar. The story of Jewish human rights activism is above all a story of international Jewish lawyering and para-lawyering. And that professional culture was heavily male in character and demography. Indeed, whereas other parts of the globe did produce mid-twentieth-century female human rights activists, notably South Asia, the Euro-American world of international legal diplomacy was shaped by a heroic male culture. For Jews, who in other ways were emasculated by the politics of antisemitism, the international human rights promised both solace and validation in the form of an elite, technocratic guild and a safe outlet for passionate idealism.<sup>9</sup>

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<sup>6</sup> Michael N. Barnett, *The Star and the Stripes: A History of the Foreign Policies of American Jews* (Princeton: Princeton University Press, 2016).

<sup>7</sup> Michael Barnett, *Empire of Humanity. A History of Humanitarianism* (Ithaca: Cornell University Press, 2011).

<sup>8</sup> Quoted from Speech of Jacob Blaustein, Jan. 30, 1954, Johns Hopkins University Archives, Special Collections, Sheridan Libraries, Jacob and Louis Blaustein Collection, Ms. 400, Box 2.128, Folder P-2-10.

<sup>9</sup> Mira Siegelberg, “Egon Schwelb and the Human Rights *via media*,” in James Loeffler and Moria Paz, eds., *The Law of Strangers: Jewish International Lawyers and Legal Thought in Historical Perspective* (Cambridge: Cambridge University Press, forthcoming).

Stein voices another concern that this book sidesteps those Zionists of the classic Jewish Right and the Left varieties, who ignored minority rights and human rights and opted exclusively to pursue statehood as the sole solution of the Jewish question. It is true that some of the Zionist leaders I profile represent the smaller, now-vanished Zionist Center, encapsulated by the General Zionist Party and, to a lesser extent, the Mapai Party. But as recent scholarship has demonstrated, both the pre-1948 Zionist Right and Left exhibited much more interest in minority rights in their political models of international Jewish nationhood and statecraft than previously assumed.<sup>10</sup> Their reasons varied. Some aspired to protect diaspora Jewish populations in the mode of East European kin-states acting through the League of Nations system. Others saw the utility of minority rights in the quest to minoritize the Palestinians in a Jewish-majority polity. All relied heavily on the logics and structures of legal internationalism to advance their goals. The deeper continuities between those pre-1948 schemes and post-1948 Israeli legal diplomacy have yet to be fully traced.<sup>11</sup> Likewise, scholars have only recently begun to trace the emergence of other Jewish conservative human rights discourses on the Israeli Right.<sup>12</sup>

In the end, Jewish human rights history resists an easy before/after narrative of a ‘golden era’ followed by decline. For, as I argue in *Rooted Cosmopolitans*, 1948 itself presented as much a dual failure for Jewish politics and human rights as a triumph for each cause. Even before the Israeli occupation began in 1967, the unsuccessful partition of Palestine in 1948 locked Jews and Palestinians into an asymmetrical one-state, no-state situation of conflict. Even before the later entanglements of human rights in the Cold War, anticolonialism, and neoliberalism, the erection of a non-binding UN human rights system in 1948 left human rights norms awkwardly suspended between law and politics. Seventy years later, surprisingly little has changed. That may provide little comfort to those seeking succor in the past. But it may provide inspiration to view our own world more critically as we imagine its future.

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<sup>10</sup> Dmitry Shumsky, *Beyond the Nation-State: The Zionist Political Imagination from Pinsker to Ben-Gurion* (New Haven: Yale University Press, 2018); Gil Rubin, “The Future of the Jews: Planning for the Postwar Jewish World, 1939-1946,” Columbia University Ph.D. Dissertation, 2017; Yosef Gorny, *From Binational Society to Jewish State: Federal Concepts in Zionist Political Thought, 1920–1990, and the Jewish People* (Leiden: Brill, 2006).

<sup>11</sup> Rotem Giladi, “A ‘Historical Commitment’? Identity and Ideology in Israel’s Attitude to the Refugee Convention 1951–4,” *International History Review* 37:4 (2015): 745-767.

<sup>12</sup> Ron Dudai, “Entryism, Mimicry and Victimhood Work: The Adoption of Human Rights Discourse by Right-Wing Groups in Israel,” *International Journal of Human Rights* 21:7 (2017): 1-23.