

René Cassin and Human Rights

Through the life of one extraordinary man, this biography reveals what the term human rights meant to the men and women who endured two world wars, and how this major political and intellectual movement ultimately inspired and enshrined the Universal Declaration of Human Rights. René Cassin was a man of his generation, committed to moving from war to peace through international law, and whose work won him the Nobel Peace Prize in 1968. His life crossed all the major events of the first seventy years of the twentieth century, and illustrates the hopes, aspirations, failures and achievements of an entire generation. It shows how today's human rights regimes emerged from the First World War as a pacifist response to that catastrophe and how, after 1945, human rights became a way to go beyond the dangers of absolute state sovereignty, helping to create today's European project.

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Human Rights in History

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René Cassin and Human Rights

From the Great War to the Universal Declaration

Jay Winter and Antoine Prost



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press & Assessment
 978-1-107-03256-9 — René Cassin and Human Rights
 Jay Winter, Antoine Prost
 Frontmatter
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CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia
 314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi - 110025, India
 103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

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www.cambridge.org

Information on this title: www.cambridge.org/9781107032569

Originally published in French as *René Cassin* by Fayard, 2011

First published in English as *René Cassin and Human Rights: From the Great War to the Universal Declaration* by Cambridge University Press, 2013

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First published 2013

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging in Publication data

Prost, Antoine, 1933–

[René Cassin et les droits de l'homme. English]

René Cassin and human rights : from the Great War to the Universal Declaration/Jay Winter and Antoine Prost.

pages cm. – (Human rights in history)

Originally published in French by Fayard, 2011.

Includes bibliographical references and index.

ISBN 978-1-107-03256-9 (hardback) – ISBN 978-1-107-65570-6 (paperback)

1. Cassin, René, 1887–1976. 2. Lawyers – France – Biography.

3. Human rights. I. Winter, J. M. II. Title.

KJV251.5.C37P7613 2013

341.4'8 – dc23 2012035056

ISBN 978-1-107-03256-9 Hardback

ISBN 978-1-107-65570-6 Paperback

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Cambridge University Press & Assessment
978-1-107-03256-9 — René Cassin and Human Rights
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‘No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it Meaning. For every constitution there is an epic.’

Robert Cover, ‘The Supreme Court, 1982 Term – Foreword: Nomos and Narrative’, *Harvard Law Review*, 117 (1983), p. 4.

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Cambridge University Press & Assessment
978-1-107-03256-9 — René Cassin and Human Rights
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Preface and acknowledgments

Writing a biography poses particular problems for historians. First, it is impossible to approach this task without a certain sympathy for the person whose life you intend to explore. We are the first to admit that we share the admiration and the respect which René Cassin inspired in many of his contemporaries, as well as a kind of complicity as we traverse the century in his company. In this effort we have been blessed with abundant documentation preserved in archives, in particular the diaries he kept during the Second World War, and in a blessedly legible handwriting.

A historian, though, cannot accept without scrutiny what the subject said about his life and his actions. The meaning we give to our lives at a given moment may look very odd a few years thereafter. That is why we need to adopt a perspective which permits distance from the self-perception of our subject. Without this separation, history becomes hagiography. Biography suffers if it is based on affection or uncritical admiration. Our task is not to instruct the reader by magnifying the achievements of a hero, but in retracing his career and his action, in measuring the impact of his work and its meaning. Biography is a work of critical intelligence and elucidation, neither a panegyric nor an accusation. Our job is to explain what our subject did, why he did it, and to what effect. Moral judgment remains the province of the reader.

The second problem we face is of a different order. It arises out of the diversity of the work and experience of our subject. To attract our attention, such individuals must have passed a life to a degree out of the ordinary, and have passed through experiences in different settings, in particular if they lived a long life, as Cassin did. Here is one of the attractions of biography: in the effort to describe accurately the role of a public figure, we need to offer a somewhat panoramic view on the world through which he passed. From this perspective, Cassin lived an exceptionally varied life; indeed, it makes sense to say that in his eighty-eight years, he lived several lives, each one of which merits its own

biography. By surveying his multiple posts and responsibilities, his story becomes that of a century seen through the prism of an individual's life.

To tell the story of Cassin's work in different periods and settings, we have had to find and master very different and scattered archives, entering into the specialist literature of several fields, and into learned disputes in jurisprudence or administration over most of a century. What may appear to be a linear narrative of the life of a man inevitably becomes the study of multiple crossing relationships, like weaving a tapestry of substantial and uneven dimensions. Because it touches on so many subjects and themes, biography is necessarily a multi-disciplinary matter, and given the unknowns in every life, a full biography can never be written. We come as close to it as we can, knowing the difficulty and limits of the exercise.

Biographies present a third set of unavoidable problems. They reside in what Bourdieu termed 'the biographical illusion'. To study the life of a man, whoever he may be, naturally means to seek its coherence, its logic. To do so, we depend on the traces which the person left, and yet as real as they are, they remain only traces, and our reading of them, without being arbitrary, always remains personal. Working together, we were able to limit the risk of too subjective an approach, since our points of view, our native languages and our writing styles differ. We do not pretend to have portrayed with equal justice all the varied facets of Cassin's life. And we have been very well aware that, like everyone else, Cassin took with him to his grave mysteries which we must acknowledge and respect.

This biography is in no sense definitive. Every single life can be read in different ways, and his is no exception. Other biographers, closer to him, notably Marc Agi and Gérard Israël, have written studies to which we are indebted. Approaching this biography as historians who have spent considerable time exploring the history of the Great War and its imprint on those who waged it, we hope to show the extent to which Cassin expressed the hopes and anguish of an entire generation. That was our starting point, but we went well beyond it. We have tried to enrich our interpretation not only by using Cassin's extensive archive, but also in seeking out the traces he left both in organizations close to his heart and in other sites of his extraordinarily varied public life. This effort led us to emphasize the importance of his role in both national and trans-national history, while never losing sight of the universal element in his thinking.

This biography was only possible to complete as the work of a partnership. To give a preliminary idea of our principal sources, we drew heavily on the Cassin archive and other holdings of the Archives Nationales in Paris, including those of the Offices Nationaux des Mutilés and des Pupilles, the Conseil d'Etat and ENA. We have explored the archives

of the Quai d'Orsay and the Comité Juridique in Algiers and then in Paris, of the League of Nations, the ILO, the UN, UNESCO, the Nobel Foundation, the Council of Europe, the National Library and University Library of the Hebrew University of Jerusalem, the Union Fédérale, the Alliance Israélite Universelle, as well as the private archives of André Chouraqui, Sir Elihu Lauterpacht, and the family archives of Josette Cassin and Chantal Connochie. Every one of these collections provided us with essential information. Without a long and convivial history of working together, we simply could not have mastered this range of materials, which made it possible for us to finish this task of more than a decade. Even now, we do not pretend to have provided an exhaustive treatment of all the themes raised in this life of René Cassin and his generation.

The happy task that remains is to thank the many people who have helped us. Nicole Questiaux, Bernard Ducamin, Marceau Long, Pierre Laurent, Stéphane Hessel and Jean-Marcel Jeanneney provided insights on Cassin, with whom each of them worked. We profited greatly from interviews with members of the Cassin and Abram families. René's niece Susy Abram, now 100 years old, received us in Digne-les-Bains, with charm and vivid family recollections, as did her cousin Josette Cassin, a mere 93, in Paris. Josette was particularly helpful in providing us with shrewd judgments, accounts of family travails and celebrations, its Jewish life, and family photographs, some of which appear in this book. We had the pleasure of meeting René's nephew and godson Gilbert Cassin in St Maxime, and learned much about the wine trade, the family and their lives in Marseilles, Nice, St Maxime and Antibes. Both in Provence and in the Grande Chartreuse, Chantal Connochie, Ghislaine's elder daughter, warmly welcomed us and went through her mother's papers with us. The photograph of her mother, taken from her wartime identity card, is reproduced in this book. The generosity of all these people is part of what makes historical research a pleasure.

The directors of the Institut International des Droits de l'Homme, who hold the rights to René Cassin's archive, were kind enough to authorize us to use them liberally. It is simply impossible to list all the people with whom we discussed different aspects of this biography, or who provided us with a venue to present a paper or talk on an aspect of Cassin's life. We benefited from many criticisms, remarks and suggestions, and are grateful for them all. We hope they recognize the debt we owe to them all. Let us single out Jean-Pierre Azéma, Jean-Louis Crémieux-Brilhac, Jean Massot, Julian Jackson, Kolleen Guy, Samuel Moyn, Hanne Vik, Marco Duranti, Nathan Kurz, Paul Lauren and Maud Mandel who read parts or all of this book in draft. We are particularly grateful to the many

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archivists who guided our research, and especially to Caroline Piketty, conservateur en chef au département des archives privées au Centre Historique des Archives Nationales. Through her help, suggestions, wise cautions and counsels, she not only paved the way for us to finish this book, but joined us on the long journey we have made in search of René Cassin. She deserves a special place in this list of the professional and personal debts we incurred in this project over the last ten years.

ANTOINE PROST AND JAY WINTER

Introduction to the English edition

The end of the Cold War in 1989 inaugurated a new period in the history of human rights. The peaceful collapse of the Soviet Empire and the transition from apartheid in South Africa surprised many observers. Those who worked in non-violent movements seemed to have had more power than many realists in the field of international affairs had imagined. Since then, dictatorships which seemed unassailable have been toppled by other mass movements, and without an attendant bloodbath. Not everywhere to be sure – witness Tiananmen Square and the former Yugoslavia – but in states with substantial armed forces and police powers like Egypt, Tunisia, Chile, Ivory Coast, East Timor and elsewhere. There have been successful prosecutions in the United Nations Criminal Court in The Hague and in the International Criminal Tribunal in Arusha, Tanzania for violations of human rights and genocide.

In this dramatic and fast-moving context, there has been considerable scholarly and general interest in the subject of human rights, in particular in the English-speaking world. Lawyers, sociologists, historians, political scientists, anthropologists, literary scholars have all contributed to this ongoing and voluminous discussion.¹ Paradoxically, the European countries have not advanced the conversation as much as to the meaning and

¹ For literary criticism, see Joseph R. Slaughter, *Human Rights, Inc. The World Novel, Narrative Form, and International Law* (New York: Fordham University Press, 2007); for critical legal studies see Upendra Baxi, *The Future of Human Rights* (Oxford University Press, 2002) and *Inhuman Wrongs and Human Rights. Unconventional Essays* (New Delhi: Haranand Publications, 1994); and Costas Douzinas, *Human Rights and Empire. The Political Philosophy of Cosmopolitanism* (London: Routledge Cavendish, 2007); *The End of Human Rights. Critical Legal Thought at the Turn of the Century* (Oxford: Hart, 2000); in anthropology, see Richard A. Wilson (ed.), *Human Rights, Culture and Context. Anthropological Perspectives* (London: Pluto Press, 1997) and Alison Renteln, 'Relativism and the search for human rights', *American Anthropologist*, 90, 1 (1988), pp. 56–72; in gender studies, see Kay Schaffer and Sidonie Smith, *Human Rights and Narrated Lives. The Ethics of Recognition* (New York: Palgrave, 2004); in political science, see Jack Donnelly, *International Human Rights* (Boulder, Colo.: Westview, 1993), *Universal Human Rights in Theory and Practice* (Ithaca, NY: Cornell University Press, 1989) and Alison Brysk (ed.), *Globalization and Human Rights* (Berkeley: University of California Press, 2002);

practice of human rights, despite the fact that they were in the forefront of the construction of the first Convention on Human Rights to apply to an entire region. The European Convention on Human Rights was ratified in 1950, and the European Court of Human Rights in Strasbourg began its work in 1960.

To be sure, the sheer volume of publications in English now dwarfs that in European languages in every field of scholarship. And yet that is not the end of the story. It may be that Europeans in general and French writers in particular take human rights for granted as a foundational element of their polities. They see it as the basis of the European community, each country of which has its own domestic human rights institutions, and representation on the Strasbourg Court. This is especially true for French people, who see human rights today as the continuation of the Declaration of the Rights of Man and Citizen of 1789. Every primary school in the Republic has had somewhere on its walls the text of this foundational Declaration. What everyone knows is not the basis for scholarly controversy. In the French version of this book, we tried to puncture that illusion that everyone knows what rights are, by examining the rich and complex French contribution to the internationalization of human rights in the twentieth century.

In the Anglo-Saxon literature, there are two extreme positions which attending to the French case enables us to avoid. On the one hand, the deeply learned histories of continuity, especially notable in the writings of Paul Lauren, emphasize the long march of moral thinking, from Hammurabi's code to the present.² On the other hand, there is the recently developed interpretation of a radical break in the history of human rights, which emerged, like a super-saturated solution, from 1970 on. To Samuel Moyn, the failure of ideologies of left and right after 1968 created an ideological vacuum which human rights filled.³ This interpretation, like that of Lauren, has much to recommend it. However, we need a different, generational, approach, fully to appreciate the French part of the story. This biography aims at such a perspective by focusing on René Cassin as

Roger Normand and Sarah Zaidi, *Human Rights at the UN. The Political History of Universal Justice* (Bloomington: Indiana University Press, 2008); in sociology see Bryan S. Turner, *Vulnerability and Human Rights* (University Park: Pennsylvania University Press, 2006). And this leaves aside the voluminous periodical literature specifically on human rights. The Yale University Library's online collection includes sixty-nine journals with the words 'human rights' in the title. The hegemony of English in the academy is evident here; journals in French and other languages reach a significantly smaller readership.

² Paul Gordon Lauren, *Visions Seen. The Evolution of International Human Rights*, 3rd edn (Philadelphia: Pennsylvania University Press, 2011).

³ Samuel Moyn, *The Last Utopia. A History of Human Rights* (Cambridge, Mass. and London: The Belknap Press of Harvard University Press, 2010).

a figure within the generation into which he was born in the 1880s, and who lived through the two world wars.

This biography is a history of the struggle for human rights in a specific time and place. We offer a different chronology and a compromise between those who see human rights as advancing in a glacial manner in a cumulative or additive process of gains and losses, and those who see it in terms of truncated evolution, with a radical break at a specific point in time. There are elements of truth in both, but they need to be supplemented by the history of what we term the war generation of 1914–45. Usually, the term ‘war generation’ applies to one conflict and to those who saw service or who suffered through it. We want to draw attention to the long-term history of those who, as young men, fought in the Great War, and as older men played a significant and active role in the Second World War. The war generation of 1914–45 faced the Shoah as well, and they did so as men and women who knew the brutality of war, but who believed that they saw something even more monstrous in the Nazi phenomenon. While their experience of the First World War turned them into pacifists, the experience of the Second World War turned their pacifism into a quest for making human rights the basis of the new world order after 1945.

This story gives us a different chronology in which to place the history of human rights in the twentieth century and beyond, one which adds a third approach to the recent English-language literature on human rights. To date no one has seen in the struggle for the rights of wounded veterans the origins of later developments in the rights of the victims of war in general. The arrival of Hitler was a decisive moment in the construction of a new kind of thinking on the dangers of absolute state sovereignty, but the story does not start there. It goes back to the Great War and its catastrophic consequences.

This biography is that of a man of his generation, born in the 1880s, who reached maturity before the Great War and who suffered its consequences. René Cassin was not the only man of his cohort who had endured the two world wars and who was committed to the human rights project. This biography enables us to see striking similarities in the profiles and experiences of a substantial group of men and women. Many worked in the League of Nations. Cassin’s long-time friends and colleagues Eduard Beneš of Czechoslovakia and Nikolas Politis were there. They saw the flaws of the League, in terms of its acceptance of absolute state sovereignty, and began the work of constructing an alternative approach to international affairs, one based on what we now term human rights. That term emerged fully in the Second World War in London, where Cassin was joined by many of his former colleagues in the

League. Thereafter, Cassin established his reputation as a major champion and central figure of the Human Rights Commission of the UN, then presided over the European Court of Human Rights, and lived long enough to receive the Nobel Peace Prize in 1968. It is hardly surprising that he became the symbol of the long-term, multi-faceted effort to make human rights instruments a reality. In delimiting the absolute sovereignty of the state, he and his colleagues were advancing towards a new international legal order, where conflicts between states would be resolved by arbitration, and where individuals had the standing to bring their own states to book for violations of the human rights of their own citizens. This radical departure from traditional jurisprudence is what makes the European community in 2012 different from any configuration of European states before 1950.

There is another European dimension to the story of human rights not compatible with the individualist tradition of much American thinking on human rights. To Cassin and many others, the rights of individuals to live and thrive in civil society were social rights, paired with social obligations, and they were not reducible to matters of voting practices and legal procedure alone. Men had the right to dignity, and that opened the door to social and economic rights, without which political rights could not exist. Following his story is following one important tradition in the history of human rights, with its own particular French and European coloration.

The story we tell about René Cassin is more than that of the drafting of the Universal Declaration of Human Rights in 1948; there has been excellent scholarship on this subject.⁴ Instead we want to show the evolution of a man who grew up in the shadow of the Dreyfus affair, facing situations and events he could not have imagined in his childhood. The total war in which he served in 1914 produced much worse challenges to the dignity of man than he knew before the war. He not only suffered war in his own body in 1914 – he was very severely wounded and miraculously survived – but twenty-five years later, he was also hit by the Shoah, in which twenty-six members of his family, including his sister, were deported and killed in Auschwitz. He was sentenced to death in absentia as one of the leaders of Free France, and played an essential role in the re-establishment of the Republican order after Liberation in

⁴ Mary Ann Glendon, *A World Made New. Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001); Johannes Morsink, *The Universal Declaration of Human Rights. Origins, Drafting and Intent* (Philadelphia: University of Pennsylvania Press, 1999); John Humphrey, *On the Edge of Greatness. The Diaries of John Humphrey, First Director of the United Nations Division of Human Rights*, ed. A. J. Hobbins (Montreal: McGill University Libraries, 1994–98), 4 vols.

1944; thereafter he headed the Conseil d'Etat, France's highest administrative court. Cassin was the first man named to the vice-presidency (effectively, to the presidency) of the Conseil d'Etat without having previously served in it. Exceptional times called for exceptional measures, and for exceptional men to carry them out.

This book is not the story of ideas separated from the dramatic historical conjunctures in which they developed. This is the history of a man who lived the struggle to which he dedicated his life. His life was spent in the struggle to move from war to peace through law, and his passionate dedication to this effort was clear as his fist emphasized his words in his acceptance speech in Oslo in 1968. It was no mere turn of phrase when he said then that there are ideas for which a man is prepared to give everything, including his life. Human rights were that idea.

We undertook this biography, first published in French, and have adapted it for the English-speaking public and developed it using new material not available at the time of its publication in 2011. We aim not to present the life of a saint or a hero. Cassin was a man whose ideas were rooted in one place and one time. He had the prejudices and presuppositions of his generation, just as we all do. But he formulated questions the answers to which we are still seeking. Every generation must define human rights in its own way and in its own language. René Cassin pointed towards one way forward; it was by no means the only way, and to understand his strengths and weaknesses, we must pause and reflect on the contribution of the generation of 1914–45. This is their story, and its achievements and its failures are with us still.

JAY WINTER AND ANTOINE PROST
April 2012

Abbreviations

ACP	Provisional Consultative Assembly
AEF	French Equatorial Africa
AFN	North Africa
AGMG	General Association of War Disabled Men
AIU	Alliance Israélite Universelle
AJI	Jewish International Association
AM	Modern Archives, AIU
AN	Archives Nationales
AOF	French West Africa
ARAC	French Veterans' Association
BBC	British Broadcasting Company
BIT	See ILO
BSM	Office of Seized Property
CA	Executive Committee of UF
CAC	Centre for Contemporary Archives, Fontainebleau
CCOJ	Consultative Council of Jewish Organizations
CD	Departmental Committee
CDC	Caisse de Dépôts et Consignations: Deposits and Consignments Fund
CE	Conseil d'Etat
CFLN	French Committee for National Liberation
CGQJ	General Commissariat on Jewish Questions
CHEA	Centre for Advanced Administrative Studies
CIAMAC	International Conference of Disabled Men and Veterans
CIP	International Permanent Committee
CJM	World Jewish Congress
CNRS	National Centre for Scientific Research
CRIF	Representative Council of the Jewish Institutions of France
ECOSOC	Economic and Social Council
ENA	National School of Administration

List of abbreviations

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FAO	Food and Agricultural Organization of UNO
FIDAC	Inter-Allied Veterans' Federation
FSJU	Unified Jewish Social Fund
GPRF	Provisional Government of the French Republic
IEP	Institute of Political Studies
ILO	International Labour Organization
IRA	Irish Republican Army
NGO	Non-governmental organization
NSKOV	National Socialist Organization to Aid War Victims
OD	Departmental Commission for Wards of the Nation
ONAC	National Commission for Veterans
ONM	National Commission for Disabled Veterans
ONMAC	National Commission for Disabled Men and Veterans
ONP	National Commission for Wards of the Nation
RAP	Rules of Public Administration
RUP	Universal Rally for Peace
SDN	League of Nations
TA	Administrative Tribunals
TP	Pensions Tribunals
UF	Union Fédérale
UGIF	General Union of Israelites of France
UIS	International Union of Aid
UNC	National Union of Combatants
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNO	United Nations Organization
USR	Socialists-Republican Union
WZO	World Zionist Organization