

## Introduction: From the Rights of Man to Human Rights?

---

Fragmented social relations, the twin demise of authority and tradition, the breakdown of behavioural norms and constraints: all these are the outcome, according to their critics, of the uses and abuses of human rights in contemporary democratic societies. We are, they say, seeing the perverse effects of a ‘religion of human rights’ to which Europe has rashly devoted its heart and mind, and the supposed burgeoning of rights, which goes hand in hand with an unchecked rise of expectations, is catapulting Western democracies into an age of never-ending demands. This emerged clearly in France in Spring 2013 during the demonstrations against equal marriage (‘mariage pour tous’) whose opponents deplored the excesses of a movement-driven left striving for an unbounded extension of rights – from the right to same-sex marriage to the enfranchisement of non-nationals or the right of same-sex couples to adopt.<sup>1</sup>

This view is now so widespread that we may well ask: are we witnessing the backlash against a vocabulary of human rights accused of dispensing with the limits essential to the existence of a body politic worthy of the name, and thereby ‘annihilating law’?<sup>2</sup> Both in the press and in political discourse, rampant accusations of ‘human rights-ism’ – attacking the fixation with human rights that allegedly blinds their proponents to constraints on political action – suggest that such is the case. While this so-called human-rights-ism masquerades as a misunderstood ‘ethic of conviction’, say its critics, it is in fact the contemporary face of a morally and politically disastrous lack of responsibility.<sup>3</sup> The campaign against same-sex marriage in spring 2013, with its scorn for the supposed narcissism of claims to purely individual rights, and its reminders of the

<sup>1</sup> Nicolas Truong, ‘Vers un “printemps” anti-Mai 68?’, *Le Monde*, Saturday 25 May 2013, p. 20. On this topic, see the contributions of Ludivine Bantigny, François Cusset, Jean-Pierre Le Goff and Chantal Delsol in the same edition.

<sup>2</sup> Alain Finkielkraut, *Causeur*, 3, June 2013, p. 35.

<sup>3</sup> For a summary of some instances of this expression used both on the right and left, see François L’Yvonnnet, ‘Du droit-de-l’hommeisme’, *Human Rights and their Possible Universality*, Academy of Latinity, Rio de Janeiro, 2009, pp. 207–219, [www.alati.com.br/fra/publicacoes\\_2009\\_oslo.html](http://www.alati.com.br/fra/publicacoes_2009_oslo.html).

2 From the Rights of Man to Human Rights?

demands and limitations of community life (whether family, social or political), can be seen as giving broader voice to a rejection of ‘human rights politics’ that has run through various schools of political philosophy for over thirty years.

Few political theorists, of course, would endorse rejection of human rights *as such* – of the normative and legislative corpus, in other words, that forms the basis for the rule of law in democratic states. Likewise, there are few critics who would contest the inclusion of declarations of rights in the legal framework of the republican state. Yet the apparent consensus that has made human rights a dominant discourse of the last forty years has not prevented the development of a parallel critical argument which sets out to expose the ambiguities that consensus may conceal.

Such attacks specifically target the *use made* of human rights in contemporary democracies. Criticisms across the board accuse the new ‘human rights’ of being a kind of purely moral and anti-political utopia that seeks to break down constraints inherent in the nature of historical community. To elevate human rights to the status of self-standing political ideal, say their critics, is to endanger a necessarily specific social and political order that simply cannot be reduced to such an abstract principle. In its most radical versions, this argument suggests that there are two distinct conceptions of democracy: democracy understood as the ‘political form’ of a necessarily *limited* entity, according to this view, is entirely different from democracy as the ‘form of a society’ *without limits*.<sup>4</sup> Jean-Claude Milner, who lays out this theory, contrasts ‘classical human rights – those of 1789’, which ‘embody a limiting principle’, with ‘the new doctrine of human rights, which has entirely taken the place of its predecessor’ and arises from a ‘register of limitlessness’.<sup>5</sup>

These grievances add up to a picture that is the more fragmented because historical diagnosis of the problem wavers from the very start: does the story of ‘boundless’ human rights begin with the French Revolution of 1789, as conservative liberals who see Edmund Burke as a forebear might say? Or in the 1830s with the presidency of Andrew Jackson in the United States, as Jean-Claude Milner attempts to show from his reading of Tocqueville? Or is it in fact the outcome, as Marcel Gauchet seems to suggest, of a belated or postmodern individualism that took hold in the 1970s? Before answering these questions, in order to

<sup>4</sup> Jean-Claude Milner, *Les Penchants criminels de l’Europe démocratique*, Lagrasse, Verdier, 2003, pp. 41–46 and 92–94.

<sup>5</sup> *Ibid.* As Jacques Rancière observes (*La Haine de la démocratie*, Paris, La Fabrique, 2005, p. 36), Milner’s argumentation has the advantage of giving ‘a concise résumé of a large body of literature’ on the perils of democratic individualism.

understand the context around criticisms of human rights, we must start with an overview of the recent history of uses of human rights in political discourse and practice.

### **The Decline or Dormancy of Human Rights: The Nineteenth Century and Interwar Period**

Before we examine the objections raised against them, it is as well to recall that human rights have not always been the popular idea they are today, or at least since the American and French revolutions. We are undoubtedly living in the ‘Age of Rights’<sup>6</sup> in so far as human rights are the only political and moral concept that has enjoyed near-universal endorsement – whether by the adoption of the Universal Declaration of Human Rights in 1948, the ratification of the two International Covenants of 1966 (respectively on civil and political rights, and economic, social and cultural rights) or via the recognition of human rights in the vast majority of national constitutions. This invocation of human rights is of course largely hypocritical; yet the fact they are so widely espoused is no less significant ‘since hypocrisy, we know, is the homage that vice pays to virtue (...) human rights is today the single, paramount virtue to which vice pays homage’.<sup>7</sup> Over half of the world’s population may be subject to daily violations of their rights, yet (short of a temporary state of emergency) no state can openly admit these violations.

The fact remains, however, that this revived reference to human rights is a recent development. According to Jeremy Waldron and Samuel Moyn, after the great Declarations of the eighteenth century, the idea of human rights went into a decline during the nineteenth and first half of the twentieth centuries. The ‘giants’ of social theory in this period (Comte, Marx, Durkheim and even Weber, despite his seminal role in shaping ‘methodological individualism’) no longer saw society as a product of human will but instead as a process existing in complex relation to the intentions of its agents. With this view in mind, the image usually attached to declarations of rights – that of a social contract between independent individuals who settle rationally on rules to govern their association – no longer seemed to cover the new understanding of social life.

In an article of 2009, Waldron identifies three overarching reasons for what he calls the ‘decline’ of a discourse of the rights of man in the

<sup>6</sup> Louis Henkin, *The Age of Rights*, New York (NY), Columbia University Press, 1990, p. xviii.

<sup>7</sup> *Ibid.*, p. xviii.

4 From the Rights of Man to Human Rights?

nineteenth century. The first has to do with the ‘revulsion’ occasioned by the bloody turn taken by the French Revolution.<sup>8</sup> Though rejections of human rights rhetoric reached their crisis point in counter-revolutionary thought – which in one fell swoop writes off the entire historical tract running from 1789 to 1815 as a catastrophe attributable to Enlightenment principles – this view also runs through the work of certain liberal thinkers who sought to preserve the constitutional heritage of 1789 while also arguing that immovable demands for the ‘rights of man’ had led to the Terror of 1793. In this view, the politics of the rights of man comes to be identified with the figure of Robespierre – so much so that it would soon serve as a standard, in a deliberate reversal of this stigmatisation, for the Society of the Rights of Man (*Société des droits de l’homme*), founded in Paris in 1830 to promote a programme of radical, social and European democracy.

Waldron’s second suggestion has to do with the about-turn in mid-nineteenth-century Britain that saw the image of human rights move from *contestation* to *consolidation* of the established order. Associated less with Rousseau or Robespierre than with Locke, human rights were now attached to the intangible right to property and rigid defence of the rule of law, and entered the Whig lexicon which constituted ‘almost establishment talk’. In this context, the rights of man hardly seemed like tools of social change.<sup>9</sup> Utilitarianism, with its insistence on collective utility, seemed a better bet for progressive aspirations than the tired rhetoric of natural right. Similarly, several progressive thinkers on the Continent preferred to reference the positivism of Auguste Comte, which dismissed the idea of ‘natural right’ as an abstraction with no social power.

The third cause of this demise of human rights discourse was the emergence of national self-determination movements. Declarations of rights, of course, already proclaimed the right of groups to self-determination. Yet for many nineteenth-century nationalists it was the people as such that came to represent the ‘real’ entity, and the discourse of individual rights was progressively side-lined by calls for collective emancipation.<sup>10</sup> An emblematic instance of this was the critique of human rights outlined by Mazzini, an archetypal figure of a strain of political romanticism marrying the radical nature of democratic ideals with the imperative of national unity. Mazzini’s treaty *The Duties of Man*,

<sup>8</sup> Jeremy Waldron, ‘The Decline of Natural Right’, *New York University Public Law and Legal Theory Working Papers*. Paper 143, p. 8, referencing Georges H. Sabine, *A History of Political Theory*, 3rd edn., New York (NY), Holt, Rinehart and Winston, 1961, p. 542.

<sup>9</sup> Waldron, ‘The Decline of Natural Right’, p. 11.

<sup>10</sup> Waldron, ‘The Decline of Natural Right’, p. 16.

published in 1860, begins by stressing that any progress made ‘during the last fifty years’ has been made ‘in the name of the *Rights* of man’; yet he quickly follows this with the qualification that these ‘rights of man’ have failed to solve the social question and to put an end to the widespread selfishness of individuals who, once endowed with rights, seek only their own ‘material well-being’. Indeed, the duties of man to his nation and fellow humans simply cannot be established on the basis of the absolute rights of the individual. The ‘basis’ of society lies not in rights but ‘*duty*’, which may extend as far as to require ‘self-sacrifice’ in the name of a ‘common faith’.<sup>11</sup>

During the nineteenth century, then, individual rights were gradually hemmed in between incipient nationalism on the one hand – whose early forms, even when democratic, were apt to subjugate the demands of law to a romantic adulation for the will or ‘soul’ of a people – and on the other a positivism which started (as we shall see with Comte) by reappropriating the anti-liberal heritage of counter-revolutionary thought for its own ends, and negating the very idea of law on the grounds that social totality takes precedence over activities that take place within it:

‘Natural right seemed as irrelevant to the enthusiasm with which positivists, such as Auguste Comte, conceived a new science of society and administration as to the fury and despair with which romantic and idealist literature reacted to the soullessness of modern industry.’<sup>12</sup>

Moyn gives an even more radical diagnosis of this decline, positing that the political vocabulary of human rights was (barring a few exceptions) generally ‘abandoned’ everywhere during the nineteenth century but especially in France, which had previously been the ‘epicentre’ of the rights of man.<sup>13</sup> Moyn relies especially heavily on the thinking of Tony Judt, who argues that from 1831 to 1977 human rights were never at the heart of any debate in French political theory except the Dreyfus Affair.<sup>14</sup> The Dreyfus Affair, however, was far more than an ‘exception’: it was a foundational event that determined the orientation of the French left for the entire twentieth century.

This explains why (as Waldron himself admits) we must qualify the idea that the lexicon of the rights of man was left for dead in the nineteenth century. The century of social thought it may have been, but

<sup>11</sup> Giuseppe Mazzini, *Doveri dell’Uomo*, London, 1860 – *The Duties of Man*, London, 1862, pp. 4–8, 10–12, 19, 25–27, 38.

<sup>12</sup> Waldron, ‘The Decline of Natural Right’, p. 16.

<sup>13</sup> Samuel Moyn, ‘Plural Cosmopolitanisms and the Origins of Human Rights’, in Costas Douzinas and Conor Gearty (eds.), *The Meanings of Rights. The Philosophy and Social Theory of Human Rights*, Cambridge, Cambridge University Press, 2014, p. 208.

<sup>14</sup> Tony Judt, ‘Rights in France. Reflections on the Etiolation of a Political Language’, *La Revue Tocqueville*, XIV, 1, 1993, pp. 67–108.

6 From the Rights of Man to Human Rights?

it was also in the nineteenth century that the concern with individuality took on new proportions. This is witnessed by the works of Alexis de Tocqueville, who saw rights as the essential condition for liberty in democratic societies. Tocqueville showed that the overlap between the sense of liberty and of the ‘civic spirit’ is ‘inseparable from the exercise of political rights’: ‘after the general idea of virtue, I know no higher principle than that of right; or rather these two ideas are united in one. The idea of right is simply that of virtue introduced into the political world.’<sup>15</sup>

The rhetoric of rights likewise remains prominent in several social campaigns such as the Chartist movement in Britain, the struggle for women’s rights or the abolition of slavery.<sup>16</sup> The scorn of some socialists for ‘Guarantist’ socialism, based on a dogged attachment to individual liberties.<sup>17</sup> And Marx himself, whatever his distaste for the idea of rights, had to accept that the Statutes he drafted in 1864 for the International Workingmen’s Association opened with the statement ‘that the struggle for the emancipation of the working classes is a struggle [...] for the establishment of equal rights and duties’.<sup>18</sup> We might even add that the Marxist demand for the fulfilment of freely defined individual potential points the way towards an ‘anthropological basis for the notion of “human rights”’.<sup>19</sup> We shall return to this argument in Chapter 5.

Waldron uses the examples of Great Britain, the United States and German legal science to back up his theory of a decline of human rights discourse. Discussion of the German liberal jurists – who defended the rule of law in terms overdetermined by the ‘strategic’ constraints imposed on them in the authoritarian context of Prussian monarchy – lies beyond the scope of this study. We must point out, nevertheless, that human

<sup>15</sup> Alexis de Tocqueville, *De la démocratie en Amérique*, vol. 1, Paris, Gallimard, 1986, p. 557 (trans. Henry Reeve, 1899). It is therefore simplistic to say, as does Moyn, that Tocqueville thought of rights merely as one amongst many on a long list of means of preserving liberty.

<sup>16</sup> See especially Robin Blackburn, *The American Crucible. Slavery, Emancipation and Human Rights*, London, Verso, 2011 and Jenny S. Martinez, *The Slave Trade and the Origins of International Human Rights*, New York (NY), Oxford University Press, 2012.

<sup>17</sup> See Serge Audier’s many works on this question, especially *Le Socialisme libéral*, Paris, La Découverte, 2006.

<sup>18</sup> In a letter of 4 November 1864 to Engels, Marx said that he had been ‘obliged to insert two phrases about “duty” and “right”’, but ‘placed them in such a way that they can do no harm’. In his *Critique of the Erfurt Program*, in 1891, Engels suggested replacing the expression ‘for equal rights for all’ with: ‘for equal rights and equal duties of all’, since ‘Equal duties are for us a particularly important addition to the bourgeois-democratic equal rights and do away with their specifically bourgeois meaning.’

<sup>19</sup> Robin Blackburn, ‘Reclaiming Human Rights’, *New Left Review*, 69, May–June 2011, P. 137.

rights were the subject of one of the great historiographical debates of the decade after 1900, which pitted the great German liberal jurist Georg Jellinek against the French political scientist Emile Boutmy over the origins of the 1789 Declaration.<sup>20</sup> This has often been reduced to the dimensions of a nationalist tussle between a ‘Germanic’ appropriation of the ideals of 1789, brought back to the Protestant kernel of freedom of conscience (Jellinek), and a defence of the irreducible originality of France and Rousseau’s innovations (Boutmy). But the philosophical question was in fact a real one, since the disagreement bore on the question about the nature of human rights: is their core to be found in an intangible freedom of conscience that precedes political law and overrides any principle of sovereignty (Jellinek), or rather in the reciprocity of citizen rights which guarantee equal liberties (à la Rousseau) by subjugating individual wills to the sovereignty of the general will (Boutmy)?<sup>21</sup> The very fact that this debate took place demonstrates that human rights had remained part of European consciousness. In his reply to Boutmy, before restating his thesis that the 1789 Declaration had American, English and Calvinist roots (rather than Lutheran – as he stressed to distance himself from nationalist agendas), Jellinek started by recalling that the Declaration was a ‘historical fact of universal significance’, and that in making ‘recognition of individual rights’ a ‘principle of public law’, France had founded the ‘modern State’ in all its contrast with the ancien régime.<sup>22</sup>

Waldron unfortunately omits from his study the role played by reference to human rights in France, where the fight *for* or *against* the republic that was the guiding thread of the French ‘long nineteenth century’ was always a struggle over the memory of human rights, over their interpretation and their perpetuation. Alphonse Aulard, who held the first chair in the history of the French Revolution at the Sorbonne from 1885 to 1922 and

<sup>20</sup> Georg Jellinek, *Die Erklärung der Menschen und Bürgerrechte*, Leipzig, Duncker & Humblot, 1895; French translation *La déclaration des droits de l’homme et du citoyen: contribution à l’étude du droit constitutionnel moderne*, trans. Georges Fardis, Paris, A. Fontemoing, 1902; Emile Boutmy, ‘La Déclaration des droits de l’Homme et M. Jellinek’, *Annales de l’Ecole libre des Sciences politiques*, XVII, 1902, p. 415ff, in *Etudes politiques*, Paris, A. Colin, 1907, pp. 117–182; Georg Jellinek, ‘La Déclaration des droits de l’homme et du citoyen. Réponse à M. Boutmy’, *Revue du droit public et de la science politique*, XVIII, 6, 9th year, 1902, pp. 385–400.

<sup>21</sup> On this debate, see Marcel Thomann, ‘Origines et sources doctrinales de la Déclaration des droits’, *Droits n° 8: La Déclaration de 1789*, Paris, PUF, 1988, pp. 55–70; François Saint-Bonnet, ‘Regards critiques sur la méthodologie en histoire constitutionnelle. Les destinations téléologiques des options épistémologiques’, *Jus politicum*, 2, 2009, [www.juspoliticum.com/Regards-critiques-sur-la.html](http://www.juspoliticum.com/Regards-critiques-sur-la.html) (accessed 25 November 2013).

<sup>22</sup> Georg Jellinek, ‘Réponse à Boutmy’, p. 386. ‘The basis for this significant event’, Jellinek wrote, ‘is the official recognition of the rights of man opposite state rights.’

8 From the Rights of Man to Human Rights?

co-founded the League of Human Rights (Ligue des droits de l'homme), spoke for all French republicans when he said that,

The French Revolution consisted of the Declaration of Rights drafted in 1789 and finished in 1793, and of the attempts to make this declaration reality; the counter-revolution consisted in the attempts to turn the French away from acting in accordance with the principles of the Declaration of Rights, in other words in accordance with reason as revealed by history.<sup>23</sup>

To defend the republic, in Aulard's view, meant to defend revolutionary heritage, which in turn was first and foremost that of the rights of man. This explains why human rights returned to the forefront of debate each time the republican regime had to confront the threat of counter-revolutionary subversion: Clémenceau's creation of the Society of the Rights of Man and the Citizen (Société des droits de l'homme et du citoyen) in 1888 during the Boulangist crisis; the foundation of the League of Human Rights (Ligue des droits de l'homme) in February 1898, just as the culmination of the Dreyfus Affair in Emile Zola's trial was giving rise to appalling anti-Semitic outbursts all over France.<sup>24</sup> In his magisterial history of French republicanism, Claude Nicolet goes so far as to conclude that the 1789 Declaration was 'the republican "symbol" *par excellence*' in France,<sup>25</sup> a profession of political faith which was to be preserved and nurtured by public education.

Waldron's theory of a supposed 'decline' of human rights, then, is an exaggeration. Moreover, Moyn's claim that the concept had been abandoned (with the exceptions of Benjamin Constant, François Guizot and Alexis de Tocqueville) across the French political spectrum in the nineteenth century does not hold water.<sup>26</sup> If human rights had been in the background of political and theoretical debates for a time, they were latent rather than completely absent, and this dormancy can be seen as the assumption of a step forward whose theoretical significance was beyond question. What is more, theoretical discussion of human rights, closely associated with the memory of the revolutionary establishment, continued during this period. It was merely that such discussion happened in historical terms: French political philosophers of all persuasions, from Thiers to Jaurès by way of Lamartine, Louis Blanc,

<sup>23</sup> Alphonse Aulard, *Histoire politique de la Révolution française*, Paris, A. Colin, 1901, new edition 1926, p.782, quoted in Florence Gauthier, *Triomphe et mort du droit naturel en Révolution. 1789–1795–1802*, Paris, PUF, 1992, p. 113.

<sup>24</sup> See Pierre Birnbaum, *Le moment antisémite. Un tour de la France en 1898*, Paris, Fayard, 1998.

<sup>25</sup> Claude Nicolet, *L'Idée républicaine en France*, Paris, Gallimard, 1982, p. 357.

<sup>26</sup> Waldron, 'The Decline of Natural Right', *art. cit.*, p. 29; Samuel Moyn, 'Plural cosmopolitanisms and the origins of human rights', *art. cit.*, p. 208.



Tocqueville and Taine,<sup>27</sup> wrote histories of the Revolution that also served as imposing theoretical explorations. For these authors, writing revolutionary history meant tackling the institutional meaning of human rights and the problem of their entanglement with the Terror – or, as we see with Edgar Quinet, the problem of their disentanglement from the Terror.

Human rights also featured in legal theorising. In France, pre-eminent jurists were debating the question of the constitutional nature of the 1789 Declaration before 1914. Political practice under the Third Republic was undoubtedly recalcitrant towards controls on constitutionality: most republicans insisted on the primacy of national sovereignty over the power of the judiciary, and therefore refused to grant the Declaration of the Rights of Man the status of a higher rule that could trump legislative or even constitutional power. Thus, without consenting to cede exclusive power over law to the legislature, the legal theorist Adhémar Esmein held that individual rights, ‘the heritage definitively won for the French’ since 1789, were adequately guaranteed by the interplay of republican institutions. Raymond Carré de Malberg, who described ‘natural right’ as ‘a *contradictio in adjecto*’, meanwhile denied any positive legal value to the 1789 Declaration.<sup>28</sup>

The Catholic liberal Maurice Hauriou directly counters this argument, however, taking the sequence of Declarations from 1789 to 1852 to be the ‘constitutive text of the social constitution’, and advocating judicial review of the constitutionality of laws on the basis of the declarations.<sup>29</sup> An even more radical rejection comes from the legal theorist Léon Duguit, a disciple of Durkheim; though he had no connection with the Catholic tradition of natural right, Duguit based law on the objective and prime fact of ‘social solidarity’, and was a determined critic of natural right and the individualist metaphysics which in his view marred the Declaration of 1789. He did, however, recognise in the Declaration a ‘positive legal force’ such that ‘any law running contrary to the terms of the Declaration of Rights of 1789 would be an unconstitutional one.’<sup>30</sup>

<sup>27</sup> Michelet must be added to this list: his *Histoire de la Révolution française* is also an essay on political philosophy – albeit possibly to a lesser degree than Edgar Quinet’s work *La Révolution*, whose theoretical importance has been demonstrated by Claude Lefort. (C. Lefort, ‘Edgar Quinet: la Révolution manquée’, in *Essais sur le politique*, Paris, Seuil, 1986, pp. 140–161).

<sup>28</sup> Adhémar Esmein, *Éléments de droit constitutionnel*, Paris, Larose, 1896, pp. 369–390; Raymond Carré de Malberg, *Contribution à la théorie générale de l’Etat* (1920–1922), Paris, Dalloz, 2004, I pp. 238–243, II pp. 578–582.

<sup>29</sup> Maurice Hauriou, *Précis de droit constitutionnel* (1923), Paris, Sirey, 2nd edn., 1929 p. 625.

<sup>30</sup> Léon Duguit, *Manuel de droit constitutionnel*, 1st edn., Paris, Fontemoing, 1907, pp. 8ff and 485. For an overview of these debates, see Nicolet, *L’Idée républicaine en France*, pp. 333–374.

10 From the Rights of Man to Human Rights?

At the same time, Jaurès shows in his analysis of the legislative actions of the French revolution that the meaning of the Declaration had always gone beyond the individualism uppermost in the mind of its authors. The ‘revolutionary idealism’ of human rights had revealed its ‘imperious logic’ in the process that led the revolutionaries – beyond their original aims, and even against their better judgement – to extend political rights, limit property rights by imposing an egalitarian principle on inheritance law, abolish slavery, and finally recognise that ‘every man has the right to subsistence’.<sup>31</sup>

‘The human right proclaimed by the Revolution immediately took on a deeper and broader meaning than that ascribed to it by the revolutionary bourgeoisie. [...] The riverbed was wider than the river, and a new current would be needed – the great proletarian and human current – in order finally to fulfil the idea of justice. It is socialism alone that will imbue the Declaration of the Rights of Man with its full meaning and make all human law reality.’<sup>32</sup>

Breaking down the ‘bourgeois’ boundaries of the Declaration, refounding it on the new basis of ‘social property’, imbuing it with its full meaning – all these, for Jaurès, came to one and the same thing. This absorption of human rights into socialism converged with the mirror move of republican thought in attempting to base the idea of social right on individual rights. The combination of socialist ambitions with an insistence on ‘natural right’ which ‘no one can renounce without renouncing the very human condition’ was already present in 1848 in Charles Renouvier’s *Manuel républicain de l’homme et du citoyen*, which went beyond the liberties declared in 1789 to demand the ‘right to work’ and the ‘right to assistance’. Renouvier, who systematically developed his Kantian philosophy over the second half of the nineteenth century, is now unjustly forgotten; yet his work at the time exerted considerable influence, so much so that his adversary Maurras saw him as the republican philosopher *par excellence*.<sup>33</sup>

For another founding father of the Third Republic, the philosopher Alfred Fouillé, the job of democracy was to guarantee at once: ‘1. The liberty and equality of individual rights; and 2. Organic and voluntary solidarity between individuals within the whole’.<sup>34</sup> In this

<sup>31</sup> Jean Jaurès, *Histoire socialiste*, vol. I, Paris, Rouff, 1901, pp. 381, 479.

<sup>32</sup> Jean Jaurès, *Études socialistes*, Paris, Cahiers de la Quinzaine, 1901, p. 137.

<sup>33</sup> ‘Le “spirituel” de France est dirigé par le cénacle de M. Renouvier’ (Charles Maurras, article of 1903 reproduced in *La démocratie religieuse*, Paris, Nouvelle librairie nationale, 1921, p. 310). On Renouvier, see Marie-Claude Blais, *Au Principe de la République. Le cas Renouvier*, Paris, Gallimard, 2000.

<sup>34</sup> Alfred Fouillé, *La démocratie politique et sociale en France*, Paris, Alcan, 1910, p. 19.