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A NEW HUMAN RIGHTS-BASED THEORY OF HISTORIANS' RESPONSIBILITIES*

Antoon De Baets

Previous theories of historians' responsibilities have been based on organizing principles such as their scope, addressees and performers, and the context of these responsibilities. In contrast, the theory presented here is based on human rights and uses the performative nature of responsibilities as its criterion, distinguishing responsibilities to respect, protect and promote. The theory argues, first of all, that the source of responsibilities is located in human rights: one has responsibilities because one has rights. It also discusses the differences between responsibilities, duties and virtues. It then specifies the basic responsibilities of states toward history and historians and the basic responsibilities of historians toward history and other historians. Finally, it examines the relative strength of the responsibilities to respect, protect and promote, arguing that the first is absolute while the other two are not. The new human-rights based theory of historians' responsibilities presented here provides a foundation on which other responsibilities can be built.

1. Introduction

Over the years, many principles have been proposed for organizing the duties and responsibilities of historians.¹ One such organizing principle emphasizes their *scope* and subdivides them into professional, civic, social, cultural, political and other responsibilities. A second principle highlights the *addressees* and subdivides them into responsibilities toward past, present and future generations. A third principle foregrounds their *performers* and subdivides them into the responsibilities of individual historians and responsibilities of the community of historians. A fourth principle, finally, emphasizes the *context* and distinguishes responsibilities in times of war, during public emergencies and in peacetime.

None of these organizing principles will be used in the new theory of historians' responsibilities presented here, although they are compatible with it and many of their key elements return in it. This

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new theory is based on human rights and distinguishes three main responsibilities, using their *performative nature* as its organizing principle: one responsibility requires them ‘to respect’, another ‘to protect’, a third ‘to promote’. This new theory is, in fact, a general human-rights based theory of responsibilities that is applicable to all states and individuals² and that I propose to apply to history-related responsibilities, particularly those of historians.

2. The Relationship between Human Rights and Responsibilities

The most important human rights instruments – the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights – refer to both duties and responsibilities. They are particular profuse over the duties and responsibilities of states, but relatively sparse over those of individuals. From the outset, since human rights were intended to shield individuals against the arbitrary power of states, the drafters of these human rights instruments were quite explicit about states’ responsibilities but not about individual responsibilities. This was because they feared that states would use any clauses about the duties and responsibilities of individuals to restrict rather than promote the latter’s human rights.³

The Universal Declaration of Human Rights contains only two responsibilities: the responsibility of everyone to act in a spirit of brotherhood (Article 1) and the responsibility of individuals to the community (Article 29). The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights have a largely identical preamble which refers to both state and individual responsibilities. In one paragraph, it says that it is ‘the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms’. In a later paragraph, it echoes the Universal Declaration of Human Rights in stipulating that ‘the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant’.

Since the Covenants ask all individuals to assume the responsibility for promoting human rights, society can rightfully make claims upon its historians to help promote some of these rights. In particular, the

(human) rights of everyone to access information, receive an education, participate in the cultural life of the community and share in the benefits of scientific progress seem to provide a basis for society to make some claims of responsibility upon its historians.⁴

Interestingly, Article 19.3 of the International Covenant on Civil and Political Rights, which describes the permissible restrictions on the right to freedom of expression, clarifies the *basis of our theory of responsibilities* set out in this paper. It stipulates that ‘The exercise of the rights [to freedom of expression] carries with it special duties and responsibilities. It may therefore be subject to certain restrictions ...’ This clause throws light on the source of the responsibilities held by individuals: individuals have responsibilities *because* they have rights. Rights are prior to responsibilities and provide a rationale for them.⁵ The logic of the relationship lies in the fact that the right has to be guaranteed to the maximum and that any restrictions originating in individual responsibilities when exercising it must be carefully justified.⁶ In short, a human rights perspective on ethics for historians expressly links the responsibilities of historians to human rights, something that is strangely absent in most theories of ethics for historians, which focus exclusively on virtues and responsibilities.

3. Responsibilities, Duties and Virtues

Strictly speaking, ‘duties’ are general ethical or moral obligations, while ‘responsibilities’ are obligations that are legally binding under existing international law;⁷ however, both terms are used interchangeably here, as is general practice.⁸ Therefore, when I speak of responsibilities, I also mean duties and obligations. I agree with the legal philosopher Ronald Dworkin in distinguishing two main types of responsibilities: responsibilities to oneself (or virtues) and responsibilities toward others (or relational responsibilities).⁹ As for virtues,¹⁰ I further distinguish *recommended* and *essential virtues*. Curiosity, modesty and open-mindedness would be recommended intellectual virtues. If historians do not comply with them, the quality of their work may suffer, but no great harm is done to others. In contrast, honesty (an ethical virtue) and accuracy (an epistemic virtue) are essential virtues because non-compliance with them (for example, when historians lie or act with reckless disregard for the facts) may lead to harmful consequences for others, as well as to history as a discipline.

Judges' rulings on complaints against what historians have said or written will evaluate the latter's defence based on virtues as a sign of good faith, but a defence based on relational responsibilities will be more convincing.¹¹ They will almost always refrain from determining 'the historical truth' themselves. Instead, they usually verify the 'procedural aspects' of the historical work that is the target of a complaint, asking whether historians carried out their research into the subjects of study honestly in accordance with the public interest and using generally accepted standards of accuracy that prudent historians usually observe.¹² We see that essential virtues such as honesty and accuracy occupy a middle ground between recommended virtues and relational responsibilities because failing to comply with them may harm others. The ethical framework, then, is clear: when historians act, they are protected by rights, guided by virtues, and restricted by responsibilities. Rights set claims, virtues set best practices, responsibilities set floors. Together they foster *responsible history*. We may now ask: What exactly *are* these responsibilities?

3.1 *The Responsibilities of States toward History and Historians*

The state's *responsibility to respect* history and historians means that states should abstain from direct or complicit involvement in attacks on historians, including history educators, memory activists, archaeologists, archivists and heritage professionals.¹³ The state also has responsibilities to respect the freedom of scientific research and to recognize the benefits of international scientific co-operation.¹⁴ The *responsibility to protect* requires states to proactively take measures to prevent, condemn, prohibit, investigate and prosecute attacks on historians and related professionals at risk from third parties, as well as offer remedies for the victims of such attacks.¹⁵ A state's *responsibility to promote* requires it to set up a solid and equitable legislative framework for educational and research institutions that conduct history-related work, and for archives and museums and similar cultural institutions. It also requires states to take policy measures to foster development of the field.

3.2 *The Responsibilities of Historians toward History and Historians*

If I pass from states to the level at which historians operate, I discern an analogy. If historians as a community want to operate

autonomously – if, in the words of the philosopher and historian Arthur Lovejoy, they want to be a ‘self-governing republic of scholars’¹⁶ – they have to accept responsibilities analogous to those assigned to states:

3.2.1 *A responsibility to respect history and historians*

The responsibility to respect *history* requires respect for the principle of scientific integrity when approaching the past as historians.¹⁷ Integrity, or the attitude of being honest and accurate and not acting corruptly, implies that being a historian is coterminous with working in good faith; historians acting in bad faith are not historians.¹⁸ This integrity principle is so obvious that it is seldom made explicit. In the Faurisson case (a case of Holocaust denial), the United Nations Human Rights Committee stressed the principle of honesty in historical research,¹⁹ thus essentially echoing the views of Max Weber, who spoke about *intellektuelle Rechtschaffenheit* (intellectual integrity) as the central scholarly value as early as 1918.²⁰ In UNESCO’s words, the task of responsible science is ‘an honest search for truth’.²¹ A responsibility to respect *historians* means that one should always respect the rights of other historians and of students, as well as ensure a fair discussion of contrary views.²²

3.2.2 *A responsibility to protect history and historians*

This responsibility requires historians to *oppose* abuses of history and attacks on history by third parties.²³ Among the most serious abuses are the intentional denial or misrepresentation (fabrication, falsification, plagiarism) of historical facts and opinions; among the most serious attacks are ‘crimes against history’ – that is, attacks that are criminal under domestic or international law – for example, when historians are assassinated for political reasons.²⁴ Abuses of history and attacks on historians harm not only historians but also history itself. Their chilling effects usually result in fewer and less active speakers and fewer and less receptive listeners to historical debates than otherwise would have been the case.

The responsibility to *oppose* attacks on, and abuses of, history can be broken down into a series of steps ranging from preventing to investigating, disclosing and sanctioning these abuses and attacks, as well as expressing solidarity with those attacked.²⁵ The first of these steps – prevention – is the responsibility of all historians, but the other steps are usually carried out collectively by historical

associations, institutions, or journals, or by the judicial apparatus. Prevention of abuse is fostered through the cultivation of a careful and honest work habit in the first place, especially by generously acknowledging intellectual debts in notes and references, and by carefully distinguishing quotations from paraphrases. Standard-setting through the development of professional codes of ethics is also important. Awareness can be raised by teaching professional ethics to students, including research into and teaching about the history of the attacks on and abuses of history. Solidarity with colleagues at risk requires first and foremost defending the latter's human and professional rights.

3.2.3 *A responsibility to promote history*

This responsibility requires the creation of favourable conditions for research and teaching, in the first place by establishing equitable research ecosystems and high-quality education curricula free from indoctrination. It also requires the arrangement, as far as possible, of responsible and dignified scientific and public debates about the dark sides of history, including its atrocities. Occasionally, human rights bodies have suggested how the responsibility to promote has to be understood. The United Nations Human Rights Committee has emphasized the principles of objectivity, neutrality and non-discrimination in (history) education,²⁶ and the United Nations Special Rapporteur on Cultural Rights has noted that history teaching should be free from political or religious indoctrination.²⁷ Indoctrination is seen as a violation of the right to education.²⁸

4. Discussion of the Responsibilities of Historians

Whereas the responsibilities to respect and promote defend responsible history, the responsibility to protect fights irresponsible history. The responsibility to respect is the most important of all: it is a responsibility of result without which the responsibilities to protect and promote become meaningless. For how can one protect and promote history if one does not respect it in the first place? In contrast, the responsibilities to protect and promote are responsibilities of effort, of means, and of conduct governed by risk-reducing precautionary and due diligence principles. Within the ambit of the responsibility to protect, the responsibility to prevent is weightier than the responsibilities to investigate, disclose, sanction or

express solidarity because all historians are able to contribute to prevention.

The responsibility to respect is absolute: it cannot be waived under any circumstances. In contrast, historians' responsibilities to protect and promote can be tempered by three factors. To begin with, they are mitigated by the degree to which historians' rights are respected. We have responsibilities *because* we have rights, making it logical to assume that responsibilities to protect and promote diminish when rights diminish. If historians' rights are not respected, or not completely, and in particular, if their physical safety is threatened and they are living under duress, their responsibilities to protect and promote diminish to the same degree.

Second, the responsibilities to protect and promote are tempered by the degree of autonomy they are granted by society when it requires them to promote specific human rights. In order to do so, historians need a margin of liberty. There can be no accountability toward society and no protection or promotion of human rights without a substantial form of autonomy (including academic freedom).

Finally, historians' responsibilities to protect and promote are toned down by their potentially conflictual character: historians fulfil several social and professional roles and belong to diverse local, national, and global communities. As a result, responsibilities emanating from these roles and communities may conflict and should be balanced against one another. Virtues, for example, can compete: 'Complete honesty may clash with prudence, justice with compassion, benevolence with fortitude'.²⁹

This conflict of responsibilities can be clearly illustrated in the field of history education. According to Article 13.1 of the International Covenant on Economic, Social and Cultural Rights, the right to education should be realized in the service of human rights, international understanding and peace. According to the historians' own set of responsibilities, however, historians should respect the integrity of history, that is, they should honestly search for the historical truth. These aims – human rights and peace versus integrity and truth – can conflict because the findings of historical research (including those taught in the classroom) often do not point to respect for human rights, international understanding or peace but rather to conflict and violence. While the aims of the International Covenant on Economic, Social and Cultural Rights are certainly valid,

reading them dogmatically into history can distort the latter, ultimately, perhaps, discouraging history teachers and students from embracing them.³⁰

5. Epilogue

This is, in a nutshell, what a human-rights based theory of historians' responsibilities looks like: it uses the logic of human rights theory to formulate the fundamental responsibilities of historians, which form the basis on which other responsibilities can be built. In support of this new theory, the words of the sixteenth-century French humanist François Rabelais are appropriate: 'Science without conscience is but ruin of the soul'.³¹

Notes

¹ This is the text of an address at the Final Session of the Third Forum on History Education – an intergovernmental project of the Council of Europe and its Observatory on History Education in Europe – on 'Reinforcing Historical Awareness and Culture through Higher Education: Threats and Challenges', held at the University of Bologna on 17 May 2024. It also forms part of Chapter 4 ('A Human Rights View of History') in Antoon De Baets, *A Human Rights View of the Past* (Cambridge: Cambridge University Press, forthcoming [2024]).

² Office of the High Commissioner for Human Rights, International Human Rights Law, <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>. To my knowledge, the triad first appeared in the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997), §6, and in the United Nations Committee on Economic, Social and Cultural Rights, *General Comment 13* [Right to education] (E/C.12/1999/10) (1999), §§ 46–50.

³ See United Nations Special Rapporteur on Freedom of Opinion and Expression, *Report* [Challenges to freedom of expression] (A/71/373) (2016), § 8; Douglas Cassell, 'Steering Clear of the Twin Shoals of a Rights-Based Morality and a Duty-Based Legality', in *Between Rights and Responsibilities: A Fundamental Debate*, eds. Stephan Parmentier, Hans Werdmölder and Michaël Merrigan. Cambridge, etc.: Intersentia, 2016, 59–63.

⁴ Universal Declaration of Human Rights, United Nations General Assembly Resolution 217(III)A (1948), Articles 19, 26–27, which correspond to Article 19.2 of the International Covenant on Civil and Political Rights, United Nations General Assembly Resolution 2200(XXI)A (1966), and Articles 13.1, 15.1(a)–(b) of the International Covenant on Economic, Social and Political Rights, United Nations General Assembly Resolution 2200(XXI)A (1966).

⁵ Compare Joseph Raz, *The Morality of Freedom*. Oxford: Oxford University Press, 1988, 181: ‘Assertions of rights are typically intermediate conclusions in arguments from ultimate values to duties’.

⁶ Cassell, ‘Steering Clear’, 59–60.

⁷ René Foqué, ‘Human Rights and Human Responsibilities: Setting the Ethical and the Conceptual Scene’, in *Between Rights and Responsibilities: A Fundamental Debate*, eds Stephan Parmentier, Hans Werdmölder and Michaël Merrigan. Cambridge, etc.: Intersentia, 2016, 25–27.

⁸ See, e.g., United Nations Special Rapporteur on Human Rights and Human Responsibilities, *Final Report* [Human responsibilities] (E/CN.4/2003/105) (2003), Article 1.

⁹ In his theory of responsibility, Ronald Dworkin (*Justice for Hedgehogs*, Cambridge MA and London: The Belknap Press of Harvard University Press, 2011, 102–104), distinguishes virtue responsibilities (subdivided into intellectual, practical, ethical, and moral responsibilities) and relational responsibilities (subdivided into causal, assignment, liability, and judgmental responsibilities).

¹⁰ For the virtues of historians, see Herman Paul, *Historians’ Virtues: From Antiquity to the Twenty-First Century*. Cambridge: Cambridge University Press, 2022, 1–8, 52–53.

¹¹ See also Toby Mendel, ‘Reflections on Media Self-regulation: Lessons for Historians’, *Storia della Storiografia / History of Historiography*, nos. 59–60 (September 2011), 60–61.

¹² Antoon De Baets, *Responsible History*. New York and Oxford: Berghahn, 2009, 85–89.

¹³ Attacks on historians are threats or uses of force by state or non-state actors against historians or their work with the intent to silence them.

¹⁴ International Covenant on Economic, Social and Cultural Rights, Articles 15.3 and 15.4.

¹⁵ United Nations Human Rights Committee, *General Comment 31* [General legal obligation] (CCPR/C/21/Rev.1/Add.13) (2004), § 8.

¹⁶ Arthur Lovejoy, ‘The Profession of the Professorate’, *Johns Hopkins Alumni Magazine*, no. 2 (November 1913 – June 1914), 181–192.

¹⁷ For the concept of integrity, see Arthur Alfaix Assis, ‘Objectivity and the First Law of History Writing’, *Journal of the Philosophy of History*, 13 (2019), 107–128; Mark Bevir, *The Logic of the History of Ideas*. Cambridge: Cambridge University Press, 1999, 142–150; Tony Gibbons, ‘The Concept of Integrity’, in *Integrity and Historical Research*, eds Tony Gibbons and Emily Sutherland. London: Routledge, 2012, 1–12; Martin Jay, ‘Historical Truth and the Truthfulness of Historians’, in *Integrity, Honesty, and Truth Seeking*, eds Christian Miller and Ryan West. Oxford: Oxford University Press, 2020, 240–273; Lutz Raphael and Benjamin Zachariah, ‘Intellectual Honesty and the Purposes of History’, *Bloomsbury History: Theory and Method*. London: Bloomsbury Publishing, 2021; Bernard Williams, *Truth & Truthfulness: An Essay in Genealogy*. Princeton and Oxford: Princeton University Press, 2002, 84–148.

¹⁸ Antoon De Baets, ‘Historians and Human Rights Advocacy’, in *The Professional Historian in Public: Old and New Roles Revisited*, eds Lutz Raphael and Berber Bevernage. Berlin: De Gruyter, 2023, 323.

¹⁹ United Nations Human Rights Committee, *Faurisson v. France* (550/93) (1996), concurring opinion of Evatt, Kretzmer, and Klein, §§ 6, 10. See also Antoon De Baets, ‘The United Nations Human Rights Committee’s View of the Past’, in *Law and Memory: Towards Legal Governance of History*, eds Uladzislau Belavusau and Aleksandra Gliszczynska-Grabias. Cambridge: Cambridge University Press, 2017, 45–46.

²⁰ Max Weber, *Wissenschaft als Beruf*. Munich: Duncker & Humboldt, 1919.

²¹ UNESCO, *Recommendation Concerning the Status of Higher-Education Teaching Personnel* (1977), § 33.

²² UNESCO, *Recommendation*, § 33.

²³ Attacks on history are defined in note 13. Abuses of history are uses of history with the intent to *deceive* for political or other purposes: see De Baets, *Responsible History*, 9–48. See also International Committee of Historical Sciences, *Constitution* (1926, as amended in 1992 and 2005), Article 1: ‘[...] It [the Committee, *ad b*] shall defend freedom of thought and expression in the field of historical research and teaching, and is opposed to the misuse of history and shall use every means at its disposal to ensure the ethical professional conduct of its members’.

²⁴ See *Provisional Memorial for Historians Killed for Political Reasons*, <https://www.concernedhistorians.org/memorial>. See also Antoon De Baets, *Crimes against History*. London: Routledge, 2019.

²⁵ De Baets, *Responsible History*, 2009, 35–39; De Baets, ‘Historians and Human Rights Advocacy’, 324.

²⁶ In United Nations Human Rights Committee, *Hartikainen v. Finland* (40/1978) (1981), § 10.4; United Nations Human Rights Committee, *Ross v. Canada* (736/1997) (2000), § 11.6. See also De Baets, ‘The United Nations Human Rights Committee’s View of the Past’, 44–45.

²⁷ United Nations Special Rapporteur on Cultural Rights, *Report* [Writing and teaching of history] (A/68/296) (2013), §§ 64–70, 86– 88. See also United Nations Committee on Economic, Social and Cultural Rights, *General Comment 13*, § 6.

²⁸ International Covenant on Economic, Social and Cultural Rights, Article 13.

²⁹ Gibbons, ‘Concept of Integrity’, 11.

³⁰ Antoon De Baets, ‘The Impact of the Universal Declaration of Human Rights on the Study of History’, *History and Theory*, 48 no. 1 (February 2009), 31–33.

³¹ ‘Science sans conscience n’est que ruine de l’âme’, in François Rabelais, *Pantagruel: Édition critique sur le texte de l’édition publiée à Lyon en 1542 par François Juste* (Paris: Honoré Champion, 1997), 110.

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