

## Secular faith: a critique of Human Rights doctrine

We like to think of ourselves as superior over our forebears. In popular imagination, the past was an era when life was cheap, brutish and short. Oppressed peasants starved in mud huts. Ignorant churchmen persecuted men of ideas and burned them as heretics. Noblemen spent their lives drinking, chasing wild boar and bashing each other in the head with swords. Courtiers rebelled and were executed with horrific barbarism.

Since the advent of this idea, we certainly have progressed. The course of the last five hundred years have consistently shown a rise in human ambitions, and hence a rise in human success. Judged by every statistical measure, human life has grown better and more fulfilled. We live longer, we are healthier, we earn more, we have more material comforts, we do less labour, we know more and we're cleaner.

Many thinkers trace this recent success to a new respect for the individual, and his capacity to improve himself without hindrance from society or other authorities. The Declaration of Independence in 1776 went so far as to declare "these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."<sup>1</sup> This first expression of Human Rights, though merely rhetorical at the time, has long since sought to extend to every human being.

We started treating people with respect. Everyone now has the right to life, liberty and security of person.<sup>2</sup> We abolished slavery. We abolished torture. We introduced equality before the law and freedom from discrimination or arbitrary arrest, detention or exile. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal. A person is presumed innocent until proved guilty according to law. We safeguarded privacy, and we guaranteed freedom of expression and of religion. We guaranteed education, fair wages and social security.

Except we haven't, we can't, and we don't want to.

### **1. The sacrosanct Individual**

The liberal West, where I live, has been shaped by centuries of individualism. The individual has been granted pride of place since Locke and Hobbes placed him at the centre of the social contract. In his *Leviathan*, Hobbes imagines a world without social rules, in which all men are at war with each other. Since this is unsustainable, humans mutually cede the right to stab each other in the back, in order to live in a peaceful society – or as Hobbes calls it, a Commonwealth. In order to enforce these mutual agreements, the Commonwealth is given extra powers, including the right to use force. Yet in Hobbes's vision, humans only grant to the Commonwealth only those powers and responsibilities which must necessarily be ceded to ensure a smooth running society. The individual remains king in his own domain, to the extent that he does not infringe the rights of others.

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<sup>1</sup> [http://www.archives.gov/exhibit\\_hall/charters\\_of\\_freedom/declaration/declaration\\_transcription.html](http://www.archives.gov/exhibit_hall/charters_of_freedom/declaration/declaration_transcription.html)

It must be said that the Declaration is intensely problematic with regard to the issue of slavery. The US Constitution only applied to free citizens, and not to slaves, while Thomas Jefferson himself was a slave-owner. Constitutional protection only extended to other parts of humanity much later, after the Civil War.

<sup>2</sup> Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948 (<http://www.un.org/Overview/rights.html>)

There we have the roots of the concept of Human Rights, as we know it today. Human Rights, a weapon of the individual to attack the State or the collectivity. Its success has been little short of astonishing.

Except that there are grave problems with accepting it as a universal concept. With a grand title in the Universal Declaration of Human Rights, it claims a global legitimacy, which simply cannot be borne out. It is not universally accepted. It is not applicable to all humans. And it is not a right. This does not mean that the ideas are not desirable or noble – I believe they are. However, they form a political theory, a zeitgeist for the late 20<sup>th</sup> and early 21<sup>st</sup> centuries, an omnipresent doctrine. Human Rights doctrine is the secular, post-modern, quasi-rational Religion of our time, with universal claims, but based on as much hope and blind faith as any other.

### **Rights that cannot be claimed**

Firstly, we haven't implemented what we describe as Human Rights. A declaration, a piece of paper, this means nothing without being properly implemented. The fact that 90% of the world's population cannot enjoy them makes a mockery of the idea of rights. Making ideas such as free education, social security and trade union membership into human rights is frankly a laughable concept for most of the world. If we identify them correctly as being the central concepts of the liberal model of development, this is a good starting point. Let us unmask them for what they are: Human Rights are good objectives for Human Development Plans. They are not rights. They are objectives.

Human Rights are also a legal concept. They are therefore dependent on a culture of respect for laws and the procedures of justice. It seems to me overwhelmingly clear that before progress can be made at improving rights, there must be respect for a quintessentially European view of justice – concentrating on the courts, written law, and statutory punishments for those infringing the law. All three are so central to the European experience that it is difficult to imagine working otherwise. However, in much of East Asia, resort to the courts is a mark of failure in resolving disputes; in much of Africa and the Middle East, traditional practice is at least as important in affecting conduct as any written law; in most of the world, there is no culture of complaints against arbitrary decisions by those in authority.

If Human Rights are even to claim to represent humanity, the priority should not be to make political demands on poor countries, but to reinforce legal structures. Access to justice is a prerequisite to Human Rights: the latter is just a distraction until this is in place.

### **Rights that cannot be afforded**

Secondly, the Human Rights objectives we have set ourselves are unrealisable and unaffordable. There are certainly quantifiable economic benefits, if we achieve it. No slavery, in theory, means a more efficient set of employment relations. Fair trials mean greater confidence in the legal system, and thus greater confidence in personal and economic contracts – leading to more trade, more efficient use of resources and more economic development. No torture means the State apparatus spending fewer resources on persecuting people, and more on improving quality of life.

However, we must ask ourselves whether the political and economic resources we spend on Human Rights could not be better used elsewhere. Reconstruction aid is scarce. The

vast majority of overseas assistance is taxpayers' money. Even if the money comes from banks and other private institutions, it is in the form of loans ultimately paid for by taxpayers in the future. With such scarcity of supply, there needs to be some guarantee to the taxpayers of the world that the expenditure will produce more benefits than could be obtained from other uses of this money – that the opportunity-cost makes sense.

Since it requires a wholesale redrafting of a State's entire culture and tradition, the prize on offer needs to be immense. The EU's accession process has had considerable success in systematically rolling back State abuses in candidate countries. Yet even this cannot guarantee protection of the individual. Greece's record on police brutality is doubtful, and Turkey frequently seems willing to sacrifice its EU ambitions to continue persecuting its Kurdish minorities. Only protectorates of the "international community" can guarantee reforms to protect the individual. One thinks of Kosovo, where Western armies were followed by armies of Western consultants and administrators. The cost is immense, the value for money doubtful.

## ***2. "Universal" rights for a European cultural context***

The definition of Human Rights in itself reflects a peculiarly European outlook. It reflects a culture where the traditional bonds of society have been slowly eroded in favour of the individual. Human Rights only deals with individuals, and thus inevitably falls into conflict with other societal ties that exist elsewhere in the world. I shall give three examples.

Firstly, Human Rights doctrine views religion as something which happens inside the head of an individual, and remains there without impinging on public life. This reflects the European experience of a desacralisation of public life, the decline in importance of an organised Church, and a conscious effort to separate the temporal and spiritual sides of human existence. Modern Christian teaching supports this by repeating the phrase "render unto Caesar that which is Caesar's, and render unto God that which is God's". If the Christian church has altered its traditional teachings, this does not mean that other religions have done so. In Islam, for instance, the individual Muslim can only truly be understood in the context of a society of Muslims. Islam is a communal experience, where all Muslims are encouraged to look out for the faith of their brothers, to uphold virtue and to protect against vice. This creates all sorts of contradictions if viewed through the prism of the Universal Declaration of Human Rights. For example, Muslims are encouraged by their religion to ensure that the Ramadan fasts are kept, and to bring those who are abandoning their religious duty to court. Viewed by a Western liberal, this infringes the latter's right to privacy. Yet if he acts to protect the latter, he himself is infringing the former's right to practice his religion. Muslim husbands are obliged by their religion to ensure that their wives cover themselves with a headscarf – yet for a liberal this violates the woman's freedom of expression. The differing roles of a man and a woman in Islamic culture can lead to conflict with the guarantees of equality in Human Rights doctrine. An Islamic government is charged with protecting against vice – and thus to censor vicious material. This conflicts with the freedom of opinion and expression. Once again, application of one Human Right can violate freedom of religion, and if in this essay the religion of Islam has been chosen as an example, it is by no means the sole example.

Secondly, Human Rights doctrine cannot cope with the wide range of existing systems of society. The Universal Declaration of Human Rights says that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the

State.” Yet a family of a man and three wives – perfectly acceptable in many parts of the world – is persecuted elsewhere. An immigrant has a right to enter another country to seek asylum from persecution at home (article 14). Yet if he enters a European country, his right to family life with his three wives (article 16) would be violated. This could also extend to his right to privacy (article 12) and freedom of religion (article 18).

If we take another step higher up, an extended family has regulatory functions in many parts of the world, and tribal or clan justice is extremely prevalent. This sits badly with Human Rights doctrine, which demands that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal” (article 10). Are clan tribunals “independent and impartial”? If this tribunal recommends a fine, is that a violation of a person’s right not to “be arbitrarily deprived of his property?” (article 17).

In Europe or North America, people have only two real identities, as individuals and as citizens – although one could possibly add as members of a nuclear family if this has not collapsed into divorce. Human Rights therefore is simply an arrangement between the individual and the State of which he is citizen. This leaves no place for other forms of society, which have a right to be recognised and cherished – as do their own responsibilities, laws and obligations.

### ***Conclusion***

This essay has set out to show that there are shortcomings to this approach. Individualism is a political judgement, an intellectual theory which should be subjected to the same criticism as other political theories. We live in an age of rampant individualism, where the individual is seen as the keystone of economic and cultural success – and that society as well as the economy works best by the “invisible hand” of self-interest that Adam Smith outlined in the 18<sup>th</sup> century. But economics deals with limited resources and individualism deals with ideas – there is no linkage. There can be no “invisible hand” in social relations unless society itself has a recognised role. The consequences of individualism show this: for the first time in history, we suffer from obesity, stress, eating disorders, long-term illness, road rage, depression and widespread substance abuse.

These may or may not convince the reader, but at least some thought should be made before he signs up to the doctrine of Human Rights as a universally-applicable theory. The zeitgeist of the liberal West is a theory, a political judgement like all the others, yet we treat it as previous generations treated organised religion. We believe in the cult of the individual and ascribe our thoughts to universal values – to the rights of every human on Earth. We are then uncomfortable when other humans on Earth are perfectly happy with their own, differing, religions and beliefs.