

Topic 2. –Do the values that are called ‘human rights’ have independent and universal validity, or are they historically and culturally relative human inventions?

On human rights.

That which is taught at high school is easiest to me.

“We hold these truths to be self-evident,” said the drafters of the American Declaration of Independence, conveniently sidestepping the need to logically justify the many “God-given Rights” that are “inalienable” they rattled off from there. “Self-evident” or not, many such “human rights” have been declared since—peace, freedom, equality, pursuit of happiness, property, all desirable, lofty, and honorable. All these rights have also been proclaimed as universally valid and independent from humans, and the belief in these rights is certainly ubiquitous.

But as much as the leaders of the liberal movement tried to universalize human rights and grant them to all humans, there have always been opponents, and not all of them evil, megalomaniacal despots. Jeremy Bentham, for one, declared human rights to be “*nonsense on stilts*.” As wonderful and possibly useful the idea of independent and universal human rights is, the burden of proof is still on the claimants to prove such a set of mandates, invisible and impalpable, truly exists in this world.

For the purposes of this essay, I will define a human right with independent and universal validity as the following:

- 1) a right that is guaranteed by a *superhuman* authority, such that it is beyond mortal reproach (independence)
- 2) a right that is universally inalienable, meaning it cannot be violated
or
a right that is universally present, if not effective

(if a right is inalienable, the first condition is automatically satisfied. If a right is only present and not effective, it is impossible to prove. Also, as humans are not universal, a right that is not independent is not universal either.)

In this essay, I will attempt to examine the claims that such rights exist. I will first search to see if an authority exists that can proclaim those rights. And then I will move on to look for any specific rights that are independently and universally valid.

The Big Three

--three possible candidates and their shortcomings

The first possible superhuman authority is God. God, at least in the Christian sense, is *omnipotent, omniscient, and omnipresent*, and so is in a perfect position to grant man the basic rights needed for a satisfying life. He is also above mortal reproach. In fact, the Scriptures show God doing exactly that: granting us life, freeing the Jews from the Pharaoh, and exhorting us to respect each other’s property and life (with threats of punishment, of course). Then, human rights undoubtedly exist and are universal, so long as God *guarantees* it, and so long as God *exists!* Sadly, the task of proving or disproving the existence of God is outside of my competence, and it would be utter arrogance to try to do so in the space of 4 hours.

However, one thing must be said. If God guarantees us basic human rights, those rights cannot be “freedom, equality, property” and so on, at least not as we normally think of them. Because if God so wills that we shall always be free, always own what we earn, and be equal to our brethren under God, how is it that his omnipotent, omniscient will is *perpetually* being violated? All over the world, there are wars, starvation, rape and pillaging, oppression, thefts, detainment and taxes—it is inconceivable that what God explicitly guaranteed would not happen, can happen, and the only possible conclusion is that our current conceptions of universal human rights do not come from God. But there are still some rights that could have come from God, but more on that later.

A second candidate is the “eternal law” that is said to be written within men. Often attributed to God, (but not always) this law is within all men, and it is the voice of conscience that tells to love our neighbors, to be good, and *respect each other's rights*. This law is the ability to distinguish between right and wrong, present in all people “whose soul is not corrupt and his heart not stony.” To a man with this “law” within him, the feeling that a certain deed is wrong should “fly like a black flag above, reading ‘PROHIBITED.’” (these are the words of the court in Jerusalem that tried and executed Eichmann). Then, the argument can be that it is this law that guarantees us the universal rights that we believe is ours—it is this very law (written upon our very being as Thomas Aquinas said) that *forbids* we violate each other's various rights.

But this argument, too, runs into a stone wall. The first is that this law, too, is constantly violated. As listed above, this law, if it exists, is not universally effective. Its only bearing on our behavior is the meek suggestions it gives in the form of a conscience, and the punitive power of the judiciaries that sometimes uphold this “law” that they claim exists. The “law,” then, is not universally effective—it can only be universally present. But if it is only present, and never manifests itself in any concrete way, we might as well say it does not exist.

And it very well may not exist. While it is true that most sane human beings have a conscience, and that this conscience often restrains us from performing the most evil acts, history shows this “law” has at least once been *overthrown*, and turned on its very head so that it the voice of conscience “written upon our very being” was turned to a *voice of evil*. I speak, of course, of the Jewish Holocaust. Although Hannah Arendt describes the Holocaust in a book subtitled the “banality of evil,” the evil she describes is not banal at all, but actually terrifying and fascinating in the sheer extent of its corruption. The Nazis of Nazi Germany, the account goes, believed in only one good—the voice of the *Furher*. And it was blind obedience (“obedience of corpses”) to this *Furher* that drove the officers of the SS (including the infamous Eichmann) to massacre an entire people they personally had no hatred for (with some exceptions). But not only did these Nazis commit such evil, they did so believing it was the highest good, and in those rare moments of mercy and humanity, where they could not resist sparing a Jewish brother-in-law or a Jewish friend, they did so with the *deepest guilt* and *in defiance of the voice of their conscience*, a voice that demand they make no exceptions, and kill as they were told to kill. In fact, it was only when admitting he had spared some of his victims that the infamous Eichmann was “truly apologetic” during his trial. In this way, the *Furher* was successful in rewriting that “eternal law” in his own image, and so *denied* the “law” its independence and eternity. (This may actually be the greatest victory, and the most heinous crime of the Nazis) When the sense of right and wrong within man can be so easily changed,

by a single voice within one decade, we can no longer say that this sense is any “eternal law” that is independent and universally valid. We cannot even say such an “eternal law” exist—at best, it died some time in 1941 when Hitler killed it.

The third candidate is rationality and reason. Emmanuel Kant believed that our morality must stem from out rational reasoning. Moral actions, he said, must arise from a rational sense of duty, such that we will treat all men as *ends* instead of *means*, and such that we will only behave according to principles that we would reasonably have be universalized. If this is true, and if our rationality demands that we do not cross certain boundaries when dealing with other humans, and if rationality is universal and independent from human desires, we can argue rationality is the authority that grants us universal human rights. Rationality demands we respect human rights, and these rights will be guaranteed so long as men are rational.

But this argument is not perfect either. The most visible flaw to this is that there is no universality in rationality. By that I mean equally rational minds cannot be expected to always reach the same conclusions about what is moral, and so human rights as mandated by rationality cannot be universal. Take Kant’s principle of universalization. Kant claimed that one must act according to principles he would have universalized, and that no rational being would want to live in a world where all people would have the right to kill him and take his property. However, psychologists have found that many criminals and sociopaths (not mutually exclusive) not only think people should have such right but also that *they already do*. It is the belief of these people that one has a right to what one has the ability to, and so one who can kill and steal has the right to kill and steal.

Sadly, it is hard to say these criminals and sociopaths are being irrational. If these people truly enjoy living as predators, and they truly can survive and thrive in a predatory world, they are being perfectly reasonable when they say they desire all people to have the right to kill and steal. They are simply wishing for a world they would be perfectly at home in. Selfish, inhuman, barbaric, and malicious, you could say these people are, but irrational they are not. Their thinking is merely being influenced by the fact that they are well-suited to the jungle, just as the thinking of others, those who do not want everyone to have the right to murder, is influenced by their unsuitability to the jungle. And that two equally rational minds can reach two different conclusions is a damning proof that rationality cannot be depended upon to provide us with universally valid rights. Kant may have wanted a “deontological” ethics universal and free from the constraints of individual situations, but no man can be free from what he is, and the rational conclusions a man reaches will always be influenced by what he is. (Kant anticipated this flaw, and so added that we must treat all people as ends, not means. However, I am not commenting on the Kantian systems ability to create a suitable moral code. I am only arguing that even if everyone is rational, we will still disagree on what rights are guaranteed to humans.)

Possible Universal Rights

--although you may be dissappointed

So far, we have failed to find an authority outside of ourselves that could guarantee us the rights that we believe (or wish) we have. God, if He does guarantee us any rights, never granted the human rights as set forth on the Declaration of Independence. Also neither the “eternal law” and rationality are independent or universal. But there is still the possibility that there are certain rights that are truly,

physically inviolable. These rights are such that we never had to fight for them, and that we cannot imagine life without. These rights have many of the qualities of conventional human rights, except they are never discussed, precisely because they are inalienable. I will describe two such law that are worthy of having been guaranteed by an omnipotent being as they are inalienable and absolutely essential. (These rights, while inalienable, has yet to be connected to any authority, which might as well just be the laws of physics.)

--The right to the better

The right to the better is similar to the right to the pursuit of happiness, but much more basic. Whereas there is constant talk of oppressive regimes denying people their right to pursue happiness, is *simply impossible* to deny a man his right to the better. The right to the better means the right to choose, from among the limited choices given a man under any circumstance, the one choice that he likes best, which *seems better than any other*. Can you think of anyway you could deprive a man this right, to make him choose what he likes less? You could put a gun to a man's head and force him to do whatever you like, but still you will be powerless to make him *make what he believes is the worse choice*. So long as he has a choice that seems better than death, you cannot make him accept your bullet. But once no better choice remains, you and your gun will be powerless to do anything other than kill your hostage. Likewise, you could also crush a worm under your heel and still you could not stop the worm from squirming, writhing, futilely but still valiantly trying for the better, because all your cruel force can only affect the body of your victim, and unless you can also control your victim's mind, the right to try for the better forever remain his—Coercion and oppression is not to force a choice but to limit the range of choices, and so the ultimate choice is always belongs the coerced. Even the suicidal, who choose to die rather that face life, are trying for the better. They are escaping life, and jumping into a void which they think is *better!* So long as a man retains his mind, so long as he thinks and so *remains a man*, he will try for the better. So long as he lives, the right to the better choice is his.

Are you disappointed? Maybe you think this is no right at all. But you must agree there is nothing more universal than this right. And if there are any other universal rights, it must be like this. It must be categorically inviolable and always true, just as total energy will always be conserved, and just as an apple will always fall to the center of the Earth. And you must admit that if a right is truly inalienable, we would never worry about losing it. Also, imagine life without this basic right. I cannot. To live without the right to try for the better is to live without a mind. To be without this right, one would have to be a zombie, an automaton. Such deprivation, thankfully, is right now possible only in the worst SF films.

Here is another such inviolable right

--the right to a past

We have the right to a past. Sartre has claimed that we are defined by our actions. We are an amalgamation, a conglomerate, of all we have done so far. And so it is up to us to decide who we are by the choices we make throughout our lives (here again we see the important of choice). Hobbes, in a similar vein, argued that our identity is our memory. So long as we retain our memory, we retain a single identity, and I will still be who I am no matter what happens to my physical body. Whether Sartre and Hobbes are completely right is outside the boundary of this essay, but from these claims it is hard to deny out past plays an important part in defining ourselves. My preferences, my beliefs, and my ideals are all decided by but I have done, heard or

read in the past, and I can hardly be influenced by *future* events. Like this, much of what we are is decided by bygone events.

And so our identity is largely protected by our inviolable right to the past. The past is immune to mortal manipulation. Spilled milk cannot be gathered again, but it is even harder to make it so the milk was never spilt! Stephen Hawkings' claims that a time machine is possible notwithstanding, the part of our identity that is defined by the past is forever ours.

And what if this right to a past was violated? What then? In this case, George Orwell's *1984* offers an incomplete picture. In the dystopia created by Orwell, the past is a *political tool*, freely manipulated by the Party to assert its omnipotence. Within the walls of the Ministry of Truth, the Party's slaves scurry back and forth, finding, burning, and rewriting documents of the truth to change the *perception* of the past as they see fit. In the end, there survives no proof that the past happened the way it did, and there are only documents stating exactly what the party claims. In this way, the Party is proven to have been never wrong, and the very character of the world and all its inhabitants is redefined to fit the party line. In this way, the right of a man to define himself by his past is limited, as he can no longer refer back to the past and with certainty discover himself in his past actions. As the Party saying goes: "He who controls that present controls the past. He who controls that past controls the future."

But even this Party is unable to completely control the past because its control over the present is incomplete. Each man and woman living in the dystopia remains an individual, and the Party cannot change each individuals past, and so they retain their identity. Also, the truth of the past remains inviolable, for the Party can only distort records of the past, meaning the influence of the past that does not depend on records, persists. So in reality, our right to our past shall remain inviolable so long as no single power gains such control over the present. And no Earthly power can completely sever our connection to the past.

Conclusion

My findings are rather disappointing. I have found no satisfying authority to serve as a basis for universal human rights, and without a satisfying authority, there can be no independent, universal right. God, though he could, obviously does not guarantee us the rights commonly claimed to be ours. The "eternal law" was robbed of its "eternality" by Hitler, and so can no longer be universal or independent. Rationality was also found to be itself subject to the influence circumstances and so unable to mandate universal rights. And even if these authorities do somehow proclaim that man has certain universal right, these rights are such that they are only *present*, and not *effective*. Then, such rights are useless to us, and not only because we can never prove its existence.

Paradoxically, I still have found there are certain "rights" that are independent and is universally inalienable, although I could not find an authority to connect them to. But these rights are, to say the least, unconventional. These rights are truly immune to mortal reproach and inviolable, but because they really are inviolable, they serve no political purpose. It is a comfort that we have such rights, but it is no help to the good people fighting for the rights of political prisoners and others supposedly deprived of their "universal human rights."

So in summation—

Are there independent, universal human rights?

--Yes

Are those rights as conventionally defined?

--Maybe some of them, but if those conventional rights exist, it has never shown itself.

Then are those rights that are not conventional inalienable?

--Yes, they are truly inviolable and for that reason politically useless.

Caveat

Now it appears human rights as conventionally defined are perfectly alienable, and the only inalienable rights are taken for granted. But that does not mean we should stop fighting for human rights, even if they are “historically and culturally relative human inventions.” Even if they are mere inventions, they are beautiful inventions necessary for a life that is better than death. In fighting for this right, we need not appeal to any *superhuman* power or look for any universality or independence. We need only recognize that our conception of a human, dignified life requires the civil guarantee of such rights of freedom, equality, and property, and fight for a life that is human and dignified. And if our fight still calls for something “self-evident” and “inalienable,” we can recall that we have an absolute right to the better, and that it is forever ours to try for a better, more human life.