

# The Semantics of Human Rights

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In the last few decades an international debate has raged over the various classifications of human rights. We have heard discussions of what have often been referred to as "civil and political rights," which have been either bracketed with or juxtaposed to what are called "economic, social and cultural rights." Some theoreticians in the field of human rights have also spoken of a first, second, and third generation of human rights.

The first generation has generally been viewed as encompassing civil and political rights, the rights so clearly enunciated by the writers and thinkers of the Enlightenment in the 18th Century.

The second generation of human rights is generally assumed to include the aforementioned "economic, social and cultural rights." In learned discussions of the subject it is said that these are the contributions of the Marxist-Leninist societies.

The third generation appears to be a concoction of issues developed during the last quarter century, including what has been referred to as the right to a clean environment, the right to die, and other relatively new matters of social concern.

Nuclear disarmament has also been injected into the debate under the rubric "right to life." (I might note that anti-abortionists who use the same term have evidently not attempted to advance their cause in the context of the international human rights debate.)

As a footnote to this introduction of the three so-called generations of rights, let me point out that the attribution of the second generation to Marxist-Leninist thinking is historically and substantively inaccurate. If you take a good look at the rights spelled out in the Universal Declaration of Human Rights and the Covenant on Economic, Social, and Cultural Rights, you will find that they fit into the program of Franklin D. Roosevelt rather than Karl Marx or Lenin. And that should not be surprising. After all, it was Eleanor Roosevelt, President Roosevelt's widow who, in her capacity as Chairman of the United Nations Human Rights Commission, played a very important role in the framing and ultimate adoption of the Universal Declaration, whose text served as a basis for the framing of the Covenants.

The point I would like to make to you today, and this is the theme of my talk, is that a good many of us have fallen into a semantic trap. Rather than getting to issues of substance, we often debate *ad nauseam* the question of what does or does not constitute a human right. It is a debate which has become extraordinarily sterile.

I would suggest that we try to deal with these topics by using different terminology. The bundle of issues with which we are here concerned focuses on the relationship between government and the individual citizen. Let us divide that bundle between, on one hand, the limits

imposed upon government to safeguard the integrity and dignity of the individual and, on the other hand, the affirmative programs and policies to be conducted by government to achieve the same ends. And let us say further that the fact that we are dealing with one large bundle of relationships between government and the individual does not mean that that entire bundle must at all times be discussed jointly, nor that the same persons are qualified to discuss every single issue that comes up in this context. In my country, at least, the typical expert on the right to freedom of expression is not normally an expert on the delivery of medical care to the elderly.

Nor is there value in debating the question of which set of relationships is more important than the other. Let us simply say that all are important. That point is well illustrated by a story I heard quite a number of years ago, which, I believe, is also applicable today. It is the story of two dogs meeting at the Czechoslovak-Polish border. One dog, seeking to cross from Czechoslovakia to Poland, is slightly on the fat side and well-groomed. The dog seeking to cross from Poland to Czechoslovakia is bedraggled and scraggly. The dog leaving Czechoslovakia asks the other one: "Why are you going to Czechoslovakia?" The other dog answers: "To eat," and continues: "But why are you going to Poland?" The first dog answers: "To bark."

This story is not only political commentary on comparative conditions in Czechoslovakia and Poland. It is also a profound observation about the instinctual character of the drive to express oneself. The philosophers of the Enlightenment defined that instinct. They built an ideology around it. But they did not invent the human drive for freedom. They described a phenomenon, an essential aspect of human nature.

It follows that the desire to be free, to be able to express oneself, to write as one pleases, to worship God in accordance with one's conscience or not to worship God--all these are not the inventions of Western civilization. They reflect natural human aspirations and that is indeed why an ideology based on them has worldwide appeal and has, understandably, served as an underpinning for such international standard-setting instruments as the Universal Declaration of Human Rights.

But then there are those who argue that persons who are starving are not concerned about freedom of speech. That may very well be true. But what we of the West say is that the choice before humanity is not one of starving in freedom and eating in slavery. On the contrary, as we look around the world, we can see that freedom and prosperity go hand in hand. The ideal solution is one in which we, unlike the Czech and Polish dogs in my anecdote, can both eat and bark.

What we frequently hear at international gatherings is that one of the principal differences between the two major options of governmental systems offered the world today is that one pays attention to the special concerns of a few individuals and the other cares about the welfare of the masses.

I submit to you that if one really cares about the masses, one must also care about each and every individual that makes up the mass. Otherwise, as is often the case, "caring" becomes an abstraction, a vague promise that is not sought to be realized.

What we who profess the democratic ideology believe is that, as Thomas Jefferson put it when he wrote the United States Declaration of Independence, we are all endowed with certain unalienable rights, including the right to life, liberty and the pursuit of happiness. These rights, we believe, may not be subordinated to any allegedly higher objective, as determined either by a single potentate or a collective, self-perpetuating leadership group. In other words, we do not subscribe to what in Aesopian terms is called "democratic centralism."

In the countries in which principles of individual freedom are now well established, the basic precepts of individual freedom are not even the subject of argument. Such debate as still continues deals with what we might consider marginal questions, such as what are allowable restrictions on pornography, how serious must be a person's mental illness before such a person can be involuntarily committed to a psychiatric institution, what may government do to restrict freedom of assembly if demonstrators interfere with access to a public building? But, as I have said, the basic precepts are not in doubt and not subject to argument.

We are then told that with all the attention paid to these freedoms to speak, publish or assemble, we neglect the unemployed, the homeless, the sick. "Is anyone paying attention to these issues of public policy?," is the challenging question posed to us in debates.

My response is that precisely because the issues of basic freedoms have become so noncontroversial, public debate and election campaigns in the democratic world do indeed revolve around questions of economic and social policy, not because anyone has called them "rights" or outlined them in a constitutional document, but because they are often in the forefront of the thinking of our ultimate decision-makers, the voters. Voters choose among candidates on the basis of who, in their opinion, advocates better solutions to the problems that we face in the economic and social sphere. It is in that context that the issue is not one of promise, of writing guarantees into constitutions and other basic documents, but one of delivering results.

Since the beginning of the Century, one of the principal arguments in the political arena has indeed been the question of which system of government can deliver the best solution to the problems we confront in the economic and social sphere. By now, in the ninth decade of the Century, it appears that the verdict is in. With all the problems that we in the democratic world still face, that we continue to grapple with day by day, the private-incentive system has proved itself better capable of delivering the goods than the various collectivist experiments. As we all know so well, the country [China] which operated the largest collectivist program in agriculture abandoned it totally about eight years ago and thereafter experienced an extraordinarily rapid growth in agricultural production. It is now trying to reintroduce private incentives into all other aspects of economic enterprise. And, more recently, in other Leninist countries, we hear talk of restructuring, the term that concedes that the collectivist command economy has proved to be a massive failure.

Let me now return to my point of departure. We need to gather at conferences such as this one to gather those experts, practitioners and thinkers who are prepared to discuss the basic principles of human freedom and personal dignity and the limits which must be imposed upon the powers of government to assure respect for those principles internationally. And there is most assuredly nothing wrong with holding meetings for the purpose of discussing ways and means of dealing with the problems of unemployment, as well as vocational training, the advisability or inadvisability of subsidizing uneconomic enterprises, of the creation of make-work jobs, etc. We could also discuss differing approaches to the encouragement of the construction of quality housing, providing adequate, safe and sanitary dwellings for those who are now ill-housed, the furnishing of medical care of quality, and provisions to be made for the elderly. All this should be done by qualified experts in the fields in question and should not be injected into discussions on the limits of government, which deal with issues, as I noted earlier, in a wholly different area of expertise.

This conference, devoted to the themes which relate to the limits of government, should, therefore, appropriately deal with the major threats to individual dignity and freedom which are posed by the authority of the state. It is appropriate, I suggest, to go through the relevant Articles of the Universal Declaration of Human Rights which were thereafter incorporated into the Helsinki Final Act and determine where shortfalls can be identified and how steps could be taken to encourage correction in these shortfalls.

For today, almost forty years after adoption of the Declaration and twelve years after the signing of the Helsinki Final Act, the limitations imposed on governments to protect the individual's liberty, security of person, freedom of thought, conscience and religion, freedom of expression, and similar freedoms are in many places consistently and deliberately violated. These violations must not be ignored, for ignoring them means betraying the heroes and heroines throughout the world who take great risks and make major personal sacrifices, endangering their lives and personal security so that the cause of freedom may live. It is to them that we all owe a debt of gratitude. And we must continue to discharge that debt by speaking up on their behalf wherever and whenever we can.