

HUMAN RIGHTS AND GLOBAL LIFE-SUPPORT SYSTEMS

Jeffrey Noonan

Department of Philosophy, University of Windsor, Canada

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Summary

The paper is a critical examination of the limitations of human rights as protective devices for the preservation and development of global life-support systems. While it is true that there is an emerging global consensus about the legitimacy and value of human rights, this consensus tends to ignore a key ambiguity in the meaning of the terms ‘right.’ It can and does mean both an individual entitlement to pursue one’s private advantage and a shared claim to social recognition and resources. This ambiguity generates two antinomies— between negative and positive rights and, more deeply, between corporate and human rights. The resolution of these antinomies requires discovery of the life-grounded normative foundation of human rights.

1. The Essential Ambiguity of the Idea of ‘Right’

In *The Age of Rights* Norberto Bobbio reconstructs the moral development of the idea of ‘rights’ from the French Revolution to the present. It was during the French Revolution that the essential tension found in the modern theory and practice of rights emerged. This essential tension is between what can be called the classical liberal doctrine of negative rights (rights as formal-legal protections private property against state and social interference) and the egalitarian conception of positive rights for all members of society (which can trump private property in cases of contradiction).

In either case, classically, rights have been understood as entitlements held by *individuals* as legal persons, even though positive rights became effective only through

the collective struggles from below against the privileged power of property-owning minorities. The foundation of positive rights in shared life-interests (as opposed to private property) is perhaps best expressed in the formulation of Alan Gewirth in *Communities of Rights*. According to Gewirth, “The importance of... human rights, [stems] from the great value of the objects or interests that need to be protected: interests ranging from life, physical integrity, and economic security.” (p.9) Gewirth’s formulation, however, ignores the profound ambiguity and conflict that attends the use of the concept of right today by the owners of corporate money capital and their egalitarian-cosmopolitan opponents whose version of rights can be called, following McMurtry in *Unequal Freedoms*, life-grounded. A proper estimation of the value of human rights to global life-protection and life-development cannot be achieved without this ambiguity being understood and resolved. To do so is the primary aim of this essay.

A close examination of the contemporary idea of human rights in the context of intensified capitalist globalization uncovers contradictory social implications. The term ‘social implications’ means the sorts of changes in the material relations between human beings implied by the recognition and enforcement of human rights as distinguished from their commercial interpretation. The paper will argue that the recognition of universal civil, political, and economic and social rights is indeed a world-historical step forward in the struggle for the social conditions of human freedom. Yet it will also explain that the right to private property, as now enlarged to include international corporate property, overrides these opposed positive rights in practice and in theoretical obfuscation of this practice. In reality positive rights can be effectively displaced by the assertion of corporate property rights to exploit what are in fact shared requirements of human life (as for example, by destroying indigenous subsistence agriculture by multinational agribusiness). In theory, mainstream philosophical and political defenders of human rights either ignore the conflict or domesticate it by reducing it to an inevitable opposition of interests which, by “trade-offs for development” must be accommodated rather than understood and overcome. The paper will argue that the conflict can be resolved only when universal life-interests are made the common foundation of the human rights argument.

2. The Development and Ethical Foundations of Human Rights

Since the Second World War, the struggle for the universalization of civil and political rights and the recognition of economic and social rights in the liberal-democratic world has been joined by an increasingly global struggle for the recognition of universal human rights binding on all states regardless of local history and culture. Bobbio reads the emergence of struggles for globally enforced human rights as Kant read the French Revolution, as a sign of the moral progress of humanity. He argues in *The Age of Rights* that “from the point of view of the philosophy of history, the current increasingly widespread and intense debate on human rights can be interpreted as a ‘prophetic sign’ of humanity’s moral progress, given that it is so widespread as to involve all the peoples of the world and so intense as to be on the agenda of the most authoritative international judicial bodies.” At a political and legal level Bobbio is certainly correct to see the emergence of intense debate around human rights as a sign of moral progress.

To the extent that there are now documents (such as the *United Nations Universal Declaration of Human Rights* and the *Covenant on Economic, Social, and Cultural Rights*) that have, to varying degrees, the force of state-endorsed norms, is truly a sign of the growing recognition of the reality of universal life-interests. That human rights do in fact presuppose the reality of universal life-interests in the having secure access to the fundamental requirements of life-maintenance and the realization and enjoyment of life-capabilities, is clear from the work of their most important cosmopolitan liberal defenders. In *Global Covenant*, David Held points to what he calls the ‘moral gap’ in life chances that currently typify human life as the basis for his support for enforceable human rights. The Western media have made everyone aware of the 3000 people that died on September 11th but is silent on the much grimmer reality that 30 000 children under 5 die each day from preventable diseases. He concludes that “such overwhelming disparities in life-chances are not found only in the area of health, but are reproduced across almost every single indicator of global development.”(p. 96) From the perspective of cosmopolitan human rights theorists this moral gap is illegitimate because it violates the human dignity of the people forced into squalor and suffering by the “life-blind mechanics of the global market order.” (See *Economic Reason and the Crisis of Global Life Systems*).

Although universal life-necessities are presupposed by the norm of human rights, as the foregoing makes clear, they are not directly theorized as the necessary foundation of human rights by received moral philosophy, or indeed human rights discourse itself. Instead, the contemporary idea of human rights looks back to the work of Immanuel Kant for its normative foundations. Two ideas in particular are essential in this regard. The first is Kant’s explicit method for distinguishing what he calls “categorical imperatives” from “hypothetical imperatives.” Categorical imperatives are principles that human beings are duty-bound to obey regardless of whatever particular ends that they desire to pursue in their everyday life. Hypothetical imperatives, by contrast, are relative to particular ends and have no binding moral force (and indeed, may turn out to be contrary to the categorical imperative). What is significant about this method is that it seems to ground a form of objective moral reasoning that issues strictly universal framework principles governing the treatment of others. Modeling reasoning about global life chances on this method can yield, according to Held in *Global Covenant*, a set of human rights “that nobody, motivated to establish an uncoerced and informed agreement, could reasonably reject.”(p. 170).

The second important element of Kant’s moral philosophy is his understanding of human beings. According to Kant, human beings are simultaneously members of the natural world and rational beings belonging to a ‘kingdom of ends’. In our material, embodied nature we are governed by physical and psychological laws whose operations are indifferent to moral considerations. It is only our rational nature that makes us objects of moral concern. As rational beings humans are able to determine the conduct of their own lives, posit and pursue goals for themselves, and think about their responsibilities to others. In other words, as rational beings humans are both ends in themselves and capable of respecting others as ends in themselves. Human beings are not just physical bodies, they are essentially moral persons. In so far as humans are persons they are agents, and in so far as they are agents they are capable both of determining rational ends for themselves and respecting the rational ends of others.

Human beings exist within a moral realm of ends (as opposed to the natural realm of physical causes) to the extent that they relate to each other as intrinsically valuable persons. As Kant explains in *Foundations of the Metaphysics of Morals*, “by “realm” I understand the systematic union of different rational beings through common laws.” Laws, rooted ultimately in the categorical imperative and made possible by our rationality, signify the creation out of the given natural world a moral world in which mutual respect and not egocentric self-interest rules. Kant claimed that the realm of ends could be progressively approximated in human history to the extent that social life, both nationally and internationally, became governed by constitutional principles that respected the freedom of individuals, in the first place, and the security of nations, in the second. Kant sketches his idea of the realm of ends as a global constitutional order in a number of short political essays, most notably “Perpetual Peace” and “Idea for a Universal History from a Cosmopolitan Point of View.” What is most significant for present purposes is not the detail of Kant’s political arguments, but the moral principle that undergirds them.

The basic principle undergirding the idea of a human rights based global constitutional framework is clearly stated by Held in *Taming Globalization*. The principle asserts that “humankind belongs to a single moral realm” (p. 196) in which each is of equal dignity to all the others. Human rights, therefore, can be conceived as the legislation of the world understood as a realm of ends whose citizens are intrinsically valuable persons. Practically speaking therefore, human rights define a world, in the words of Charles Jones in *Global Justice*, in which “nation-state borders lack any fundamental ethical standing and... the demands of global justice include various positive actions aimed at protecting the vital interests of everyone, regardless of their location, nationality, or citizenship.” (p15). The idea of human dignity is thus a hinge connecting the individual ethical and the collective political. Human beings are ends in themselves because they are rational. Positive duties to others stem from this dignity attaching to our ability to govern ourselves and determine our own lives. In practice these duties are defined by human rights which no agent, individual or collective (i.e., a national government or corporate money-capital owners) can legitimately override or ignore. If it were the case that human rights could be interpreted this unambiguously, then there could be no doubt as to their efficacy in promoting institutional structures that secured to each the universal life-requirements necessary for the equal realization and enjoyment of vital capabilities. It is only when the focus of analysis shifts from the ethical foundations of human rights to the real history of their institutionalization that the crucial ambiguity that limits their efficacy emerges. Since it is that ambiguity that must be understood if a proper evaluation of the possible future contributions that human rights may make to global life-support, it is essential that this analysis now shift from a consideration of ethical grounds to historical and political realities.

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Biographical Sketch

Jeff Noonan was born in 1968 in Sudbury, Ontario, Canada. He received his B.A (Philosophy and Social and Political Thought) from York University (Toronto) in 1991, his M.A (Philosophy) in 1993 and his Ph.D (Philosophy) 1996 from McMaster University (Hamilton). He taught as Visiting Assistant Professor of Philosophy at the University of Alberta (Edmonton) between 1996 and 1998. He is currently Associate Professor of Philosophy and Head of Department at the University of Windsor. He also serves on the Coordinating Committee of the Centre for Studies in Social Justice and the Coordinating Committee of the Program in Labour Studies. He is the author of *Critical Humanism and the Politics of Difference*, (McGill Queen's University Press, 2003) and *Democratic Society and Human Needs*, (McGill-Queen's University Press, 2006). His articles have appeared in such journals as *Dialogue: Canadian Philosophical Reviews*, *Philosophy Today*, *Res Publica*, *Social Theory and Practice*, and *Rethinking Marxism*. He is also co-editor of *Studies in Social Justice*.

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