

5/5/2013. Human rights?

The newspapers recently covered the case of a man from another culture who had entered the UK illegally and had two children by different women, whom he then abandoned. He was convicted of drug dealing but will not be deported because he invoked human rights legislation, under which he had a 'human right' to a family life with his children. Judges face criticism for rulings like this, but they have limited discretion. The real issue is human rights law.

Where 'human rights' are set out, you can complain to the authorities if somebody violates your rights, and you also have a responsibility not to violate the rights of others. That is like 'civil rights,' which was a common phrase a generation ago. But civil rights were granted to you by the State, whereas you are held to have human rights simply because you are human and it is up to the State to recognise it. The difference is crucial. Civil rights are granted conditionally by a State, and if you break its laws then it can withdraw those rights and punish you. But what of a State that recognises human rights? Criminals who break its laws don't stop being human, so they still have human rights. But punishment for doing evil involves violating their human rights. By that State's own ideology, then, it is wrong for it to punish criminals. But that's crazy; sanctions against criminals are necessary. (Prisoners cannot sue such States for loss of freedom, but that is just power being wielded and there is no consistency in the prohibition.) So something is wrong with the very idea of human rights. The concept cannot be rescued by speaking of 'conditional human rights', for the phrase is nonsense: human rights, unlike civil rights, are conditional only on being human.

The modern idea of human rights originated in 18th century Europe, which was turning at the time from the Bible to the secular worldview. The Bible relates how God had given Moses a code of law for the Israelites. The laws governing relations between persons – moral law – were based on respect for the image of God in every person (Genesis 1:26-27). That is why Mosaic Law applied equally to the king of Israel and to his servants. But there is no covenant in the Bible in which God granted every man and woman 'rights.' In 18th century Europe the French Revolutionaries and writers such as Tom Paine proclaimed the inherent 'rights of man,' in support of the poor and downtrodden, but (as their intellectual opponent Edmund Burke recognised) they did not find a logical basis for the idea. More recently the book *Justice: Rights and Wrongs* (2008) by Nicholas Wolterstorff, a professor of Philosophical Theology at Yale (and unlike me a believer in human rights on theistic grounds), has argued the impossibility of deriving human rights from secular axioms.

When secular people are asked where human rights come from, they say that people have them because they are human. If you ask them to fill out the word 'because,' they (like the American Declaration of Independence) say that it is self-evident. But it is not self-evident to people from cultures that have had no exposure to the Bible – who generally regard it as self-evident that the wealthy and powerful *should* have more civil rights than others. How could secular people convince them? The 'golden rule,' *do as you would be done by*, is found in many religions, including Christianity (Luke 6:31), but not in all; the Quran tells its followers to oppress those who refuse its message.

As the modern notion of human rights arose while European culture was turning from institutional Christianity to secularism, the idea presumably emerged from that change. What did the Bible say every human being had simply by being human? The answer is the image of God, and the idea of human rights is clearly an incoherent carry-over from that. Because the concept is specific to secularising European culture, its export via 'international law' is an example of cultural imperialism. ('International law' is itself an incoherent concept, because the government of one nation cannot set and enforce the law in another; there are only extradition treaties and treaties seeking to harmonise laws, which are binding only on signatory nations.) As Europe moves further from the Bible the idea of human rights will fail to confer protection in practice. Elderly folk in the Netherlands often go to Germany for medical treatment out of fear of being 'put down' by their own hospital doctors, for instance.

There was in fact a mediaeval version of the notion of human rights. Mediaeval Christian thinkers developed the notion of 'natural law' by using logical arguments for specific laws of morality. The laws of morality they argued for were largely those in the Mosaic code, and their logic was a development from ancient Greek philosophy. But they sought to anchor those laws in 'natural rights' that humans supposedly have, just

like 18th century advocates of human rights. (For this mediaeval version of human rights, see Brian Tierney's book *The Idea of Natural Rights* (1997).) The idea suffers from the same defects.

In fact there is a Christian argument *against* the idea of human rights. Bad things happen to people even though God is all-powerful and good because God gives people choices between good and evil, and they habitually choose evil. God is not the one responsible for the hurt caused to people; other people (or Satan) are. But if God has given us human rights then, because he is all-seeing and all-powerful, he is able to safeguard those rights moment-by-moment, unlike the State which can only punish violators retrospectively. Since God evidently does *not* safeguard them, he shares responsibility for their violation. The Bible roundly condemns those who do nothing in the face of injustices they could prevent. So any Christian who believes in human rights should condemn God as a gross human rights violator. This blasphemy follows unavoidably from Christian belief in human rights. Moreover, every human being has sin today (human wrongs!) For people who deserve hell to talk about their intrinsic rights is hubris; to talk to God about them is gross impertinence. It is not a coincidence that the Bible does not phrase the Law of Moses in terms of human rights. Jesus explained that the law rests on love (Matthew 22:36-40), so let us simply love one other, and treat each other well as a result.

When a State declares certain things to be human rights then it has a duty to recognise them. Arguably it also gains a responsibility to provide them, because people can say to the government, "You say I have this human right; it is not being fulfilled; you have the authority and capability to fulfil it; so do it!" But if a government provides food and housing – and human rights are typically social whereas civil rights tend to be legal (such as *habeas corpus*) – then what is the motive for people to subject themselves to the curse of hard work (Genesis 3) to get these things for themselves? Also, where will the government find the revenue to provide these things for everybody? These implicit responsibilities propel government into every part of life, turning Nanny State into Big Brother as we see in today's mountain of regulations.

Which human rights trump which when they clash cannot be resolved by logic, because human rights are by definition absolute: as their name implies, they (supposedly) come with being human, like parts of your body. Such clashes show again the incoherence of the concept. In practice, human rights get ranked by the power politics of competing interest groups, via lobbyists and then by judges. (Conflicting interests of gays and Muslims are a good example.) It is right for people to treat each other well, but human rights are not the reason why. The idea of human rights is not leading to a contented society and it is no coincidence that our society's priorities differ from God's moral priorities in the Law of Moses.