

Rights that Keep Us in our Place

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"Many people are now uneasy about the ways in which the doctrine of human rights has tied the legal systems of the West in knots and flies in the face of common sense."

At the end of the 18th century, Edmund Burke denounced the doctrine of the rights of man is a philosophical mistake. Parliaments, he saw, can proscribe evils but have very limited powers to wish happiness into existence. So the new rhetoric of rights made promises that could not be kept. Furthermore, it substituted specific claims for a general liberty, the presumption that, with the exception of what has been ruled illegal, one can do whatever one damn well likes.

That was what we used to mean by saying 'It's a free country.' But by swapping that freedom for a system of rights, we have tipped the balance, and over the past two

centuries rights have become prescriptive limitations. Where before we never felt the need for permission, we now find we have no right to do as we wish. Many

people are now uneasy about the ways in which the doctrine of human rights has tied the legal systems of the West in knots and flies in the face of common sense. Less understood though, is the way rights have stealthily become the limits and rations we must not exceed.

Human rights have always been a pious bluff. Tragically, there are no inalienable inherent rights. The 'right to life', for instance, seems to be the most fundamental, and one that most states would like to guarantee. But of course they cannot — it is breached in the case of every individual sooner or later — and in practice it is entirely contingent: a country at war that introduces conscription is waiving the right to life. would be marvellous if we could guarantee the conditions in which people flourish, but being only human we cannot. Consider the basic need for a fulfilling sexual and emotional life — is that a human right? Who is responsible for providing it? Ofsex?

The trouble, from the start, has been the claim that human rights are inalienable, when manifestly they are not. If you are born in Africa to a single mother dying of Aids, you have no human rights. It is a terrible thought, which people do not wish to face, and in the new politics nothing can be said which people do not want to hear. What they do want to hear is the reassuring idea that all kinds of things are ours by right — food, a home, a job health care. But attempting to guarantee these is an open-ended and therefore foolish commitment. Not only is it a blank cheque, but it will never be sufficient, because there will always be failures which, by this

way of thinking, must be someone's fault. The rhetoric, however, is so seductive that Western governments cannot decline to make the impossible attempt. Expressing

skepticism about human rights is portrayed as tantamount to advocating torture and arbitrary arrest. The accusation of denying people their human rights is unanswerably damning (though also unquestioningly woolly). It is a moral trump card. So governments have pledged themselves to uphold various abstract charters.

The way these have distorted good sense and judgments is beginning to be widely understood, and there is dismay about the open-ended commitments we have signed up to. People are sick of our good old laws being overruled by manipulatively asserted human rights. Although the press focused on Carole Caplin when investigating the affairs of Cherie Blair, a good deal of the public disgust derived from the feeling that it is wrong for a human rights lawyer to be using 10 Downing Street as an office from which to undermine the traditional laws of the land. To many people it is offensive that she should have taken part, for

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instance, in the successful case brought by Shabina Begum claiming that she had a 'right' to wear the jilbab at school, in defiance of the school dress code.

But in Tony Blair's new Britain a further distortion is occurring. In our land of targets and quotas and league tables, rights are mutating into entitlements, and so as to try to fulfil the government's political promises, these entitlements are being limited. And those limits, like our supposed rights, apply to all.

Everyone must have somewhere to live. We cannot all live in Blenheim, but John Prescott can insist on building a few million 'key worker' homes down the Thames. Everyone is entitled to a hutch no smaller than, say, 25ft by 15ft. Because that is what they are entitled to, that is what they must be given. But this means that anyone living in a larger home is taking more than his entitlement. The owner of a country house is exceeding his rights, being greedy. Everyone is entitled to a free health care, and families who **are** terrified by the NHS and take their own responsibility by joining BUPA are enemies of the people.

So gradually all the talk of rights by which we now live makes it seem as though we have rights only when they are allotted by government. And therefore we are entitled only to the same as everyone else. Anyone who chooses private education is giving his children an unwarranted privilege. Not accepting the universal rules and provision means not playing fair. It is a dangerous arrogance, like driving on the wrong side of the road. When there is a perfectly good system, what makes these people think that they should have more or do something different? Or are free to dress up and chase foxes? Or to give extra maths tuition without being screened? Or to strum a guitar without a licence in a pub? The result is that in this cowardly new world — which somehow feels like Asia we all need to be ever more regulated by commissars and told how we must all behave, what we must own, and do, and aspire to, and think. Individuality is a breach of the pattern. Doing something we have been given the right to do unbalances the system: a breach, in fact, of human rights. These days you

never hear anyone say: "It's a free country".

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