

would nobody have a right to anything? The questions seem ludicrous.

But the language of natural rights need not be taken to raise them. It need not imply some pre-social state of nature in which, surprisingly, people nevertheless had rights of different kinds. It may be intended not as *description* of a never-never land, but as *prescription* of an order that any society should uphold. It will not then be to the point to say that the idea is unhistorical. Nor will it be to the point to say that actual society is not like this. People are not, for instance, born free – they are born into a civil order that will impose duties and obligations on them. They do not remain free in all kinds of respects, and they are not born equal and don't remain equal in all kinds of ways either. But the intention will be to criticize the existing order in the name of these ideals, or to work for an ideal that incorporates some notion of basic equality (equality before the law, for instance) and some central menu of freedoms.

Ethics

Still, we might wonder about the reasons for the prescriptions. The word 'natural' in the phrase 'natural rights' might suggest a religious foundation. It would be as if God had posted on each of us at birth a small list of demands from others. If we do not find that idea appealing, then once more the word suggests some kind of Aristotelian story. Human beings will have a 'nature' that can only flourish in societies conforming to the declaration. These are the only societies in which they can 'realize' themselves or be 'truly' free. But that in turn might seem highly doubtful. We are pretty plastic and adaptive, and as we have already seen, different conceptions of flourishing abound. Many think we flourish in the rich and liberal Western democracies of today. But some would say, for instance, that we can only really flourish in egalitarian societies where there are strict controls on the amount of property any one person or any one class can control. Others would say that we can only flourish under the umbrella of a strong social order, cemented by common adherence to a particular religious tradition.

We have seen that people's conception of their rights can be dangerously inflationary. There are other pragmatic or practical objections that have been raised. The language is abstract; how much property does a right to property give you? What duties does this right impose on others? How much does my right to life enable me to demand by way of care and resources, if those are necessary to keep me going? And we have already seen the infinitely flexible and treacherous ways in which the one-word concept of liberty can be stretched, so that a right to liberty can seem almost meaningless. One-word rights give no answer to the difficult questions.

The language is apt to be adversarial. It pits *me* against *them*, encouraging a sense of *my* right against others, *my* sense of just grievance when things don't go my way. It is not the language of genuine community, so much so that Bentham thought it was 'terrorist' language. Thus, we would not have very high expectations of a partnership in which each member is constantly checking whether his or her budget of rights has been infringed by the other. When pre-nuptial contracts specify a right to have half the washing up done, or the housework, or a right to shared child-caring duties, and sex no more than four and no less than three times a week, we should not be optimistic about the ensuing marriage. It is not that any of these things are bad – they may be desirable – but demanding them as a right implies that *me* has not been taken over by *we*. A hair-trigger sense of grievance is not a recipe for happy families. If *we* has not taken over from *me*, the attitudes needed for successful community are not in place. It is clear what Bentham would say about such a contract:

*What has been the object, the perpetual and palpable object, of this declaration of pretended rights? To add as much force as possible to these passions, but already too strong – to burst the cords that hold them in, – to say to the selfish passions, there – everywhere – is your prey! – to the angry passions, there – everywhere – is your enemy. Such is the morality of this celebrated manifesto.*