

## Five Fables about Human Rights

In this chapter I propose to discuss the topic of human rights as seen from the standpoint of five doctrines or outlooks that are dominant in our time. I don't propose to be *fair* to these outlooks. Rather, I shall treat them in the form of Weberian 'ideal types' or caricatures – a caricature being an exaggerated and simplified representation which, when it succeeds, captures the essentials of what is represented.

The principle that human rights must be defended has become one of the commonplaces of our age. Sometimes the universality of human rights has been challenged: those historically proclaimed are said to be Eurocentric and to be inappropriate, or only partly appropriate, to other cultures and circumstances.<sup>1</sup> So alternative, or partly alternative, lists are proposed. Sometimes the historic lists are said to be too short, and so further human rights are proposed, from the second unto the third and fourth generation.<sup>2</sup> Sometimes the appeal to human rights, or the language in which it is couched, are said to be unhelpful or even counterproductive in particular campaigns or struggles – in advancing the condition and position of women,<sup>3</sup> say, or in promoting Third World development.<sup>4</sup> But virtually no one actually *rejects* the principle of defending human rights.

So, in some sense, it is accepted virtually everywhere. It is also violated virtually everywhere, though much more in some places than in others. Hence the pressing need for organisations such as Amnesty International and Helsinki Watch. But its virtually universal acceptance, even when hypocritical, is very important, for this is what gives such organisations such political leverage as they have in otherwise unpromising situations.

Here I want to focus on the significance of that acceptance by asking: what ways of thinking does accepting the principle of defending human rights deny and what way of thinking does it entail? I want to proceed in two stages: first by asking: what would it be like *not* to accept the principle? And second: what would it be like to take it seriously?

First, then, let us ask: what would a world without the principle of human rights look like? I would like to invite you to join me in a series of thought experiments. Let us imagine a series of places in which the principle in question is unknown – places that are neither utopian nor dystopian but rather places that are in other respects attractive, yet which simply lack this particular feature, whose distinctiveness we may thereby hope to understand better.

First, let us imagine a society called *Utilitaria*. Utilitarians are public-spirited people who display a strong sense of collective purpose: their single and exclusive goal, overriding all others, is to maximise the overall utility of all of them. Traditionally this has meant 'the Greatest Happiness of the Greatest Number' (which is the national motto) but in more recent times there have been disputes about what 'utility' is. Some say that it is the same as 'welfare', as measured by objective indicators such as income, access to medical facilities, housing and so on. Others, of a more mystical cast of mind, see it as a kind of inner glow, an indefinable subjective state that everyone aims at. Others say that it is just the satisfaction of whatever desires anyone happens to have. Others say that it is the satisfaction of the desires people ought to have or of those they would have if they were fully informed and sensible. Yet others, gloomier in disposition, say that it is just the avoidance of suffering: for them the 'greatest happiness' just means the 'least unhappiness'. Utilitarians are distinctly philistine people, who are disinclined to see utility in High Culture and never tire of citing the proverb that 'pushpin is as good as poetry', though there is a minority tradition of trying to enrich the idea of 'utility' to include the more imaginative sides of life. But despite all these differences, all Utilitarians seem to be agreed on one principle: that what counts is what can be counted. The prized possession of every Utilitarian is a Pocket Calculator. When faced with the question 'What is to be done?', he or she invariably translates it into the question 'Which option will produce the greatest sum of utility?' Calculating is the national obsession.

Technocrats, Bureaucrats and Judges are the most powerful people in Utilitaria and are much admired. They are particularly adept at Calculating, using state-of-the-art computers of ever-increasing power.

There are two political parties that vie for power – the Act Party and the Rule Party. What divides them is that the Act Party (the ‘Actors’) encourages everyone to use their Calculators on all possible occasions, while the Rule Party (the ‘Rulers’) discourages ordinary people from using them in everyday life. According to the Rule Utilitarians, people should live by conventions or rules of thumb that are devised and interpreted by the Technocrats, Bureaucrats and Judges according to their superior methods of Calculation.

Life in Utilitaria has its hazards. Another national proverb is ‘*Utilitas populi suprema lex est*’. The problem is that no-one can ever know for sure what sacrifices he or she may be called on to make for the greater benefit of all. The Rule Party’s rules of thumb are some protection, since they tend to restrain people from doing one another in, but they can, of course, always be overridden if a Technocrat or a Bureaucrat or a Judge makes a Calculation that overrides them. Everyone remembers the famous case at the turn of the nineteenth century of an army captain from a despised minority group who was tried on a charge of treason and found guilty of passing documents to an Enemy Power. The captain was innocent of the charge but the Judges and the Generals all agreed that the doctrine of ‘*Utilitas populi*’ must prevail. Some intellectuals tried to make a fuss, but they got nowhere. And recently, six people were found guilty of exploding a bomb at a time of troubles for Utilitaria caused by fanatical terrorists from a neighbouring island. It turned out that the six were innocent, but ‘*Utilitas populi*’ prevailed and the Six stayed in gaol.

These hazards might seem troubling to an outsider, but Utilitarians put up with them. For their public spiritedness is so highly developed that they are ready to sacrifice themselves, and indeed one another, whenever Calculations show this to be necessary.

Let us now visit a very different kind of country called *Communitaria*. Communitarians are much more friendly people, at least to one another, than are the Utilitarians, but they are like them in their very high degree of public spiritedness and collective purpose. Actually ‘friendliness’ is too superficial a word to describe the way they relate to one another. Their mutual bonds constitute their very being. They cannot imagine themselves ‘unencumbered’ and apart from them; they call such a nightmarish vision ‘atomism’ and recoil with horror from it. Their selves are, as they say, ‘embedded’ or ‘situated’. They identify with one another and identify themselves as so identifying. Indeed, you could say that the Communitarians’ national obsession is Identity.

*Communitaria* used to be a very *gemütlich* place, much given to agricul-

tural metaphors. Communitarians were attached to the *soil*, they cultivated their *roots* and they felt a truly *organic* connection with one another. They particularly despised the Utilitarians’ calculative way of life, relying instead on ‘shared understandings’ and living according to slowly evolving traditions and customs with which they would Identify and by which they would be Identified.

Since then *Communitaria* has undergone great changes. Waves of immigration and movements of people and modern communications have unsettled the old *gemütlich* ways and created a far more heterogeneous and ‘pluralistic’ society. New *Communitaria* is a true ‘Community of Communities’ – a patchwork quilt of sub-communities, each claiming recognition for the peculiar value of its own specific way of life. New Communitarians believe in ‘multiculturalism’ and practise what they call the ‘politics of recognition’, recognising each sub-community’s Identity with scrupulous fairness in the country’s institutions. Positive discrimination is used to encourage those that are disadvantaged or in danger of extinction; quotas ensure that all are fairly represented in representative institutions and in the professions. The schools and colleges teach curricula that exactly reflect the exactly equal value of those communities’ cultures and none (and certainly not the old *gemütlich* one) is allowed to predominate.

The new Communitarians feel ‘at home’ in their sub-communities but further take pride in being Communitarians who recognise one another’s sub-communitarian identities. But there are problems. One is the ‘inclusion-exclusion problem’: how to decide which sub-communities are included in the overall framework and which are not. Some groups get very angry at being included in sub-communities which recognise them but which they don’t recognise; others get angry because they recognise themselves as a sub-community but are not recognised by others. Recently, for example, a province of *Communitaria* in which one sub-community forms a majority passed a law prohibiting *both* members of their sub-community *and* all immigrants from attending schools that teach in the language that prevails in the rest of *Communitaria* and in which most of its business and trade are conducted. The immigrants in particular are none too pleased. A related problem is the ‘vested interests problem’: once on the official list, sub-communities want to stay there for ever and keep others out. Moreover, to get on the list, you have to be, or claim to be, an indigenous people or the victims of colonialism, and preferably both.

Then there is the ‘relativism problem’. It is obligatory in *Communitaria* to treat the beliefs and practices of all recognised sub-communities as

equally valid, or rather, none is to be treated as more or less valid than any other. But different sub-communities have incompatible beliefs and some engage in very nasty practices, mistreating, degrading and persecuting groups and individuals, including their own members. Typically, the definers of sub-communitarian identities are men; and their women are sometimes oppressed, marginalized and badly abused. Some require their womenfolk to conceal *their* identities in hooded black shrouds. Some practise female circumcision. Unfortunately, Communitaria's official relativism must allow such practices to continue unmolested. Recently, a famous writer from one sub-community wrote a satirical novel that was partly about the life of another sub-community's holy religious Prophet and Founder. Hotheads from the latter sub-community became wildly incensed at what they took to be an insult to their faith and publicly burned the book in question, while their fanatical and fiery leader, in the home community from which they came, ordered the famous writer to be killed. Other writers from other sub-communities all over the world signed petitions and manifestoes in the famous writer's defence. Communitaria's government dealt with this tricky situation in a suitably relativistic way, declaring that the practice of writing satirical novels was no more but also no less valid than the practice of protecting one's faith against insults.

And finally there is the 'deviant problem'. Not all Communitarians fit well into the sub-communitarian categories. Recalcitrant individuals have been known to reject the category by which they are identified or to pretend that they don't belong to it. Some cross or refuse to acknowledge the identifying boundaries, and some even reject the very idea of such boundaries. Non-, ex-, trans-, and anti-Identifiers are not the happiest people in Communitaria. They feel uneasy because they tend to be seen as 'not true Communitarians', as disloyal, even as 'rootless cosmopolitans'. Fortunately, however, they are few and unorganised. Least of all are they likely to form another sub-community.

Now I propose to take you to another place which is called *Proletaria*, so called, nostalgically, after the social class that brought it into being but has long since withered away, along with all other social classes. Proletaria has no state. That too has withered away. Indeed, it is not a particular country but embraces the entire world. Human and other rights existed in pre-historic times but these too have withered away. The Proletariat in its struggle sometimes used to appeal to them for tactical reasons, but they are no longer needed in Proletaria's 'truly human' communist society.

Proletarians lead extremely varied and fulfilling lives. They hunt in the

morning, fish in the afternoon and criticise after dinner, they develop an enormous range of skills, and no-one has to endure a one-sided, crippled development, to fit into a given job-description or role, or an exclusive sphere of activity from which one cannot escape. The division of labour has also withered away: people are no longer identified with the work they do or the functions they fulfil. No one is a 'such-and-such': as the prophet Gramsci put it, no one is even 'an intellectual', because everyone is (among all the other things he or she is). They organise their factories like orchestras and watch over automated machinery, they organise production as associated producers, rationally regulating their interchange with Nature, bringing it under their common control, under conditions most favourable to, and worthy of, human nature, and they elect representatives to Communes on an annual basis. As the prophet Engels foretold, the government of persons has been replaced by the administration of things, and by the conduct of processes of production. The distinction between work and leisure has withered away; so also has that between the private and the public spheres of life. Money, according to the prophet Marx, 'abases all the gods of mankind and changes them into commodities' and has 'deprived the whole world, both the human world and nature, of their own proper value',<sup>5</sup> but now the whole 'cash nexus' too has withered away. Now at last, as foretold, 'love can only be exchanged for love, trust for trust, etc.', influence can only be through stimulation and encouragement and all relations to man and to nature express one's 'real individual life'.<sup>6</sup> An arcadian abundance exists in which all produce what they are able to and get what they need. People identify with one another but not, as among the Communitarians, because they belong to this or that community or sub-community, but rather because they are equally and fully human. Relations between the sexes are fully reciprocal and prostitution is unknown. In Proletaria there is no single dominating obsession or way of living: everyone develops their rich individuality which is as all-sided in its production as in its consumption, free of external impediments. There is no longer any contradiction between the interest of the separate individual or the individual family and the interest of all individuals who have intercourse with one another.

The only problem with Proletarian life is that there are no problems. For with communism, as Marx prophesied, we see

the *definitive* resolution of the antagonism between man and nature and between man and man. It is the true solution of the conflict between existence and essence, between objectification and self-affirmation, between freedom and

necessity, between individual and species. It is the solution of the riddle of history and knows itself to be this solution.<sup>7</sup>

Yet visitors to Proletaria (from other planets) are sometimes disbelieving of what they behold, for they find it hard to credit that such perfection could be attained and, moreover, maintained without friction. How, they wonder, can the planning of production run so smoothly without markets to provide information through prices about demand? Why are there no conflicts over allocating resources? Don't differing styles of living get in each other's way? Aren't there personal conflicts, between fathers and sons, say, or lovers? Do Proletarians suffer inner turmoil? No sign of any such problems is visible: Proletarians seem able to combine their rich individuality, developing their gifts in all directions, with fully communal social relations. Only sometimes does it occur to such extra-terrestrial visitors that they may have lost their way and landed somewhere else than Earth and that these are not human beings after all.

Human rights are unknown in all the three places we have visited, but for different reasons. Utilitarians have no use for them because those who believe in them are, by definition, disposed to question that Utilitarian Calculations should be used in all circumstances. As the Utilitarian State's founder Jeremy Bentham famously remarked, the very idea of such rights is not only nonsense but 'nonsense on stilts', for 'there is no right which, when the abolition of it is advantageous to society, should not be abolished'.<sup>8</sup> The Communitarians, by contrast, have always rejected such rights because of their *abstractness* from real, living, concrete, local ways of life. As that eloquent Old Communitarian speechifier Edmund Burke put it, their 'abstract perfection' is their 'practical defect', for 'the liberties and the restrictions vary with times and circumstances, and admit of infinite modifications, that cannot be settled upon any abstract rule'.<sup>9</sup> A no less eloquent New Communitarian, Alasdair MacIntyre, broadens the attack: 'Natural or human rights', he says, 'are fictions – just as is utility'. They are like 'witches and unicorns' for 'every attempt to give good reasons for believing that there *are* such rights has failed'. According to MacIntyre, forms of behaviour that presuppose such rights 'always have a highly specific and socially local character, and . . . the existence of particular types of social institution or practice is a necessary condition for the notion of a claim to the possession of a right being an intelligible type of human performance'.<sup>10</sup> As for Proletarians, their rejection of human rights goes back to the Prophet of their Revolution, Karl Marx, who described talk of them as 'ideological nonsense' and 'obsolete verbal

rubbish',<sup>11</sup> for two reasons. First, they tended to soften hearts in the heat of the class struggle; the point was to win, not feel sympathy for class enemies. It was, as Trotsky used to say, a matter of 'our morals' versus 'theirs',<sup>12</sup> and Lenin observed that 'our morality is entirely subordinated to the interests of the proletariat's class struggle . . . To a communist all morality lies in this united discipline and conscious mass struggle against the exploiters. We do not believe in an eternal morality, and we expose the falseness of all the fables about morality'.<sup>13</sup> And second, Marx regarded human rights as anachronistic because they had been necessary only in that pre-historical era when individuals needed protection from injuries and dangers generated out of an imperfect, conflictual, class-ridden world. Once that world was transformed and a new world born, emancipated human beings would flourish free from the need for rights, in abundance, communal relations, and real freedom to develop their manifold human powers.

What, then, does our thought-experiment so far suggest we are accepting when we accept the principle of defending human rights? First, that they are *restraints* upon the pursuit of what is held to be 'advantageous to society', however enlightened or benevolent that pursuit may be. Second, that they invoke a certain kind of *abstraction* from 'specific and socially local' practices: they involve seeing persons behind their identifying (even their self-identifying) labels and securing them a protected space within which to live their lives from the inside, whether this be in conformity with or in deviation from the life their community requires of or seeks to impose on them. And third, that they *presuppose* a set of permanent existential facts about the human condition: that human beings will always face the malevolence and cruelty of others, that there will always be a scarcity of resources, that human beings will always give priority to the interests of themselves and those close to them, that there will always be imperfect rationality in the pursuit of individual and collective aims, and that there will never be an unforced convergence in ways of life and conceptions of what makes it valuable. In the face of these facts, if all individuals are to be equally respected, they will need public protection from injury and degradation, and from unfairness and arbitrariness in the allocation of basic resources and in the operation of the laws and rules of social life. You will not be able to rely on others' altruism or benevolence or paternalism. Even if the values of those others are your own, they can do you in in countless ways, by sheer miscalculation or mistake or misjudgement. Limited rationality puts you in danger from the well-meaning no less than from the malevolent and the selfish.

But often the values of others will not be your own: you will need protection to live your own life from the inside, pursuing your own conception of what is valuable, rather than a life imposed upon you. To do so, social and cultural preconditions must exist: thus Kurds in Turkey must not be treated as 'Mountain Turks' but have their own institutions, education and language. Now we can see the sense in which human rights are *individualistic* and the sense in which they are not. To defend them is to protect individuals from utilitarian sacrifices, communitarian impositions, and from injury, degradation and arbitrariness, but doing so cannot be viewed independently of economic, legal, political and cultural conditions and may well involve the protection and even fostering of collective goods, such as the Kurdish language and culture. For to defend human rights is not merely to protect individuals. It is also to protect the activities and relations that make their lives more valuable, activities and relations that cannot be conceived reductively as merely individual goods. Thus the right to free expression and communication protects artistic expression and the communication of information; the right to a fair trial protects a well-functioning legal system; the right to free association protects democratic trade unions, social movements and political demonstrations, and so on.

I turn now to the second stage of my inquiry. What would it be like to take human rights, thus understood, seriously? To approach this question, let me propose a further thought experiment. Let us now imagine worlds *with* human rights, where they are widely recognised and systematically put into practice.

One place where some people think rights flourish is *Libertaria*. Libertarian life runs exclusively and entirely on market principles. Everything there can be bought and sold; everything of value has a price and is subject to Libertarians' national obsession: cost-benefit analysis. The most basic and prized of all their rights is the right to property, beginning with each Libertarian's ownership of himself or herself and extending (as Libertarians like to say) to whatever they 'mix their labour with'. They own their talents and abilities and, in developing and deploying these, Libertarians claim the right to whatever rewards the market will bring. They love to tell the story of Wilt Chamberlain, the famous basketball player whom thousands are willing to pay to watch. Would it be just, they ask, to deprive him of these freely-given rewards in order to benefit others?

They also attach great importance to the right of engaging in voluntary

transfers of what they rightly own – transactions of giving, receiving and exchanging, which they use to the advantage of their families, through private education and the inheritance of wealth. There is a very low level of regressive taxation which is used only to maintain Libertaria's system of free exchange – the infrastructure of the economy, the army and the police, and the justice system to enforce free contracts. Compulsory redistribution is prohibited since it would violate people's unlimited rights to whatever they can earn. Inequalities are great and growing, based on social class, as well as on differential talents and efforts. There is no public education, no public health system, no public support for the arts or recreation, no public libraries, no public transport, roads, parks or beaches. Water, gas, electricity, nuclear power, garbage disposal, postal and telecommunications are all in private hands, as are the prisons. The poor, the ill, the handicapped, the unlucky, and the untalented are given some sympathy and a measure of charity, but Libertarians do not regard their worsening plight as any kind of injustice, since they do not result from anyone's rights being infringed.

No one is tortured in Libertaria. All have the right to vote, the rule of law prevails, there is freedom of expression (in media controlled by the rich) and of association (though trade unions cannot have closed shops or call strikes, since that would violate others' rights). There is equal opportunity in the sense that active discrimination against individuals and groups is prohibited, but there is an unequal start to the race for jobs and rewards; the socially privileged have a considerable advantage stemming from their social backgrounds. All can enter the race but losers fall by the wayside: the successful are fond of quoting the national motto: 'The Devil take the hindmost!' The homeless sleeping under bridges and the unemployed are, however, consoled by the thought that they have the same rights as every other Libertarian.

Are human rights taken seriously enough in Libertaria? I believe the answer is no, for two reasons. First, as I said, the basic civil rights are respected there – there is no torture, there is universal franchise, the rule of law, freedom of expression and association and formal equality of opportunity. Yet the possessors of these rights are not equally respected; not all Libertarians are treated as equally human. To adapt a phrase of Anatole France, those who sleep under the bridges have the same rights as those who don't. Though all Libertarians have the right to vote, the worst off, the marginalised and the excluded do not have equal power to organise and influence political decisions, or equal access to legal processes, or an equal chance to articulate and communicate their points of

view, or an equal representation in Libertarian public and institutional life, or an equal chance in the race for qualifications, positions and rewards.

The second reason for thinking that Libertaria fails to take human rights seriously enough relates to the distinctively Libertarian rights. Libertarians believe that they have an unlimited right to whatever reward their abilities and efforts can bring in the marketplace and the unlimited right to make voluntary choices that benefit themselves and their families. No Libertarian ever takes a step outside the narrowly self-interested point of view of advancing his own, or at most his family's, interests. He is impervious to the thought that others might have more urgent claims on resources, or that some of his own and his family's advantages are gained at the expense of others' disadvantage, or that the structure of Libertarian life is a structure of injustice.

Are human rights in better shape elsewhere? Where is the principle of defending them more securely defended? Where, in other words, are all human beings more securely treated as equally human? Where are they protected against Utilitarian sacrifices for the advantage of society and against Communitarian imposition of a particular way of life, against the Communist illusion that a world beyond rights can be attained and against the Libertarian illusion that a world run entirely on market principles is a world that recognises them fully?

Is *Egalitaria* such a place? *Egalitaria* is a one-status society in the sense that all Egalitarians are treated as being of equal *worth*: one person's well-being and freedom are regarded as just as valuable as any other's. The basic liberties, the rule of law, toleration, equality of opportunity are all constitutionally guaranteed. But they are also made real by Egalitarians' commitment to rendering everyone's conditions of life such that these equal rights are of equal worth to their possessors. They differ about how to do this but one currently influential view is that a basic economic and political structure can be created that can make everyone better off while giving priority to bettering the condition of the worst off: on this view no inequality is justified unless it results in making the worst off better off than they would otherwise be. All agree that progressive taxation and extensive welfare provision should ensure a decent minimum standard of life for all. But there is also within Egalitarian culture a momentum towards raising that minimum through policies that gradually eliminate involuntary disadvantage. That momentum is fuelled by a sense of injustice that perpetually tracks further instances of illegitimate inequality, or involuntary disadvantage – whether these result from religion or class or

ethnicity or gender, and so on, and seeks policies that will render Egalitarians more equal in their conditions of life.

Could there be such a place as *Egalitaria*? More precisely, is *Egalitaria feasible*: could it be *attained* from anywhere in the present world? And is it *viable*: could it be *maintained* stably over time? Some doubt that it is feasible. Some say that, even if feasible, it is not viable. Some say that it might be viable, if it were feasible, but it is not. Others say that it is neither feasible nor viable. I fear that there are good reasons for all these doubts. I shall suggest two major reasons for doubting the attainability and the maintainability of *Egalitaria* and conclude by suggesting what they imply about how we should view the principle of defending human rights.

The first reason for thinking that *Egalitaria* may, after all, be a mirage is what we may call the *libertarian constraint*. This is found, above all, in the economic sphere. Egalitarians are (or should be) extremely concerned to achieve maximal economic growth. For them 'equality' is not to be traded off against 'efficiency'. Rather, they seek most efficiently to achieve an economy that will attain the highest level of equality of condition at the highest feasible economic level. The worst off (and everyone else) under a more equal system should, they hope, be at least as well off as the worst off (and everyone else) under a less equal system. If the cost of more equality is lesser prospects of prosperity for everyone or most people, their hopes of attaining, let alone maintaining, *Egalitaria*, at least under conditions of freedom, are correspondingly dimmed.

Egalitarians these days are (or should be) keen students of Libertarian economics. For one thing, they know what markets can and cannot do.<sup>14</sup> On the one hand, they know when and how markets can fail. Markets reproduce existing inequalities of endowments, resources and power, they can generate external diseconomies, such as pollution, which they cannot deal with, they can, when unchecked, lead to oligopolies and monopolies, they can ravage the environment, through deforestation and in other ways, they can produce destabilising crises of confidence with ramifying effects, they can encourage greed, consumerism, commercialism, opportunism, political passivity, indifference and anonymity, a world of alienated strangers. They cannot fairly allocate public goods, or foster social accountability in the use of resources or democracy at the workplace, or meet social and individual needs that cannot be expressed in the form of purchasing power, or balance the needs of present and future generations. On the other hand, they are indispensable and cannot be simulated. There is no alternative to them, as a signalling device for transmitting in a decentralized process information about tastes, produc-

tive techniques, resources and so on, as a discovery procedure through which restless individuals, in pursuit of entrepreneurial profit, seek new ways of satisfying needs and even, as the Prophet Marx himself acknowledged, as an arena of freedom and choice. Egalitarians know that command economies can only fail in comparison with market economies, and they know that, even if the market can in various ways be socialized, 'market socialism' is, at best, an as yet ill-defined hope.

They also know that no economy can function on altruism and moral incentives alone, and that material incentives, and notably the profit motive, are indispensable to a well-functioning economy. Most work that needs to be done, and in particular entrepreneurial functions, must draw on motives that derive from individuals' pursuit of material advantage for themselves and for their families. They know, in short, that *any* feasible and viable economy must be based on market processes and material incentives, however controlled and supplemented in order to render them socially accountable,<sup>15</sup> thereby creating and reinforcing the very inequalities they earnestly seek to reduce.

The second major reason for scepticism that Egalitaria can be attained and, if so, maintained we may call the *communitarian constraint*. This is to be found, primarily, in the cultural sphere. Egalitarians hope that everyone can, at least when considering public and political issues, achieve a certain kind of abstraction from their own point of view and circumstances. Egalitarians hope that they can view anyone, including themselves, impartially, seeing everyone's life as of equal worth and everyone's well-being and freedom as equally valuable. Professor Rawls has modelled such a standpoint in his image of an 'Original Position' where individuals reason behind a 'veil of ignorance'; others have tried to capture it in other ways.

Yet Egalitarians must admit that this is not a natural attitude in the world in which we live and that it seems in increasingly many places to be becoming less and less so. Yugoslavs turn almost overnight into Serbs and Croats. It matters urgently to some Czechoslovaks that they are Slovaks and to some Canadians that they are Quebecois. Even Black or Hispanic or Asian Americans are insisting on seeing themselves in collectivity-relative ways. It seems that belonging to certain kinds of 'encompassing groups' with cultures of self-recognition, and identifying and being identified as so belonging, is increasingly essential to many people's well-being.<sup>16</sup> But, to the extent that this is so, the 'politics of equal dignity' that would treat individuals equally, irrespective of their group affiliations, is put in jeopardy.<sup>17</sup>

Consider the idea of 'fraternity'. Unlike 'liberty' and 'equality', which are conditions to be *achieved*, who your brothers are is determined by the past. You and they form a collectivity in contradistinction to the rest of mankind, and in particular to that portion of it you and they see as sources of danger or objects of envy or resentment. The history of 'fraternity' during the course of the French Revolution is instructive.<sup>18</sup> It began with a promise of universal brotherhood; soon it came to mean patriotism; and eventually the idea was used to justify militancy against external enemies and purges of enemies within. The revolutionary slogan *la fraternité ou la mort* thus acquired a new and ominous meaning, promising violence first against non-brothers and then against false brothers. For collective or communal identity always requires, as they say, an 'other', every affirmation of belonging includes an explicit or implicit exclusion clause. The Egalitarians' problem is to render such exclusions harmless.

The problem is to attain a general acceptance of multiple identities that do not conflict. But how many situations in the present world are favourable to such an outcome? The least promising, and most explosive, seems to be that of formerly communist federal states containing peoples with historical enmities at different levels of economic development. The least unpromising, perhaps, are polyethnic societies composed mainly of various immigrant groups who demand the right freely to express their particularity within the economic and political institutions of the dominant culture. But there too, wherever that right is interpreted as a *collective* right to equal recognition, a threat to egalitarian outcomes is raised: that of treating individuals only or mainly as the bearers of their collective identities<sup>19</sup> and thus of building not Egalitaria but Communitaria.

Here, then, are two major reasons for doubting that Egalitaria can be realised anywhere in this world (let alone across it as a whole). They very naturally lead those impressed by them to take up anti-egalitarian political positions. Indeed, they constitute the two main sources of right-wing thinking today – libertarian and communitarian. Both point to severe limitations on the capacity of human beings to achieve that abstraction or impartial regard that could lead them to view all lives as equally valuable.<sup>20</sup> Both are sufficiently powerful and persuasive to convince reasonable people to reject egalitarian politics.

How, in the light of this last fact, should we view human rights? I think it follows that the *list* of human rights should be kept both reasonably short and reasonably abstract. It should include the basic civil and political rights, the rule of law, freedom of expression and association, equality of

opportunity and the right to some basic level of material well-being, but probably no more. For only these have a prospect of securing agreement across the broad spectrum of contemporary political life, even though disagreement breaks out again once you ask how these abstract rights are to be made concrete: how the formal is to become real.

Who are the possessors of civil and political rights? Nationals? Citizens? Guest-workers? Refugees? All who are residents within a given territory? Exactly what does the rule of law require? Does it involve equalizing access to legal advice and representation? Public defenders? The jury system? Equal representation of minorities on juries? The right to challenge jurors without cause? When are freedom of expression and association truly free? Does the former have implications for the distribution and forms of ownership of mass media and the modes and principles of their public regulation? Does the latter entail some form of industrial democracy that goes beyond what currently obtains? What must be equal for opportunities to be equal? Is the issue one of non-discrimination against an existing background of economic, social and cultural inequalities or is that background itself the field within which opportunities can be made more equal? What is the basic minimum? Should it be set low to avoid negative incentive effects? If so, how low? Or should there be a basic income for all, and, if so, should that include those who could but don't work, or don't accept work that is on offer? And how is a basic minimum level of material well-being to be conceived and measured – in terms of welfare, or income, or resources, or 'level of living' or 'basic capabilities' or in some other way?

To defend these human rights is to defend a kind of 'egalitarian plateau' upon which such political conflicts and arguments can take place.<sup>21</sup> On the plateau, human rights are taken seriously on all sides, though there are wide and deep disagreements about what defending and protecting them involves. I hope I have convinced you that there are powerful reasons against abandoning it for any of the first four countries we have visited.

Yet the plateau is under siege from their armies. One of those armies flies a communitarian flag and practises 'ethnic cleansing'. It has already destroyed Mostar and many other places and is currently threatening Kosovo and Macedonia. Right now it is laying siege to Sarajevo, slaughtering and starving men, women and children and raping women, only because they have the wrong collective identity. We are complicitly allowing this to go on, within the very walls of modern, civilized Europe. The barbarians are within the gates.

I believe that the principle of defending human rights requires an end to our complicity and appeasement: that we raise the siege of Sarajevo and defeat them by force. Only then can we resume the journey to Egalitaria, which, if it can indeed be reached at all, can only be reached from the plateau of human rights.

### Notes

1. See 'La Conception occidentale des droits de l'homme reforce le malentendu avec l'Islam', an interview with Mohamed Arkoun, *Le Monde*, 15 March 1989, p. 2; and the essays in Adamantine Pollis and Peter Schwab, eds, *Human Rights: Cultural and Ideological Perspectives*, New York: Praeger, 1979, esp. Ch. 1, pp. 14ff.
2. See D. D. Raphael, ed., *Political Theory and the Rights of Man*, London: Macmillan 1967.
3. See Elizabeth Kingdom, *What's Wrong with Rights? Problems for Feminist Politics of Law*, Edinburgh: Edinburgh University Press, 1991.
4. Reginald Herbold Green, *Human Rights, Human Conditions and Law – Some Explorations towards Interaction*, Brighton: IDS, 1989, Discussion Paper no. 267.
5. Karl Marx, 'Bruno Bauer, Die Fahigkeit der Heutigen Juden und Christen, frei zu werden', trans. in T. B. Bottomore ed., *Karl Marx: Early Writings*, London: Watts, 1963, p. 37.
6. Karl Marx, 'Money', trans. in Bottomore, *Karl Marx*, pp. 193–4.
7. Karl Marx, 'Private Property and Communism', trans. in Bottomore, *Karl Marx*, p. 155.
8. J. Bentham, *Anarchical Fallacies*, reproduced in Jeremy Waldron, ed., *Nonsense on Stilts: Bentham, Burke and Marx on the Rights of Man*, London and New York: Methuen, 1987, p. 53.
9. Edmund Burke, *Reflections on the Revolution in France*, reproduced in Waldron, *Nonsense*, pp. 105–6.
10. Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, London: Duckworth, 1981, pp. 65–7.
11. Karl Marx, *Critique of the Gotha Programme* in Karl Marx and Friedrich Engels, *Selected Works*, 2 Vols, Moscow: Foreign Languages Publishing House, 1962, vol. 2., p. 25.
12. Leon Trotsky, 'Their Morals and Ours', *The New Internationalist*, June 1938 reproduced in *Their Morals and Ours: Marxist versus Liberal Views on Morality*. Four essays by Leon Trotsky, John Dewey and George Novack, fourth edn, New York: Pathfinder Press, 1969.
13. V. I. Lenin, 'Speech at Third Komsomol Congress, 2 October 1920', in V. I. Lenin, *Collected Works*, 45 vols., Moscow: Foreign Languages Publishing House, vol. 31, pp. 291, 294.
14. See Samuel Bowles, 'What markets can – and cannot – do', *Challenge: The Magazine of Economic Affairs*, July–August 1991, pp. 11–16.
15. See Diane Elson, 'The Economics of a Socialized Market' in Robin Blackburn, ed.,