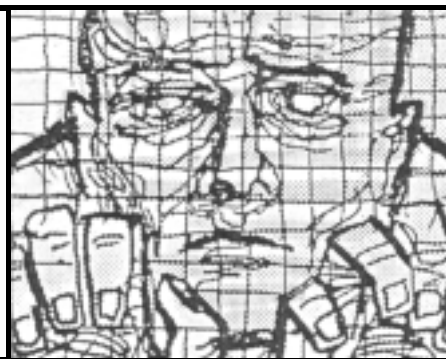


HUMAN RIGHTS AND THE INEVITABILITY OF POLITICS

PAUL STAINES



The supposedly apolitical nature of human rights was once widely accepted; the 1948 United Nations Universal Declaration of Human Rights commanded the support of nations as politically diverse as the United States and the Soviet Union. Human rights were seen as a humanitarian issue, a moral issue subject to no other considerations and not a matter of political dispute along an ideological axis. This was (and still is) a myth perpetuated by human rights bureaucrats in order to keep the UN gravy train rolling with the minimum of controversy, and without having to address the more difficult task of bringing about fundamental changes in political systems which, by their very nature, lead to the violation of human rights.

It was only after the creation of the United Nations that human rights emerged as an issue in international affairs. The emergence of human rights as an issue has been beneficial, in particular it has benefited those who might otherwise have languished in prisons and camps around the world. However, concentrating on individual cases alone without addressing the sources of human rights abuse would have been fruitless.

DEMOCRACY'S IDEOLOGICAL COUNTER-OFFENSIVE

It was the insistence by Western leaders, particularly in recent years Ronald Reagan and Margaret Thatcher, that we should maintain a relentless ideological offensive on behalf of democracy that helped to spark the democratic counter-revolution which brought about the collapse of communism. Nor should we forget J. F. Kennedy and Konrad Adenauer, both of whom championed the democratic ideal at difficult times during the Cold War.

Gorbachov's policies may get the credit, but they only came about because of the democratic ideological offensive which rejected the inevitability of Marxist advance. At every opportunity available confident Western leaders emphasised the moral superiority of the Western democracies over the closed societies of the Communist bloc. This brought a lot of criticism from left-wing politicians, who argued that they had no right to lecture the totalitarians whilst the democracies were so imperfect. Reagan, characteristically, was unapologetic, noting "the crucial moral distinction between

pluralist systems which acknowledge their own shortcomings and systems that excuse their defects in the name of totalitarian ideology."

Human rights were not secured in Eastern Europe by concentrating on individual cases, they were secured by counter-revolutions which sought to overthrow the old regimes and replace them with multi-party democracies, free market economies and absolute respect for human rights.

At the level of ideas, talk about human rights has directed our attention towards the moral dimensions of foreign policy. The potential here should not be underestimated: it is not too much to say that the idea of human rights is the West's unique contribution to moral and political thought.

Regrettably, the benefits that could flow from a continuation of the focus on human rights are likely to remain a chimera as long as there is confusion surrounding the authentic nature of human rights.

THE POLITICS OF HUMAN RIGHTS

There are still a great many misunderstandings, both deliberate and unintentional, as to the nature of human rights, the first being the belief that respect for human rights is irrelevant to political systems, the fear in some quarters being that if this is not the case human rights will somehow become "politicised". Some human rights organisations go to great lengths to assure governments that they are not "criticising the system", just the practices. This approach is not only short sighted. In the long term it will allow human rights violations to be repeated. This approach ignores the profound nature of the source of human rights and their interconnection with politico-economic systems.

Secondly, it is believed that those concerned for human rights must be equally critical of regimes whatever their political complexion, despite the fact that it is more appropriate to discriminate between regimes in the light of their respect for individual liberty.

It is also questionable whether the belief that human rights are exclusively a moral concern is valid. Human rights are not separable from political or economic considerations. Some argue that human rights advocacy is purely humanitarian and "above" the world of politics. Groups such as Amnesty International argue that taking an aggressive principled stand can be counter-productive to the immediate concern of helping those in need.

This is not to suggest that Amnesty does not take a principled stand, indeed the stand that they take is considerably more principled than that taken by governments. What it does suggest is that groups such as Amnesty fail to make broad systemic condemnations. This failing is further compounded in multilateral forums such as the United Nations when governments do the same. This apolitical approach encourages the international community to pretend that human rights violations are not primarily a result of systemic or institutional arrangements, but rather the result of the acts of aberrant individuals. This is the fallacy of the apolitical approach.

In *The Uncertain Crusade: Jimmy Carter and the Dilemmas of Human Rights Policy*, Joshua Muravchik put the point well:

Foreign Policy Perspectives No. 18

ISSN 0267-6761 ISBN 1 85637 001 1

An occasional publication of the Libertarian Alliance,
25 Chapter Chambers, Esterbrooke Stree, London SW1P 4NN
www.libertarian.co.uk email: admin@libertarian.co.uk

© 1990: Libertarian Alliance; Paul Staines.

Paul Staines is a member of the executive committee of the International Society for Human Rights and is editor of *Human Rights Briefing*. He was formerly a foreign policy consultant with the Committee for a Free Britain. He is the author of *In the Grip of the Sandinistas* (1989), a study of post-revolutionary Nicaragua. For more information about the International Society for Human Rights write to ISHR, 27 Old Gloucester Street, London, WC1N 3XX.

The views expressed in this publication are those of its author, and not necessarily those of the Libertarian Alliance, its Committee, Advisory Council or subscribers.

Director: Dr Chris R. Tame

Editorial Director: Brian Micklethwait Webmaster: Dr Sean Gabb

FOR LIFE, LIBERTY AND PROPERTY



“The struggle for human rights, far from being ... indifferent to political systems, is fundamentally a struggle between political systems. It cannot sensibly be merely a chase after an infinite number of individual ‘violations.’ It must aim instead to erect political systems which have the idea of human rights, and the means for their protection built in.”

Muravchik strikes at the core of the issue; in the final analysis, human rights entail a concern about which systems that protect human rights and which systems lead to their violation. Those with a deep and abiding concern for human rights must eventually realise that the political and economic framework influences and to some extent determines the degree to which human rights are respected. It is simply not realistic to pretend otherwise. It is ridiculous for a human rights group to pretend that the political system is irrelevant. Have they not noticed that people do not get sent to labour camps for distributing anti-government literature in the USA, or that churches operate freely in Australia, not Albania?

HUMAN RIGHTS AND THE STATE

Fundamental to any understanding of the essential nature of human rights is the recognition that human rights are innate, that all are born with equal rights, that the duty of the state is to protect those rights and that the state depends on its citizens' consent for its legitimacy.

The state does not grant rights to citizens; whatever powers the state has are given to it by the people. In limiting the domain of the state, these principles imply that individual rights take precedence and that individuals are free to pursue their own ends provided that in doing so they do not violate the rights of others. It follows that individuals may live life as they think best, alone or in association with others, free from state interference, with every individual deciding what to do with his or her own life, liberty and property.

There are no other human rights, such as “economic” or “social” rights. These “rights” are the rights to someone else's life, liberty and property. Enforcing “collective rights” violates the rights of the individual - amounting to unequal rights in the name of egalitarian redistribution, undermining the very concept of human rights: respect for the integrity of the individual, his life, liberty and property.

Collective rights are advocated by various shades of socialists. They hold that the collective and not the individual takes precedence, beginning with an assumption that the state grants or enables rights, treating individuals as means to a socialist society and not ends in themselves. The “right to health”, “welfare rights” and such like are not human rights - they are the “right” to the property of others via forced taxation.

DEMOCRACY AND HUMAN RIGHTS

President Gorbachov and many Western socialists argue that the socialist system can be saved by making it a democratic socialist system.

But for a democratic¹ government one criteria must be satisfied if it is to be legitimate, namely democratic rule must not infringe any individual's rights without the consent of that individual. The state derives its just powers from the consent of the governed and those powers not so derived are not just.

Majoritarian rule alone will not suffice. A minority may be ruled by the majority only if its members had consented previously to be bound by the outcome of the process. “Tacit” consent is not enough.

Mr Justice Jackson expressed it succinctly in a 1943 US Supreme Court ruling:

“One's right to life, liberty and property, to free speech, a free press, freedom of assembly and other fundamental rights may not be submitted to a vote; they depend on the outcome of no elections.”

Democracy, although not perfect, has the virtue that it allows more individuals more influence over public affairs than any other political system - a benefit which should not be underestimated. In so much as it enables broad participation, democracy is morally superior to any other system. Democratic processes are not however equivalent to moral processes; nor do they necessarily yield moral results, they can in some instances provide an aura of legitimacy to repressive regimes which ignore the rights of minorities.

So if governments - even democratic governments - lack total legitimacy because of the impossibility of obtaining unanimous consent, then a respect for the rights of the individual is crucial.

As little as possible should be done by the state, and as much as possible by individuals in free association. The problem with democratic socialism is not simply that it replicates the economic failings of undemocratic state socialism, but that individuals are enjoined to serve the “the people” or “the public interest” instead of leading their own lives. This invariably amounts to restricting individual liberty through laws regulating private behaviour or economic activity. If we are serious about the rights of the individual we should take that seriousness to its logical conclusion.

PROPERTY RIGHTS

Critics of this view of human rights claim that it is a moral justification for capitalism. They look at those nations which exhibit a capitalist inclination, in that the state sector is limited and free enterprise is allowed to flourish, pointing to those few examples of undemocratic capitalism in the world. Undemocratic, authoritarian, capitalist regimes restrict only the individual's political rights, and that restriction is as unjustified as it would be under a totalitarian state.

Since the rights and liberties of the individual are our basic concern and the criteria by which we judge regimes, it would be better to judge regimes according to a continuum that runs from free to unfree. Democratic capitalist nations would be at the free end and undemocratic socialist regimes would be at the unfree end of the continuum. Just where precisely undemocratic capitalist and democratic socialist nations fall is a matter of debate. Is Singapore preferable to Sweden? Is Mexico more free than Guatemala?

Such questions are fruitless. Instead of debating the relative merits of relatively unfree regimes, we should be urging democratic socialist regimes to privatise and undemocratic capitalist regimes to democratise. But our priority should be to urge undemocratic socialist regimes both to democratise and privatise.

Mrs Thatcher has said that she

“would like to see democracy, together with the free market economy that goes with it, established from the Atlantic right to the Pacific ... backed up by popular capitalism ... I want to see those attitudes really entrenched, because they are a key to a whole way of life based on freedom ... Freedom is only secure in perpetuity when it is associated with the ownership of private property. Where there are no property rights there are no human rights.”²

This is the lesson of the Cold War.

NOTES

1. Democracy can be broadly defined as representative government, “by which decisions are made after discussion by the elected representatives of the people ... discovered not only through the exercise of the vote, but through the means of free speech, freedom of the press and freedom of association.” (Dr Nigel Ashford, “Promoting Western Values: Human Rights and Democracy in Foreign Policy”, *Human Rights Briefing*, April, 1989.)
2. Interviewed by Bruce Anderson in the *Sunday Telegraph*, March 25, 1990.

This article draws on *Human Rights and Politico-Economic Systems* by Roger Pilon, published by the Cato Institute, 224 Second St, S.E. Washington, DC, 20003, USA.