

'medical care', are purely subjective: to prescribe a 'standard adequate for wellbeing' is not to interpret a rule; it is to make an arbitrary decision, and an arbitrary decision about the compulsion to be exerted upon the members of a society. The definition will be not the ruling of a judge but the manifesto of a revolutionary junta. A 'standard adequate for wellbeing' is potentially unrestricted – 'the sky's the limit' – and therefore the actual limit imposed and the performance exacted are necessarily arbitrary, the decisions of brute force.

The arbitrary implications of undefinable rights are particularly evident where the right claimed is by its nature not capable of being satisfied by any degree of compulsion exercised within the relevant society. However vague may be the concept of 'medical care adequate for health', the right clearly cannot be realized if there are no doctors. However subjective the 'standard of living adequate for health and wellbeing', it obviously cannot be achieved if population is outstripping subsistence. Unless therefore the right asserted is tautologous and meaningless – unless 'adequate' means simply whatever is available in the given circumstances – its assertion is a threat not merely of arbitrary compulsion but of unlimited and inherently futile compulsion: it is a programme of nihilistic aggression.

This is precisely the purpose with which it was framed by its authors in the United Nations. The society implicit in any statement of a right is not, in the context of the United Nations, a national society. The society intended is international – the so-called community of nations, or world society. The compulsion to be exercised in the attempt to satisfy the claim of right is not purely or mainly internal to particular societies: it is compulsion to be exercised by some societies against other societies, coercion to be brought to bear upon an international scale. The statement 'everyone has a right to medical care adequate to his health and well-being' is, in the Universal Declaration, tantamount to the highwayman's 'stand and deliver': if this right is not realizable within a society, it must be realized by compulsory redistribution and reorganization as between societies, and if it is still impracticable even by compulsion on an international scale, so much the worse for the international community! The implicit nihilism and aggression are global.

Nature and effects of assertions of human rights

It is not accidental that the assertion of 'the rights of man' has been characteristic of revolutionary régimes which aspired to interfere with and overturn the systems of law and society of their neighbours; and there could be no more striking evidence of the antagonism of Soviet Russia to Trotskyism

than that 'human rights' have to be forced down its throat at Helsinki or Belgrade like spoonfuls of brimstone.

On the other hand it is possible to differentiate the nature and effects of the human rights 'declared' by the United Nations from those asserted as the basis of the American state in the second section of the Declaration of Independence. A right to 'life' may be philosophically opaque; a right to 'liberty' may mean anything or nothing; but a right to the 'pursuit of happiness' is unmistakably individualist, a claim upon society for the absence or minimum of restraint upon oneself, counterbalanced by the renunciation of restraint upon others. The right to the 'pursuit of happiness' and the right to an 'adequate standard of living' are dead opposites, as opposite as the right to pursue something and the right to be given something, as opposite as the demand for minimum compulsion in society and the demand for maximum compulsion. What a strange freak of human history it is that the Declaration of Independence should be among the lineal ancestors of the Universal Declaration of Human Rights!

It is a paradox upon which a Tory may perhaps be permitted one parting reflexion. The attempt to understand or to construct society starting from the individual is foredoomed to failure, if not to worse. The initial word 'everyone' in Article 25 (and in most of the other Articles) – however illogically linked with 'his family' – contains the same fallacy as 'all men' in the Declaration of 1776: 'rights' are not an attribute of individuals but a description of societies. Those who, wittingly or not, use the concept of 'human rights' to attack societies from within or without find in the end that the result is neither health nor wellbeing.

Comment

The right to medical care

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The substance of Mr Powell's argument, insofar as it can be disentangled from his rhetoric, can be stated as follows: 1) rights presuppose the existence of society; 2) rights entail the exercise of compulsion against those other than the right holders; 3) compulsion can be either arbitrary or lawful; 4) no compulsion can be lawful unless it can be uniformly applied, and uniform applicability requires unambiguous statement; 5) Article 25 (1) cannot be so stated; 6) to claim right to benefits mentioned in Article 25 (1) is therefore to endorse arbitrary compulsion; 7) in the case of Article 25 (1) the claim is such that the benefits cannot be achievable within a given society; it is therefore a threat to carry out unlimited global compulsion; 8) doctrines

of the rights of man are characteristic of revolutionary régimes; 9) the UN Declaration is the opposite of the US Declaration; 10) 'rights' are not an attribute of individuals but a description of society.

Propositions 8–10, while they raise points worthy of philosophical and historical debate, are irrelevant to the main lines of the argument so I shall ignore them and concentrate on the two main theses. The first and more radical of these is expressed in propositions 1–6 and is to the effect that Article 25 (1) morally ought not to be regarded as declaring any sort of right because so regarding it entails endorsing arbitrary compulsion. All the steps in the argument for this conclusion are dubious, but I shall confine myself to 2 and 5.

It is not true that all rights entail the exercise of compulsion. Legal rights may do so, but moral rights characteristically do not. Someone who claims a moral right would like to see others observe it, or he would like to see it implemented, but that is quite different from regarding it as either practicable or desirable that it should be *enforced*. On the contrary, in declaring a moral right we do not 'commend the use of compulsion', but rather express a judgment that others have an obligation to observe it, and a hope, which is happily often realized, that they will do so.

Turning to 5, I do not think it is true that terms such as 'adequate', 'wellbeing' and 'medical care' are 'purely subjective'. What is true is that there will be variations in different societies as to what is possible in terms of wellbeing or medical care. But it seems obvious that where famine is prevalent or certain diseases endemic we have societies which have fallen below adequate standards of wellbeing and medical care. And in more prosperous societies we can rely on welfare workers of all sorts to provide

information on social groups in which standards of living have fallen below what is publicly considered acceptable in that society. Variations in assessment there will be, but that is totally different from regarding the whole matter of assessing standards of living and care as 'purely subjective'.

There is nothing therefore in 1–6 that need lead us to conclude that Article 25 (1) cannot embody acceptable moral rights, which we hope governments will try to implement in their welfare legislation and individuals will try to uphold in their everyday lives.

The second main thesis is that Article 25 cannot or ought not to be regarded as embodying specifically *human* rights. Now human rights make up that subset of moral rights which all men hold against all men. Traditionally they consist of rights with a political content, such as the right to life (no arbitrary execution), liberty (no arbitrary imprisonment), etc, but the UN Declaration departs from the tradition by including also rights with a social or economic content, such as are contained in Article 25 (1). Now there has been interesting philosophical controversy as to whether social and economic rights should be classified along with the more traditional human rights, but presumably the moral purpose of the UN Declaration is to express a judgment that all governments and individuals should work towards the elimination of the large scale social and economic ills of the world. Such ideas may be utopian, but it would be untrue to say that they have made no practical headway; and since they are, and are likely to continue to be, implemented partly by *voluntary* schemes (such as Oxfam) it is not clear to me why Mr Powell should fear that he is threatened by an international highwayman.