

Chapter 2

Why Should You be Free?

**A free society is a most socially just one.
---This web site**

Yes, you want to be free, but should you be? Should those living in Sudan, Saudi Arabia, Burma, and China be free? Why? There are two ways of answering this. One is to prove that the benefits of people being free so overshadow any negative consequences as to be justified. That this is true I will show in later chapters. The second way is to show that everyone has a right to be free regardless of the consequences, that freedom is moral and just in itself, and that it is immoral and unjust to deprive people of freedom.

That this is so may seem obvious, but it is not in much of the world. As clear from the previous chapter, the dictators of many nations obey no law. The law is what they command it to be, and their subjects must obey or suffer severe consequences. They

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have no way of voting these dictators out of power, and to demonstrate or protest against them is risk imprisonment, torture, and death. Yet these dictators and their supporters often justify their rule as moral, or as socially or religiously just.

This very belief is why some dictatorships came into existence in the first place. Large and powerful enough groups believed that this way of governing is necessary, as for Singapore, which assures law and order and clean streets and parks. They may have such faith in their own religion and its teachings, as many do in Muslim countries, that they militantly demand that their church and governments should be one. They may think their nation needs a dictatorship that can

deal with its poverty and promote economic growth. They may be convinced that government must assure the economic rights of the people to a job, social security, and health, before concerning itself with so-called Western human rights. They may be traditional monarchists who embrace a hereditary, authoritarian government that would maintain the great traditions and customs of their people.

Even those who know what life is like for people who have no freedom in Sudan, Saudi Arabia, Burma, and China might still claim that believing they should be free is intolerant of different values, morally wrong, unfair, or ungodly. And fascists or communists are still around, though in the last half-century what we have learned about life under these isms has virtually discredited them. In my teaching I have known professors and students, for instance who, persuaded by Marxism-Leninism, the philosophical foundations of Twentieth Century communism, and believing it more socially just, were willing to replace their democratic freedoms with communist totalitarianism.

If people wish to live under a dictatorship, that is their choice. But what about people who have no choice, who dictators deprive of any freedom with the force of their guns? Do we have a right to say that Burmese or Chinese rulers, or those of any other nondemocratic country, should free their people and democratize? Do those trumpeting such freedom ignore an Asian or African way, for example? What about God's way? Are not the holy teachings of the Bible or Koran above the selfish desire for freedom?

To answer, we must recognize that freedom is a general term, like liberty, independence, autonomy, and equality. In reality, freedom cannot be absolute; no

one can be completely free. Your talents, family situation, job, wealth, cultural norms, and laws against murder, incest, burglary, and so on, constrain and circumscribe your choices. And then there is the freedom of others that necessarily limits yours.

Broadly speaking, your rights, whatever they may be, define the limits to your freedom. In the Western tradition of freedom, these are your civil and political rights, including your freedom of speech, religion, and association. Some philosophers see these not only as morally justified rights in themselves, but also as means for fulfilling other possible rights, like happiness. The opposing position is that such rights have no special status unless granted by government to maintain tradition, as does an absolute monarchy like Saudi Arabia; pursue a just society, as the Communist Party of China claims; protect a holy society, as by a Muslim government like Sudan; or economically develop a country, as attempted by a military government like Burma.

The internationally popular justification for your freedom is by reference to *human rights*, those due you as a human being. The term "human rights" is recent in origin: President Franklin Delano Roosevelt first used it in a 1941 message to the United States Congress, when he declared that you have four human rights--freedoms of speech and religion, and freedoms from want and fear. Since 1941, there has been a vigorous international affirmation of these and other human rights. Many a nation's constitution has included them, and they now are part of an International Bill of Rights. The latter comprises Articles 1 and 55 of the 1945 United Nations Charter; the 1948 Universal Declaration of Human Rights adopted by the United Nations General Assembly; and the two international covenants passed by the General Assembly in 1966, one on civil and political rights and the other on economic, social,



Mrs Roosevelt holds a Universal Declaration of Human Rights poster on its adoption by the UN General Assembly in December 1948

and cultural rights. There is now a United Nations Human Rights Commission that can investigate alleged violations of your human rights, and receive and consider your complaints. In our nation centered, international system, this is a momentous advance for the human rights of all people.

The conventions and declarations of regional organizations have further strengthened these human rights. To mention a few examples, the Council of Europe adopted the European Convention on Human Rights, and European nations now have the European Court of Human Rights and the European Commission on Human Rights. The Organization of American States adopted the American Declaration on Human Rights, and the American states have created the Inter-American Convention and Court on Human Rights. The Organization for African Unity has created the African Charter of Human and People's Rights. Moreover, there have been many formal conferences among states and interested international government organizations on human rights, such as the 1993, 183 nations, Vienna World Conference on Human Rights.

Human rights have also been the concern of many private organizations. These have sought to further define and extend your rights (like to a clean environment); observe the implementation of your rights in all nations; publicize violations of your rights by governments (for instance, the right against torture and summary execution); or pressure governments to end their violations. Some of the many such organizations include the International Committee of the Red Cross, the Anti-Slavery Society, Amnesty International, the International League for Human Rights, and the International Commission of Jurists.

Even warfare or rebellion is no excuse for dictatorships such as Sudan or Burma to torture or arbitrarily kill their people. Nations have agreed to moderate their warfare to preserve certain human rights, as exactly defined in the 1949 Geneva Conventions and its 1977 Additional Protocols.

All this international activity on human rights has multiplied the list of rights. You now have at least forty rights listed in the basic international documents on human rights, which are the Universal Declaration of Human Rights, that on Civil and Political Rights, and that on Economic, Social, and Cultural Rights. The most basic of all these rights are those defining what governments cannot do to you. We can list these from those stated in the Universal Declaration of Human Rights. These include your right to

- life, liberty, and personal security;**

- **recognition as a person before the law, equal protection of the law, remedy for violation of your rights, fair and public trial, and the presumption of your innocence until proven guilty if charged with a penal offense;**



Peruvians march with the signatures of 8,000 people committing themselves to the defense of human rights-- to be presented to the heads of governments during celebrations marking the 50th anniversary of the Universal Declaration of Human Rights in Paris

- **leave any country and return, and seek asylum from persecution;**
- **the secret ballot and periodic elections, and freely chosen representatives;**
- **form and join trade unions, equal access to public service, and participation in cultural life;**
- **freedom of movement and residence, thought, conscience and religion, opinion and expression, peaceful assembly and association, and as a parent to choose your children's education;**
- **freedom from slavery or servitude, torture, degrading or inhuman treatment or punishment, arbitrary arrest or detention or exile, arbitrary interference with privacy or family or home or correspondence, deprivation of nationality, arbitrary deprivation of property, and being compelled to join an association.**

In effect, these human rights define what many mean by democratic freedom. Your freedom of thought, expression, religion, association, is basic, as are the secret ballot, periodic elections, and the right to representation. In short, these rights say that you have a right to be free.

Therefore, if you condemn the lack of freedom in, for instance, Sudan, you are not imposing *your* values on another culture. *This is not a matter of value relativity.* Demanding human rights, and thus freedom for the slaves in the Sudan--or Chinese political prisoners, or the women in Muslim countries, or Burmese forced laborers--is simply demanding that their rulers obey international law, itself based on general treaties, international agreements, and practices.

This law is universal. You and every Arabian, Chinese, Rwandan, and so on for all the world's peoples, have the internationally defined and protected human rights listed above. No rulers can violate these rights of their people without risking mandated sanctions by the United Nations Security Council. Many nations now even include human rights monitors or representatives within their foreign ministries so that a foreign dictator who denies the human rights of his people can be publicly exposed and diplomatically pressured to recognize them. For example, the United States Department of State has a Bureau of Human Rights and Humanitarian Affairs run by an Assistant Secretary of State. The Bureau publishes an annual review of human rights around the world.

True, there is much hypocrisy here and with so many dictatorships in the world the skeptic may feel that these rights are just words. Even some governments who signed the human rights documents allow few rights to their people. Note, however, that they felt compelled to sign them. This shows the sheer power and legitimacy of the idea of human rights. These human rights documents lay down a marker. They define what should be, what is right, the moral high ground. It is those who deny such rights that now must defend their policies, not those who grant these rights. Indeed, any violation of a people's human rights by their rulers, as when the Chinese police arrest and torture people for practicing their creed or religion, is now a breach of *international law*. Unfortunately, the United Nations cannot automatically command sanctions or military intervention against governments for this. It is a problem of international and domestic politics, power, and interests, however, no longer of what are your human rights.

Again, look at Sudan. Slavery and genocide against the southern black Christians continue to this day without foreign intervention to stop it. This is because Sudan is a distant country, with little trade, few foreign embassies, hardly any foreign journalists, almost no tourists, and no cultural affinity with the world's most powerful countries. Moreover, intervention probably would disrupt sensitive diplomatic arrangements within the region, including the relations of the Muslim countries with Israel. It also might mean a local war, perhaps with Libya or even Iran providing the Sudanese rulers military aid, which the democratic peoples of the world lack the interest and will to fight. If every day, however, they were to see on

television images of the starving children and the scars of slavery, and to hear the stories of those tortured, then they would demand that their leaders do something.

Such was the case with the United Nations-supported, American-led coalition that militarily intervened in Somalia (see [map and statistics](#), and [world map](#)). The Somali government had collapsed into clan wars, and people were starving by the millions, with about 500,000 already dead. When the world's television screens and newspapers showed picture after picture of starving Somali children, these horrified the American public. They demanded action, and finally pressured President Bush into doing something. Acting under a United Nations Security Council resolution, the United States intervened in December 1992 with 25,500 American troops. Their goal was to protect international famine relief efforts and end the political chaos. But soon after the Clinton Administration came into power in January 1993, its support for this intervention collapsed when the Somalis killed eighteen Army Rangers trapped into a firefight. President Clinton then reduced American forces, and the whole operation was handed over to a United Nations force of 22,000, which finally withdrew in March 1994. Journalists and politicians believe the operation was a failure. It did not produce a prodemocratic government, assure the human rights of Somalis, or end the civil war. Still, it did save possibly a million people from starvation, which may be justification enough.



Somalian famine victim

Even if international sanctions and intervention to protect human rights are difficult, the international community has moved more than one-step forward. It has clearly articulated the law protecting everyone's rights. It does pinpoint the behavior of a government that is morally wrong. And if the international community cannot sanction the dictators who trample on their subject's rights, or intervene to stop them, at least they can now be subject to moral pressure by the United Nations and international organizations. The preamble to the Universal Declaration of Human Rights, for example, makes this clear by stating that human rights are "a common standard of achievement for all peoples and all nations, to the end that every



Somalia

Area	637,657 sq km; slightly smaller than Texas
Population	7,253,137
Ethnic groups	Somali 85%, Bantu, Arabs 30,000
Religions	Sunni Muslim
Languages	Somali (official), Arabic, Italian, English
Life expectation	46.23 years
Literacy	24%
Purchasing power parity	\$600 (1999 est.)
Government	none--war lords rule
Freedom rating	unfree

individual and every organ of society . . . shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance . . ."

In sum, your human rights well define your freedom. Regardless of how others may want you to live because of their ideology, religion, or moral code, wherever you live or your culture, no matter what government you live under, the following principle applies to you.

Your freedom--your human rights--is justified by United Nations certification, international treaties, agreements, and international law.

To return to the original question, does agreement on human rights, even if the international consensus shown above, define just rights? Because a majority, even an overwhelming majority, says something is a right, is it a moral, a just right? In other words, we still must ask why a right is a right.

There is one philosophical school called *legal positivism*, much influenced by the seminal work of John Austin (1790-1859), that does not accept internationally defined human rights as fundamentally moral or just. These philosophers separate law from morality, and argue that the rights of all people are only those that the world community has agreed to in their international deliberative assemblies, organizations, and by their treaties. Although for international law the positivist position is dominant among lawyers, judges, and academics, among philosophers it is a minority position. By this standard, human rights are international legal rights, as described, although not necessarily moral or ethically right.

Philosophers have debated much about how to justify rights; especially about what used to be called your *natural rights* or the *rights of man*. These rights are a particularly Western idea that grew out of the medieval concern for the rights of lords, barons, churchmen, kings, guilds, or towns. One of the great documents promoting the rights of all subjects was the Magna Carta signed by King John of England in 1215. He promised thereby to govern according to the law, that all have a right to the courts. It established that no person, not even the King, was above the law.

With the Eighteenth Century Enlightenment and a growing faith in human reason,

philosophers began to grapple with the meaning of a right and whether people generally had any. What emerged was the idea that all people have natural rights. These are what people think, with reason and without emotional prejudice or personal bias, are the rights everyone should have as human beings. For example, two such rationally grounded natural rights that all people share with each other are their rights to life, and to equal freedom.

This philosophical conception of natural rights has been one of the most powerful ideas in history. It has been the force behind many revolutions and constitutions. For example, the philosopher John Locke, in his influential *Second Treatise of Government* (1690), wielded this idea like a sword, claiming that by your birthright you have a natural right to freedom, equality, and property. He directly influenced the American Declaration of Independence, which almost a century later (1776) declared that "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness." Some years later the French National Assembly approved the Declaration of the Rights of Man and the Citizen in 1789, which proclaimed that the purpose of political association is the preservation of your natural and inalienable rights to liberty, private property, personal security, and resistance to oppression.

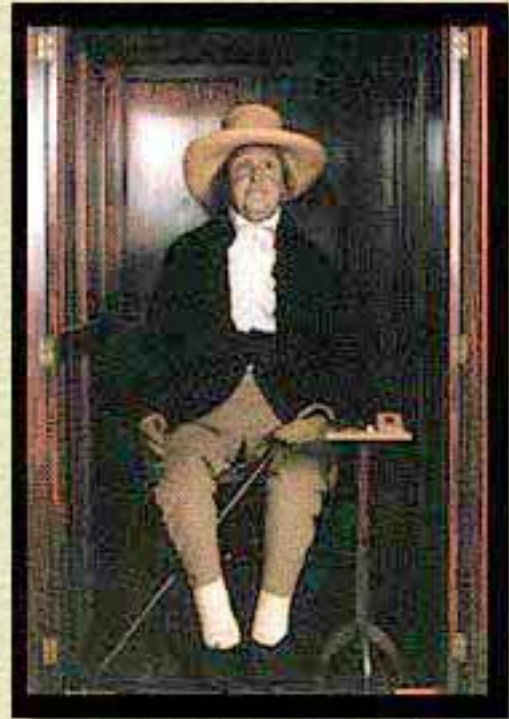
The Bill of Rights, the first ten amendments to the Constitution of the United States, further defined your natural rights, among them your freedom of speech, religion, and assembly. Nations now recognize these rights as human rights, as I have pointed out, and they have become part of the constitution of one nation after another.

A variant of this natural rights approach is to claim that you have only *one natural right*, and it is *self-evident*: you exist, you are human, and therefore, you have an absolute right to equal freedom with all other humans. No more, no less. Then, treating this like an axiom in Euclidean geometry, you can only justify any other right if it is a derivation of, or implicit in, your right to equal freedom. This thereby establishes the right to your freedoms of religion, assembly, and speech. Otherwise, what you allege to be a natural or human right, such as to a job, welfare, or clear air, is only what you want or need, and you must find other arguments to justify it. You do not have a right to what someone else is compelled to secure for you.

But regardless of approach, philosophers can only justify these natural rights by their abstract reason, as though doing a mathematical proof. Nonetheless, using their logic and reason they still disagree on what rights you have--for instance, to abortion, social security, and a minimum wage. This problem of defining what is reasonable is universal, and has encouraged philosophers to chase less subjective justifications of

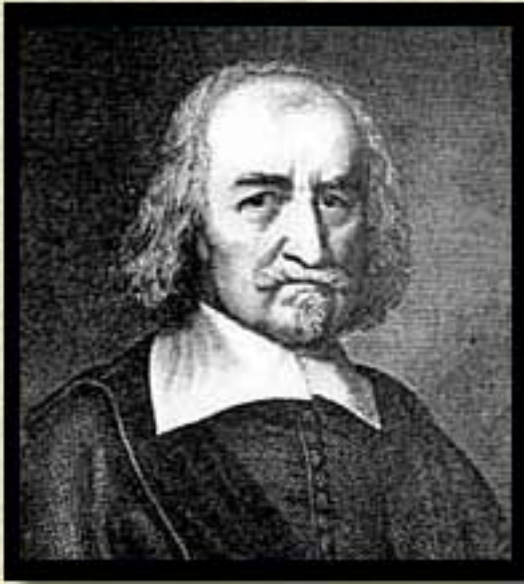
rights.

One favored solution among thinkers, such as the Eighteenth Century British theologian William Paley, jurist and philosopher Jeremy Bentham, and philosophers James Mill and John Stuart Mill, is their appeal to *utility*--what promotes the greater happiness of all is good. According to the utilitarians, you can justify only those rights that assure the greatest happiness of the largest number of people. Utilitarians argue that this criterion provides an empirical measuring rod for what is to be your right. On balance, does it cause more happiness than pain? If so, then it is a right. If not, then it is not a right. I believe that in their hearts, this utilitarian argument has been the dominant justification for human rights by activists, and especially by diplomats from the democracies who negotiated the human rights agreements. They believed that by promoting human rights they were furthering human happiness in the world.



Jeremy Bentham 1748-1832

Finally, I will give you my argument for your rights. I will base this on a hypothetical social contract, a favorite conceptual tool of political philosophers like Thomas Hobbes, John Locke Jean Jacques Rousseau, and Baron de Montesquieu. They used this idea to define a just society, and the power and limits of government. Imagine, as Hobbes did in his *Leviathan* (1651), that in the original state of nature life was primitive, brutal, and short. People, therefore, saw the absolute need to secure their lives and property, and therefore all (hypothetically) agreed upon a social contract among them that would do so. This was to form a central government, and to grant it the power to protect their lives and property in exchange for each pledging to obey its laws. This social contract then defined the reciprocal duties of citizen and government. Violate the contract and government may justly punish you; conversely, if the government violates the contract, as for example by not protecting your lives



Thomas Hobbes 1588–1679

from criminals or it preying on you, then you may justly overthrow it. This idea of an implicit social contract between the people and their government contributed to the writing of the American Declaration of Independence and the Constitution of the United States

This approach has much in common with that of the positivists, who stress international agreements as the source of your human rights. After all, if universal in scope, thereby defining the rights of everyone, these agreements are akin to a general social contract.

To be clear, when philosophers use a hypothetical social contract to justify your rights in a state of nature, they are trying to determine those rights that all people would agree should be guaranteed by government. To make this social contract objective and unbiased, philosophers assume that in their agreement on it, people are ignorant of their wealth, status, race, talents, or other attributes. They thus have no idea as to how their choice of a social contract--of rights--would benefit them personally, which makes these rights just.

As I did in Part 2 of my [*The Just Peace*](#), I will use a revised version of this social contract approach to more fully explore whether people would generally, regardless of their religion, ideology, or culture, agree on certain rights. I also want to broaden this contract to consider also the connected principles of governance. Rights do not exist in a vacuum. Some possible rights in their very definition assume that government will or will not have certain powers. For example, among your human rights mentioned above are those to free association (one-party governments are then out), freedom of religion (so much for government by the Koran or Bible), or to vote in free elections (which assumes a democratic type government). However, this is not a one-to-one relationship between rights and governance. Monarchies and some dictatorships, for example, may allow freedom of religion, domestic movement, and immigration. There is, however, a close relationship between the rights people might want and how they should be governed to assure those rights, and I want to make this association clear.

It is also critical that rights agreed to in the social contract and associated principles of governance be just--that is, they should define what is *social justice*. But this demands that the social contract satisfy certain requirements.

First, for the rights and principles to be morally just, they must be universal--they apply to everyone. It is hardly just if your neighbor has the right to be a Buddhist while you are not free to practice Judaism. Therefore, whatever people agree to in their social contract applies to all people, anywhere, at anytime.

Second, to be morally just, the rights and principles must be practical. You must be able to live by them. People can hardly judge you immoral for not doing something that is impossible to do. We could not obey, for example, a moral injunction against sexy dreams, if it is claimed that such are immoral. Preventing these dreams is beyond our ability.

Finally, a just right or just principle also means that it is fair, evenhanded. Two more requirements can assure this. . One is that nearly everyone has a chance to discuss, debate, and finally agree upon the rights all will have and on their associated principles of governance. The other requirement is that the agreement is objective. This can be achieved by making everyone hypothetically blind to his or her self-interests. A good example of this is the sculpture of a Greek goddess (possibly Themis) holding a scale of justice in the left hand and a sword in the other, which is found on the wall of many courthouses in the United States. So that her judgment will be uncorrupted and unbiased, she is blindfolded to hide from her whether the defendant is rich or powerful, young or old, man or women, black or white.

The rights these requirements define should not only be just, they also should be well considered and vital. This can be achieved by making sure that people will have the

TABLE 2.1
Requirements of the Principles
of Social justice

Universality
apply to all
Practicality
can do
Fairness
agreed to by nearly everyone
objective
people blind to personal
interests

strongest motivation to seek, propose, and weigh such rights and the related powers of government. It would be easy enough for you to say that you should have a right not to be discriminated against, but is this a right that you would passionately support, even at the risk of death? If a right can be agreed upon that meets the above requirements, then it is truly a basic and just right.

Those rights and related principles meeting all these requirements will define social justice and just governance.

Now, to have a little fun: assume that the following happens to you. Suddenly, you hear a voice in your head. You look around, but no one is talking, or if they are, the inner voice overrides what they are saying. You get anxious, wonder if you are going crazy, but, the voice has a soothing quality, and you soon are told what it happening: the inner voice is being sent to you telepathically from aliens in a spaceship near earth. They are galactic conservationists from another star system giving you the following message.

People of earth, hear us. All your lives are at risk. Your planet will be passing through a lethal, galactic warp storm in two years, and the resulting radiation will exterminate all life on earth. As conservationists we are dedicated to protecting all intelligent life forms in the galaxy and are here to save your species from death.

To do this we have found a habitable planet orbiting a distant sun. It has no competing intelligent life, and we can teleport all of you to it. However, according to the laws of our galactic federation, we can make such a transfer of intelligent life forms only if virtually all of you agree among yourselves on what rights you will have in your new world, and the related principles of government under which you will live. If you reach a strong consensus on this, we will then teleport you to this New World.

But our galactic federation also commands us to inform you of one technological problem. Our teleportation equipment for transferring alien life forms is not perfect, and we cannot promise that our equipment can keep your mind and body together: some or many of your minds may end up in different bodies, but without physical harm or loss of intelligence or faculties.

So that you may debate and agree on your rights in, and the principles

governing your New World, we will set up in two months, telepathically, a Convention of Minds. In the Convention all of you will be able to propose the guiding principles and human rights of your New World, debate them, and vote upon them.

This hypothetical Convention of Minds and possible transfer to a New World meets the requirements set out for defining your just rights. All people would take part and the resulting rights and principles, if they get a consensus vote, would be universal. Second, you would not know what body your mind would end up in after the teleportation, and you must make your judgments independent of your race, ethnicity, nationality, sex, age, handicaps, and other physical characteristics and skills, as well as your wealth, power, and prestige. This would assure your objectivity. And the fact that you, your loved ones and friends, and all humankind would be wiped out unless nearly all of you agree on the principles, provides the important motivation to some universal solution.

Imagine now that the aliens convene the Convention of Minds, people make proposals, and the debate begins. What will the patterns of these proposals then be? Surely, they will reflect the variety of the world's ideologies, religions, and cultures. Democratic individualists, democratic socialists, state socialists, fascists, militarists, monarchists, and the few remaining Marxists and Maoists will offer their idea of rights and governance, as will Buddhists, Catholics and Protestants, Shiite and Sunni Muslims, Confucianists, and pantheists. And surely, the variety of secular humanists, nonpolitical atheists, advocates of nonviolence, environmentalists, feminists, gay activists, and many, many others will make their views known. Then there are the cultural differences between races, ethnicities, and nationalities that surely would influence, if not predetermine, the choice of rights and government.

Could everyone agree on one set of rights and principles? I do not believe so, and simulations of this convention that I have set up in my classes over the years have all confirmed this. Even if the survival of our species were at stake, people across the globe would not be able to agree on their rights and the associated principles of governance. They hold their beliefs so deeply, and for some so fanatically, that they would be willing to die for them. Thus, human history has seen people volunteer for suicide bombing and terrorist attacks, and to fight and possibly die in guerrilla wars, violent revolutions, and even war itself. To therefore expect, for example, a practicing Catholic to accept that he and all Christians should have only the right to obey the Koran, and live under a Muslim's principles of governance, is unreasonable. Nor do I believe a liberal democrat would accept communist principles; nor would a communist or socialist accept capitalist ones. I say flatly: the Convention of Minds would achieve no agreement on rights and governing principles. It would be

deadlocked.

But there would still be a solution. The debate at first would be over the rights everyone would have to live by and principles governing all. Each would assume, naturally, that if everyone agreed on the socialist principles of government ownership of the means of production and its enforcement of relative equality in outcomes--the same wages, benefits, advantages, and goods for all--these would have to be the principles operating universally and at all levels of government. If you were not a socialist, you surely would not agree to this. If you are militantly antisocialist, envisioning what happened to people under communism in the Soviet Union and Maoist China, then you might even prefer death to living under these principles.

But *death*? As you realize this dilemma, you are like a watermelon seed squeezed between two fingers. You are squeezed hard on one side by the prospect of not only your personal death and that of your loved ones, but of all humankind. Pressing hard from the other side is your logical and emotional inability to agree on many proposed rights and principles. These opposing mental forces, I contend, would pop your debate to a higher, transcendent level.

And at this higher level, a *metasolution* would break the Convention's stalemate. Before going into this metasolution, three examples may help clarify what "metasolution" means. If you have a plumbing leak in your house, you and your mate can debate how the plumbing is to be fixed, or you can hire a plumber to fix the plumbing as they see fit. The choice of plumber is a metasolution to the leak. As another example, imagine trying to divide farmland equally between two sons. You can divide the land between the sons, but nothing is ever equal and one or both may accuse you of being unfair. So, a metasolution: let one divide the land and the other chooses which half they want. Finally, rather than continually try to choose who among your two children who gets what goodie or does what chore, assign the children to take their bath first on alternate weeks, and then simply give whatever to the child who takes their bath that day. Who gets to sit next to the window in the car on this trip? Why, the one who takes their bath first. Another metasolution.

And the Convention would propose such a metasolution, and even the fanatics of one principle or another would see the advantage of agreeing on it. This metasolution would follow the well-known argument: "Well, if we can't agree, let's agree to disagree and do our own thing." That is, the metasolution upon which there would be a consensus, I argue, would involve two simple rights. The first, a *free choice* right, would be that

People have a right to form their own communities.

And second, the *free exit* right,

People have a right to leave any community.

Together, these rights would give you and all others the right to organize with each other a community governed by your own principles and with whatever rights you all want, as long as you do not force this community on others and anyone is free to leave it.

Surely you and others in the Convention would realize that in the New World, these two rights would need to be enforced, and the resulting communities protected from aggression by their neighbors; therefore I believe the metasolution would also involve a single principle of governance.

A limited, democratic, federation of all communities would govern the New World.

Its basic job would be to administer, guarantee, and protect the Free Choice and Free Exit rights.

By demand, no doubt, the Convention would give each future community an equal vote in the federation's legislature. But also, those who see that their community might be among the larger ones would equally demand that the Convention protect them against rule by a majority of tiny communities. They would argue for a second legislative chamber of the world federation that would give each community votes proportional to its population. Moreover, even the most confirmed authoritarians or absolutists would settle for some mechanism to check the domination of this world government so that it does not unduly intervene in the affairs of their community, and so on.

However these articles of the future constitution would work out, the basic principle and associated government is clear. It would be a liberal democracy, as defined in the next chapter, except that the democratic civil liberties and political rights would refer to *communities* and not individuals. All communities would have a right to vote for their representative to the world government in fair and periodic elections, all would be equal before the law, all would have the freedom to organize, the freedom of speech, and so on. And as the Convention would see necessary, I am sure, it would limit the power of the federal world government to guaranteeing and protecting the Free Choice and Free Exit rights. This would be the only type of government that

would allow you and others to do your own thing consistent with all having the same right.

Finally, if a vote of all people in the world were to be taken on the just Free Choice and Free Exit rights and democratic principle, then I believe that in the Convention a huge majority of the world's people would adopt them. For whether you are a monarchist, fascist, communist, liberal democrat, Muslim, whatever, if you could find enough others to agree with you on forming your own community, then you would have the right to do so. You could live under whatever government you want, even an utterly totalitarian one. Just one qualification: you must allow any of your community members to leave, if they so wished.

In short, you would *be free to be unfree*, and this is part of what democratic freedom means. Indeed, I would argue that the human or natural right to be free implies the Free Choice right. Free speech does not mean that you have to speak out. You can say nothing if you wish, or join a group in which this freedom is strictly circumscribed or is totalitarian in governance, such as in the military or a monastery. Freedom of religion means that if you so desire you can form a group in which only one religion is legitimate, and you keep out those with other religions, as in a Catholic nunnery. And within liberal democracies today, you usually can support and participate in antidemocratic political parties and movements. The communist party, for example, is legal in the United States and most other democracies.

We will get into this more in the next chapter, but here I might note that *democracy is a metasolution to the problem of diversity*. It provides a way of uniting under one government people who are vastly different socially, culturally, and philosophically. And as in the Convention of Minds, democracy solves this problem by saying "Govern yourself, but do so in a manner consistent with the same right of others." Democracy does not lay down a template for your life, as do other types of government. Rather, as a metasolution it is a method of governance that prevents possible bloody conflicts over rights and principles for the greater society.

Yes, you have moral, just rights. They are universal, and what people would choose to live under were they given the chance. And they are socially just. But all this is justified through a bizarre science-fiction tale. Quite rightly, you might want a more direct and realistic reason for accepting these two rights. This is given by the evolution of international relations and its legal principles.

Throughout eons of human history, through the growth and collapse of clans and cities, nations and states, civilizations and empires; through the many human disasters and catastrophes, wars and revolutions; through the growth and decay of religions and creeds, philosophies, and ideologies; and through the countless day-by-day interactions of billions of people has evolved a system of world governance based, in effect, on the two hypothetical rights emerging from the Convention of Minds. The most basic right you have in the modern international system is that of self-determination for your country or national group, with its allied international legal principle of state sovereignty.

The idea of self-determination has had tremendous power in international relations. In the Twentieth Century it was the force behind demands for independence by the former British, French, Dutch, Portuguese, and Spanish colonies. Against the cries for self-determination, these nations could no longer justify their undemocratic and remote imperial rule. In a few decades after World War II, much of the world was decolonized, and by the end of the Soviet empire, no more than a few small and scattered colonies remained.

A corollary to the principle of sovereignty is that no other nation has a right to intervene in your nation's domestic affairs. The principle, really a metaprinciple, of sovereignty legally allows your community to govern itself with great freedom. Although by their agreements and treaties nations have placed certain restrictions on this sovereignty, as to the right to carry out genocide or slavery, and obligate all governments to respect certain human rights, your nation still is nearly free to govern itself.

Why, for example, has not the United Nations or a powerful coalition of democratic countries invaded Burma, Sudan, or Saudi Arabia, to stop their killing and denial of human rights? Of course, it is partly a matter of the costs involved and the apathy or ignorance of democratic peoples about what life is like in these countries. It is partly that the media does not constantly pound us with images of the horrors going on in these countries, as already noted. But more important, the sovereignty of these countries protects them. It is a very high legal and political hurdle to jump over for those who want intervention. Especially, each country that might approve such an intervention has to wonder whether it is setting a precedent for itself. Nonetheless, such intervention has happened. This is shown by the examples of Bosnia and Kosovo, and I mentioned before the intervention in Somalia. But such interventions to protect or assert human rights are done with extreme reluctance and much delay, and are very rare.

Second, although this is not respected by all countries, international law gives you the

right to immigrate and, particularly, to political asylum. This is, in effect, the Free Exit principle.

And third, The United Nations has become a very limited global, democratic, federal government. It has a head of government, a legislature, an administration, and a judicial system. It only lacks a monopoly of force over the world, but such monopoly is not a defining characteristic of government. In operation the United Nations meets the constitutional principles needed to guarantee and administer the Free Choice and Free Exit rights. The major and deep remaining difference from what the Convention would decide is that since it has no military force of its own it must depend on military contributions from member nations, as in its peacekeeping operations or to implement a Security Council resolution. But the direction of change is toward a stronger and more capable United Nations and even eventually, its own very limited military capability.

We find, therefore, that through our many millennia of civilizations, empires, city-states, nations, alliances, wars, and revolutions, the world's peoples have slowly evolved a metasolution to their vastly different societies and cultures, as a species evolves in response to its environment. This real-world metasolution has globally institutionalized the Free Choice and Free Exit rights, along with a federal, democratic world government.

A final argument supports the outcome of the hypothetical Convention of Minds. The Nazi government increasingly discriminated against Jews living in Germany in the 1930s, and many had relatives or friends the Nazis had imprisoned in concentration camps. This was still before the Holocaust, which began in 1941. Although immigration was legal and Jews could thereby escape from the Nazis, most still wanted to live in Germany. After all, it was where their ancestors were born, and where their friends and relatives lived. They could not easily pull up their roots and leave, and anyway there were many knowledgeable Jews arguing that the Nazi regime would change for the better, or that at least things would get no worse. So they stayed--and most died.

Before this horror happened, however, some perceptive Jewish families did not want to take any chances with their children and wanted to send them to school abroad. But where? In what country would they have the greatest opportunity to realize their potential? Generally what they choose for their children was a country democratically free, such as Great Britain, Canada, or the United States. These families made such a choice under circumstances similar to those of the hypothetical Convention of Minds. They sent their children off to a different world, not knowing what their children would be like, ultimately, and therefore how they would benefit.

They thus chose a nation in which their children would have the greatest freedom of choice, which was under a democratic government.

I began this chapter by discussing those human rights that you have by virtue of you being a human being. There has been much effort by nations to define what these rights might be and foster their fulfillment. I pointed out the United Nations and international agreements now well describe your human rights, and in sum mean that you have a human right to be free. This is your right because nations have agreed that this is so, and have so formally agreed in a way to give this right the force of international law. And from this human right you now have flows other rights, such as your freedom of speech, association, and religion.

Though nations have agreed that your freedom is a right, there is the question whether philosophers can justify this right. After all, by their practices and agreements, nations once accepted slavery. Turning to philosophy, I pointed to several arguments that philosophers make to justify freedom, and then provided my own argument based on a hypothetical social contract.

We would find, I argue, that virtually all people, blind to their personal benefits, and acting through a hypothetical Convention of Minds, would agree to a social contract giving each other the right to choose how they live, and to leave any community in which they live. And the circumstances of this decision make these socially just rights. We also find that millennia of human evolution have produced similar rights among nations, specifically the right any people have to sovereign self-determination and free immigration.

Legally, morally, and by the practice of nations, then, you should be free. And to further and guard this freedom your country should be democratic.

NOTES

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