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THE UNDERLYING IDEAS IN THE DECLARATION

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Human Equality

WE HAVE ALREADY OBSERVED what it means to say of any two objects under consideration that they are equal. It means that one of them is neither more nor less than another in an explicitly indicated respect.

To omit mentioning one or another respect in which two things are thought to be equal is to speak so unclearly and so inadequately that the statement cannot be either affirmed or denied, for the two things being considered may be equal in one respect and unequal in another.

Is there then any respect in which all human beings, without a single exception, can be declared equal? Yes, there is only one. It is that they are all human, all members of one species, called homo sapiens, and all having the same natural and thereby the same specific attributes that differentiate them from the members of all other species. In all other respects, any two human beings may be found unequal, one having more of a certain human attribute than

another, either as the result of native endowment or of individual attainment.

When this is understood, it will be seen that there is no conflict or contradiction between saying (1) that all human beings are equal in respect of their common humanity, and (2) that all human beings are also unequal, one with another, in a wide variety of respects in which they differ as individual members of the human species.

Their equality lies in the fact that humans all belong to the same species, possessing the traits common to members of that species. Their inequality lies in their individual differences as members of that species. All being human, they are all persons, not things; and as persons they all equally have the dignity that inheres in their being persons. But each is not only a person, each is also a uniquely individual person.

Is it a self-evident truth that human equality exists as a matter of fact? What, as a matter of fact, are we asserting when we say that all human beings are equal in respect to their common humanity?

The Declaration asserts that all men are created equal. Lincoln, in the opening words of the Gettysburg Address, speaks of this nation being dedicated to that proposition. But that proposition is not self-evident, because it is not undeniable or that God exists or that God created mankind along with other living organisms and everything else in the cosmos. These things may be true. They may be believed. But they can also be and have been disbelieved and denied; it is quite possible to think the opposite.

We can make the proposition self-evident by dropping the word “created” and rephrasing the statement as follows: All men are by nature equal. This reiterates what has already been said: Human equality consists in the fact that no human being is more or less human than another because all have the same specific nature by virtue of belonging to one and the same species. If they all have the same nature, then it cannot be denied that, in respect of having that nature, they are all equal; no one has more or less than another.

For a truth to be self-evident it must be beyond the shadow of a doubt. It must be undeniable simply because its opposite is impossible for us to think. Does any doubt lurk here that might make us reluctant to affirm human equality as a self-evident truth?

Yes, remarkable as it may seem, a doubt about the existence of human nature has appeared for the first time in our own century. It is not questioned that other species of animals have specific natures, each thereby having a set of common attributes that differen-

tiate them. But in certain quarters of twentieth-century science and philosophy there has arisen the doubt—more than doubt, the denial—that the same can be said of the human species. It has been paradoxically said, for example, that “the nature of man is to have no nature.”

I have attempted in another book* to expose the error in this view. Here I must be content simply to define that mistake without explaining how it came to be made.

*See *Ten Philosophical Mistakes* (New York: Macmillan Publishing Company, 1985), Chapter 8, “Human Nature.”

The error consists in failing to recognize that the specifying or differentiating traits that constitute human nature are all potentialities or capacities for development. In different subgroups of the human race these potentialities or capacities receive different developments by the different ways in which the members of that subgroup are nurtured.

If one looks only to the widely differing nurtured developments of the common human potentialities or capacities, one will find no common set of traits in all human subgroups. It is only in the sameness of these potentialities or capacities that one can discern the common traits that constitute the human nature underlying all these divergent developments.

What has just been said of the human species cannot be said of any other species of living organism. The twentieth-century doubters or deniers of human nature should say not that there is no human nature, but that human nature is radically different from the natures of other animal species.

Another point remains to be clarified about the Declaration’s assertion of human equality. The words used are not “all human beings are created equal,” but rather “all men . . .” To what does that word “men” refer?

We are sensitive today to the connotation of masculinity in the word “men.” Knowing that many signers of the Declaration owned blacks as chattel slaves, we are also sensitive to the unexpressed adjective “white” in the eighteenth-century use of the word “men.”

Such sensitivities lead many to charge the signers of the Declaration with hypocrisy if they pretended to assert that, when they said “all men,” they meant “all human beings,” not “all white males” or even perhaps “some white males like ourselves who are men of property.”

In the nineteenth century, Abraham Lincoln was confronted with such interpretations of the Declaration on the part of Senator Stephen Douglas, with whom he debated, and on the part of Chief Justice Roger Taney in the Dred Scott decision, with which he took issue. Lincoln insisted that the language of the Declaration should be interpreted as including all human beings without regard to sex or color or other traits that differentiate one group of human beings from another.

In a speech he delivered in Springfield, Illinois, in 1857, Lincoln pointed out that when it is understood that all human beings are equal not only in their common humanity but also in having by virtue of their common humanity the same human rights, it should not be thought that the signers of the Declaration were asserting “the obvious untruth that all were then actually enjoying that equality, nor yet that they [the signers] were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit.”

In the same speech, Lincoln goes on to say

The assertion that “all men are created equal” was of no practical use in effecting our separation from Great Britain; and it was placed in the Declaration not for that but for its future use.

That reference to “its future use” turns our attention to the political significance of the truth concerning human equality. Human equality—the personal equality of men as men, or of human beings as human—is by no means the only equality with which we are concerned in our social lives. We are concerned with what, in contradistinction to personal equality, might be called circumstantial equality—that is, equality of conditions or results, equality of opportunity, and equality of treatment.

There is one very important difference between personal and circumstantial equality. Personal equality is either a fact or it is not. We say that human beings are equal as persons, not that they should or ought to be equal in that respect. With regard to circumstantial equality, we can speak both descriptively and prescriptively. On the one hand, we can say that in a given society at a certain time, all human beings are or are not politically or economically equal; and on the other hand, we can also say that whether or not they are, they should or ought to be. Under certain circumstances, they may not in fact be treated as equals, but those circumstances should be altered because they ought to be treated as equals.

The descriptive truth that, as a matter of fact, all human beings are by nature equal as persons underlies all prescriptions calling, as a matter of right, for equality of conditions, equality of opportunity, and equality of treatment.

That all human beings have the right to equal status as citizens with suffrage, that all have the right to equal treatment under the law, that all have the right to equal educational opportunity, that all have the right to a certain equality of economic conditions (to be haves rather than have-nots), together with all the prescriptive statements to which these rights lead, concerning what a just society ought to do about establishing circumstantial equality in these respects—these have their foundation in the truth that all human beings are by nature equal.

If that were not true, it would be impossible, in my judgment, to justify the demands for political and economic equality as ideals to be achieved. In the last 150 years, these demands have at last become dominant in our social life. Egalite together with liberte were fighting words in the French revolution. Liberty was one of the ideals mentioned in the Preamble to the Constitution, but not equality. In this country that must await a later epoch.

Inalienable Rights

THE DECLARATION ASSERTS not only that all men are created equal (equal as creatures in the eyes of their Creator) but also that they are endowed by their Creator with certain inalienable rights.

We have already observed with respect to human equality that the attribution of it to divine origin makes the proposition asserted less than self-evidently true. It may still be true even if it is not self-evident. It becomes self-evidently true and thus undeniable only if we attribute the equality of all human beings to their equality as human, as having the same specific nature, one individual being neither more nor less human than another.

When we come to the assertion that they are endowed by their Creator with certain inalienable rights, the same qualification applies. If instead of saying that these inalienable rights belong to human beings by divine endowment, it had been said that they were inherent in human nature, or that they were part of everyone's natural endowment, one thing at least would become clear.

If all human beings are equal by virtue of their having the same nature, and if they possess certain rights by virtue of their having

that nature, then it follows that they are all equally endowed with those rights.

To assert that truth as a conclusion to which we are led by cogent reasoning is to acknowledge that it is not a self-evident truth. Furthermore, if the rights under consideration are conceived as natural or human rights, it becomes easier to explain what we mean when we call those rights “inalienable.”

What is being denied by the negative statement that certain rights are not alienable? Human beings living in organized societies under civil government have many rights that are conferred upon them by the laws of the state, and sometimes by its constitution. These are usually called civil rights, legal rights, or constitutional rights. This indicates their source. It also indicates that these rights, which are conferred by constitutional provisions or by the positive enactment of man-made laws, can be revoked or nullified by the same power or authority that instituted them in the first place. They are alienable rights. The giver can take them away.

What the state does not give, it cannot take away. If human rights are natural rights, as opposed to those that are civil, constitutional, or legal, then their being rights by natural endowment makes them inalienable in the sense just indicated.

Their existence as natural endowments gives them moral authority even when they lack legal force or legal sanctions. Their moral authority imposes moral obligations, which may or may not be respected or fulfilled.

A given state or society may or may not, by its constitution and its laws, attempt to secure these rights or to enforce them. It may even do the very opposite. It may transgress or violate these inalienable natural or human rights. When it fails to enforce these rights or, worse, when it violates them, it is subject to condemnation on moral grounds as being unjust.

Later, in Chapter 10, we shall consider the question of how constitutional provisions or civil rights secure and enforce these human or natural rights. Right now we must deal with another question. If unjust governments can violate these human or natural rights, in what sense do they still remain inalienable? Are they not being taken away by such violations?

When a human right is not acknowledged by the state, or when it is not enforced or when it is violated by a government, it still exists. It retains its moral authority even though it is not enforced or has been transgressed. If these rights did not continue in existence in

spite of such adverse circumstances, then we would have no basis for condemning as unjust a government that failed to enforce them or that trampled on them.

One question still remains concerning the inalienability of natural human rights. The Declaration mentions our inalienable right to life and to liberty. But when criminals are justly convicted and sentenced to terms in prison, are we not taking away their liberty? And when they are convicted of capital offenses for which death is the penalty, are we not taking away their lives? If so, how then do the rights in question still exist and remain inalienable?

It is easier to answer the question about imprisonment than it is to answer the question about the death penalty. Two points are involved in the answer.

First, the criminal by his antisocial conduct and by his violation of a just law has forfeited not the right, but the temporary exercise of it. His incarceration in prison does not completely remove his freedom of action, but it severely limits the exercise of that freedom for the period of imprisonment.

The right remains in existence both during imprisonment and after release from prison. If the prison warden attempted to make the prisoner his personal slave, that would be an act of injustice on his part, because enslavement would be a violation of the human right to the status of a free man. This human right belongs to those in a prison as well as those outside its walls.

When the criminal's term of imprisonment comes to an end, what is restored is not the individual's right to liberty (as if that had been taken away when he entered the prison), but only his fuller exercise of that right. It is the exercise of that right that is given back to him when he walks out of the prison gates, not the right itself, for that was never taken away or alienated.

When we come to capital punishment, we cannot deal with the question in the same way. The death penalty takes away more than the exercise of the right to life. It takes away life itself.

If that right is inalienable, it cannot be taken away by the state, nor can it be forfeited by the individual's misconduct. It is one thing to forfeit the exercise of a right and quite another to divest one's self of a right entirely. What cannot be taken away by another cannot be divested by one's self.

It would, therefore, appear to be the case that the death penalty is unjust as a violation of a natural human right. Nevertheless, capital

punishment has been pragmatically justified as serving the welfare of society by functioning as a deterrent to the gravest of felonies. But its deterrent effect has been seriously questioned in the light of all the evidence available. Whatever deterrent effect the death penalty exerts might be equally possessed by another punitive treatment meted out for capital offenses—for example, life imprisonment with no possibility of parole, though with some alleviation of the harshness of prison life as a reward for good behavior.

For the time being, we are left with an unresolved issue between proponents and opponents of capital punishment. The substitution of life imprisonment for the death penalty might solve the problem.

We have so far considered briefly the rights to life and liberty and their inalienability. Much more remains to be said about them and about their sources in human nature itself, but they are not the only natural human rights. We must also look to the civil or legal rights, the enactment of which is requisite for securing and safeguarding whatever basic rights are recognized as inherent in human nature. Further still, we must ask whether what the Declaration calls a right—the right to overthrow a government that evinces a tendency toward despotism and tyranny—is a natural right or a civil right. If neither, why is it called a right?

We welcome your comments, questions, or suggestions.

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