

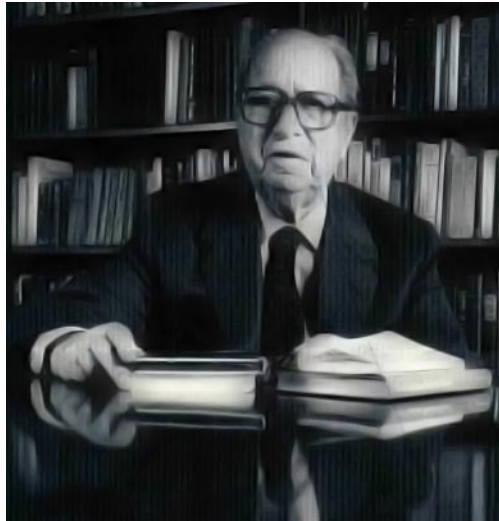
# THE GREAT IDEAS ONLINE

Jul '13

*Philosophy is Everybody's Business*

Nº 728

*"You could read Kant by yourself, if you wanted, but you must share a joke with someone else."* —Robert Louis Stevenson



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## INALIENABLE RIGHTS

**Mortimer Adler**

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.

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. 📖

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## THE MEASURE OF FRIENDSHIP

Dear Dr. Adler,

A lot has been written about the preciousness of friendship and the joy it brings to our lives. But I wonder if there has been any serious consideration of what friendship is, as apart from mere acquaintance. Why is it that some people we know are our friends and others are just people we know? Why is a true friend so vital to our existence?

*Larry Kramer*

As you indicate, the desire for friendship is always with us but we do not always have friends. In fact, the first thing that our own experiences, as well as many of the great philosophers, tell us about true friendship is that it is very rare. A lot of our associations seem like friendships at first only to languish and disappear in time. These lack what might be called the “prerequisites.” In trying to set down what they are, we must begin by clearly distinguishing between relationships that are accidental and transitory and those that are essential and enduring.

Aristotle affords us substantial help here by pointing out that there are three different kinds of friendship: the friendships based (1) on utility, (2) on pleasure, and (3) on virtue.

The friendships of utility and pleasure go together, and are no doubt the most common. Everyone has experienced them. People are “friendly” to their business associates, neighbors, the members of their car pool, and even casual acquaintances on trains, boats, and airplanes. This kind of civility is, to some degree, a form of friendship, the friendship of utility, of mutual convenience. Similarly, people are “friendly” to their golfing partners, to others at a cocktail party, and to acquaintances who entertain them. This is also a form of friendship, the friendship of pleasure, of mutual enjoyment.

These lower forms of friendship are not necessarily bad, but they are inadequate. One of their defects results from the fact that they

depend on and vary with circumstance. This is why they can quickly arise and just as quickly disappear. By contrast, when the Book of Proverbs says, “A friend loveth at all times,” it is referring to a higher form of friendship that does not depend on circumstance. In order to surmount the effects of time and happenstance, it must be based on the inherent qualities of the individuals involved. A friendship so anchored cannot be a passing friendship.


True friendship, then, surpasses (though it often also includes) both utility and pleasure. For Aristotle, such a friendship must be based on virtue, on a good moral character. Only in that way can it last. Further, it must develop slowly since it presupposes familiarity, knowledge, and—eventually—mutual trust. Aristotle goes on to observe:

This kind of friendship, then, is perfect both in respect of duration and in all other respects, and in it each gets from each in all respects the same as, or something like what, he gives; which is what ought to happen between friends.

Perfect friendship, then, also presupposes a certain equality of status. Montaigne, speaking of the kinds of human relationships, confirms this when he says: That of children to parents is rather respect: friendship is nourished by communication which cannot, by reason of the great disparity, be betwixt these.

Parents can no more be friends to their children than teachers can be to their students. For the essence of friendship is reciprocity: giving and getting something like what you give. Parents see to the proper development of their children, and teachers guide the shaping of their students’ minds. Children and students cannot reciprocate in kind. It should be clear now why real friendship requires more than merely having “something in common.” It is what people have in common that determines the kind of friendship they will have. True friendship requires at least a sound moral character out of the richness of which individuals are able to give and get this precious affection. And the more individuals give, the more they realize a genuine kind of selflessness, the better friends they are. A good man will not only do for his friend what he would do for himself, but will, if necessary, do more.

These prerequisites being hard to fulfill, true friendship is bound to be rare. To acquire a real friend, therefore, is one of the most

praiseworthy accomplishments in life. Montaigne tells a story of Cyrus, the ruler of Persia. He was asked whether he would exchange a valuable horse on which he had just won a race, for a kingdom. Cyrus replied, “No, truly, sir, but I would give him with all my heart to get thereby a true friend, could I find out any man worthy of that alliance.” 

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## LETTERS TO THE EDITOR

Max,

Your quotation [# 34] from Aristotle about the habit of excellence is the very one I have framed on my desk. It reminds me that excellence is something that I must practice until it becomes a habit. I work on it everyday, I want to respond to the people I work for by providing them with things that are beyond their expectations. My job is to make their job easier. I enjoy serving them. Excellence gives me pleasure. It is not a chore—it actually is what takes the drudgery out of mundane tasks.

Thanks again for the Online journals.

*Maria O’Ryan*

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Dear Max,

I’ve been listening to the Labor and Leisure lectures on Dr. Adler’s tapes. I am impressed with the sure aim of his philosophical hammer, which has hit so many nails square on the head.

I particularly liked his analysis of the good and bad effects of the industrial revolution over the century from 1850 to 1950. The hourly work week had decreased steadily, and MJA quoted predictions that these trends would continue. Alas, they have not.

Certainly technical progress has continued during the past 50 years. I think the idea MJA identified, of increasing economic productivity becoming an end in itself, is one of the main trends accounting for lack of any further decrease in the work week.

I really enjoy the tapes, and will continue to learn from them.

Regards,

*Greg Shubert*

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Dear Sirs,

Please accept my thanks and the enclosed membership dues. I am especially interested in any upcoming seminars the Center will offer, as well as videos.

I have recently gained my MA in English, but am currently looking into graduate schools for philosophy. That move was caused in large part by Dr. Adler's books. I have been lending Adler's books to all the faculty I can, and if I can help the Center in any other small way, please feel free to contact me. I'm looking to be active in some fruitful cause, and I can think of no better service to America and the world than the promulgation of Dr. Adler's philosophy.

*Dan Demetriou*

***We welcome your comments, questions, or suggestions.***

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