

I have rights!

The war for American independence was fought to gain the right of self-determination for the citizens of this country. Today however, “human rights” are used to describe those things that society as a whole ought to provide. These different ways of approaching rights determine how an individual interacts with the state and what basic economic principles are adopted. Unfortunately, “human rights” are often advanced in ignorance or even defiance of the individual’s basic desire and right to pursue self-sufficiency.

True individual freedom requires individuals to labor, and in return they have a right to enjoy the fruits of their labor. No one person’s rights should detract from another’s except as defined by a mutual agreement. This could be called a defined contribution plan. The more you want, the harder you need to work. Wealth is created first and enjoyed later. No one is forcibly placed in debt.

Today’s “human rights” begin by deciding what each individual deserves simply because he exists, and then guarantees delivery. Individuals work at least partially for the state so it can bestow human rights like food and housing on those who haven’t already provided for themselves. This could be called a defined benefit plan. The more you work, the more the government has to distribute, minus any costs of administration of course. In this type of system, the state hands out benefits first and counts on the people to create the supporting wealth later. For this reason, society starts out in debt and if, as often happens, the benefits are set too high, the debt continues to grow. Furthermore, incentive to excel is reduced, so it is hardly a surprise when creation of wealth does not meet expectations. The unabridged right of an individual to enjoy the fruits of his own labor is denied. Different classes of people must be identified and treated differently by the state, and this is inconsistent with equality under the law. It also connects the term “rights” with entitlements instead of freedoms as our founders intended.

One of the most famous parts of the Declaration of Independence is “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.” Note that only the pursuit of Happiness is listed, not Happiness itself. Basically, these rights allow an individual to exercise self-determination, but do not guarantee any particular results. Also note that the purpose of the government was only to secure these rights which were already deemed inherent in all men.

Most of the Declaration enumerates areas where King George III had ignored these rights. In short, he prevented the colonists from managing their own affairs; forced them to pay taxes and support a standing army from which they received no benefit; and was bringing in foreign mercenaries to enforce his will.

There was an ongoing debate between the Federalists and Anti-Federalists leading up to the ratification of the Constitution of the United States in 1789. The Anti-Federalists feared the proposed federal government could become as oppressive as King George III. In order to accommodate their views, the first ten amendments were added to the Constitution in 1791. These amendments are intended to limit the power of the federal government over the state governments and people, and also limit the power of the state governments over the people.

“Life, Liberty and the pursuit of Happiness” has no meaning if the people are denied the tools to achieve and sustain it. The amendments of 1791, also known as the Bill of Rights, insures that they do. I have paraphrased those rights below and added the reasons behind them.

First, they can express themselves freely, organize as a group, and present their grievances to the government. This allows the people to express their opinions directly to the government without going through elected representatives.

Second, they can arm themselves and act collectively to protect their rights by force in extraordinary situations. This allows them to effectively protect themselves if the government is unable, unwilling or simply reluctant to act on their behalf. The Declaration clearly recognizes that they should be able to protect themselves against the government itself if it behaves unlawfully, although only in extreme situations.

Third and fourth, a person is secure in his person and possessions from arbitrary actions taken by the government, nor can his house be appropriated for housing soldiers except by law and in time of war. The latter item fortunately hasn't been an issue for a long time, but could conceivably become an issue if civil unrest increases in the future. This amendment protects private property. Without private property, a man can't be self-sufficient or exercise the right of self-determination.

Fifth, with few exceptions, a person's life, liberty, and possessions can only be taken or restricted as a result of criminal activity through due process of law. If private property is taken otherwise, the owner must be fairly compensated. A person can't be forced to testify against himself. Once found innocent, a person can't be retried. These rights provide protection against arbitrary actions by the state, prevent the use of confessions extracted by force, and forbid open-ended harassment through multiple trials if guilt isn't established at the first.

Sixth, in the case of a criminal trial, the defendant is entitled to a quick, public, and local trial; to face the witnesses against him; to call witnesses in his favor; to have legal representation; and to be judged by an impartial jury of his equals. These rights insure that trials are as fair as possible.

Seventh, for civil litigation, the defendant has a right to a jury trial if the value at stake exceeds a certain amount. This guarantees a right to a fair trial when the monetary value at stake is significant. The Fifth Amendment does the same when the defendant risks incarceration or execution.

Eighth, excessive bail and fines are not allowed, nor are cruel and unusual punishments. This prevents the court from using the law to arbitrarily incarcerate someone before they are found guilty or to excessively punish someone to either set an example or out of personal malice. The Sixth Amendment prevents imprisoning a person by indefinitely postponing a trial for similar reasons.

Ninth and tenth, personal rights are not limited by those listed here. However, the powers of the federal government are certainly limited to those stated in the Constitution and its Amendments. This amendment prevents the federal government from overstepping its bounds in a general sense.

Unhappily, most astute Americans can find common examples where the Constitution is disregarded these days. In some cases, this is properly covered by Amendments. In others, it is not. Those less astute are not even aware. The state no longer respects or secures all of our rights of action. Instead, they promise us new rights of entitlement. These they can only provide by taking from others either by taxation or mandate. Thus they act as an arbitrary bully rather than the equal protector of all of us as our founders intended.

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