

Critique of the Doctrine of Inalienable, Natural Rights

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From Jeremy Bentham, *Anarchical Fallacies*, vol. 2 of Bowring (ed.), Works, 1843.

PRELIMINARY OBSERVATIONS

[The Declaration of Rights](#) -- I mean the paper published under that name by the French National Assembly in 1791 -- assumes for its subject-matter a field of disquisition as unbounded in point of extent as it is important in its nature ...

The revolution which threw the government into the hands of the penners and adopters of this declaration, having been the effect of insurrection, the grand object evidently is to justify the cause. But by justifying it, they invite it: in justifying past insurrections they plant and cultivate a propensity to perpetual insurrection in time future; they sow the seeds of anarchy broadcast: in justifying the demolition of existing authorities, they undermine all future ones, their own consequently in the number. Shallow and reckless vanity! - They imitate in their conduct the author of that fabled law, according to which the assassination of the prince upon the throne gave to the assassin a title to succeed him. "*People, behold your rights! If a single article of them be violated, insurrection is not your right only, but the most sacred of your duties.*" Such is the constant language, for such is the professed object of this source and model of all laws -- this self-consecrated oracle of all nations....

The great enemies of public peace are the selfish and dissocial passions: -- necessary as they are -- the one to the very existence of each individual, the other to his security. On the part of these affections, a deficiency in point of strength is never to be apprehended: all that is to be apprehended in respect of them, is to be apprehended on the side of their excess. Society is held together only by the sacrifices that men can be induced to make of the gratifications they demand: to obtain these sacrifices is the great difficulty, the great task of government. What has been the object, the perpetual and palpable object, of this declaration of pretended rights? To add as much force as possible to these passions, already but too strong, -- to burst the cords that hold them in, -- to say to the selfish passions, there - everywhere -- is your prey! -- to the angry passions, there - everywhere -- is your enemy.

The logic of it is of a piece with its morality: -- a perpetual vein of nonsense, flowing from a perpetual abuse of words, -- words having a variety of meanings, where words with single meanings were equally at hand -- the same words used in a variety of meanings in the same page, -- words used in meanings not their own, where proper words were equally at hand, -- words and propositions of the most unbounded signification, turned loose without any of those exceptions or modifications which are so necessary on every occasion to reduce their import within the compass, not only of right reason, but even of the design in hand, of whatever nature it may be; - the same inaccuracy, the same inattention in the penning of this cluster of truths on which the fate of nations was to hang, as if it had been an oriental tale, or an allegory for a magazine: --

stale epigrams, instead of necessary distinctions, -- figurative expressions preferred to simple ones, -- sentimental conceits, as trite as they are unmeaning, preferred to apt and precise expressions, -- frippery ornament preferred to the majestic simplicity of good sound sense, -- and the acts of the senate loaded and disfigured by the tinsel of the playhouse. ...

Article II

The end in view of every political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

Sentence 1. The end in view of every political association, is the preservation of the natural and imprescriptible rights of man.

More confusion -- more nonsense, -- and the nonsense, as usual, dangerous nonsense. The words can scarcely be said to have a meaning: but if they have, or rather if they had a meaning, these would be the propositions either asserted or implied: --

1. That there are such things as rights anterior to the establishment of governments: for natural, as applied to rights, if it mean anything, is meant to stand in opposition to *legal* -- to such rights as are acknowledged to owe their existence to government, and are consequently posterior in their date to the establishment of government.

2. That these rights *can not* be abrogated by government: for *can not* is implied in the form of the word imprescriptible, and the sense it wears when so applied, is the cut-throat sense above explained.

3. That the governments that exist derive their origin from formal associations or what are now called *conventions*: associations entered into by a partnership contract, with all the members for partners, -- entered into at a day prefixed, for a predetermined purpose, the formation of a new government where there was none before (for as to formal meetings holden under the controul of an existing government, they are evidently out of question here) in which it seems again to be implied in the way of inference, though a necessary and an unavoidable inference, that all governments (that is, self-called governments, knots of persons exercising the powers of government) that have had any other origin than an association of the above description, are illegal, that is, no governments at all; resistance to them and subversion of them, lawful and commendable; and so on.

Such are the notions implied in this first part of the article. How stands the truth of things? That there are no such things as natural rights -- no such things as rights anterior to the establishment of government -- no such things as natural rights opposed to, in contradistinction to, legal: that the expression is merely figurative; that when used, in the moment you attempt to give it a literal meaning it leads to error, and to that sort of error that leads to mischief -- to the extremity of mischief.

We know what it is for men to live without government -- and living without government, to live without rights: we know what it is for men to live without government, for we see instances of such a way of life -- we see it in many savage nations, or rather races of mankind; for instance, among the savages of New South Wales, whose way of living is so well known to us: no habit of obedience, and thence no government -- no government, and thence no laws -- no laws, and thence no such things as rights -- no security -- no property: --liberty, as against regular controul, the controul of laws and government --perfect; but as against all irregular controul, the mandates of stronger individuals, none. In this state, at a time earlier than the commencement of history -- in this same state, judging from analogy, we the inhabitants of the part of the globe we call Europe, were; -- no government, consequently no rights: no rights, consequently no property -- no legal security -- no legal liberty: security not more than belongs to beasts -- forecast and sense of insecurity keener -- consequently in point of happiness below the level of the brutal race.

In proportion to the want of happiness resulting from the want of rights, a reason exists for wishing that there were such things as rights. But reasons for wishing there were such things as rights, are not rights; -- a reason for wishing that a certain right were established, is not that right -- want is not supply -- hunger is not bread.

That which has no existence cannot be destroyed -- that which cannot be destroyed cannot require anything to preserve it from destruction. *Natural rights* is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, -- nonsense upon stilts. But this rhetorical nonsense ends in the old strain of mischievous nonsense for immediately a list of these pretended natural rights is given, and those are so expressed as to present to view legal rights. And of these rights, whatever they are, there is not, it seems, any one of which any government *can*, upon any occasion whatever, abrogate the smallest particle.

So much for terrorist language. What is the language of reason and plain sense upon the same subject? That in proportion as it is *right or proper*, i.e. advantageous to the society in question, that this or that right -- a right to this or that effect -- should be established and maintained, in that same proportion it is wrong that it should be abrogated: but that as there is no right, which ought not to be maintained so long as it is upon the whole advantageous to the society that it should be maintained, so there is no right which, when the abolition of it is advantageous to society, should not be abolished. To know whether it would be more for the advantage of society that this or that right should be maintained or abolished, the time at which the question about maintaining or abolishing is proposed, must be given, and the circumstances under which it is proposed to maintain or abolish it; the right itself must be specifically described, not jumbled with an undistinguishable heap of others, under any such vague general terms as property, liberty, and the like.

One thing, in the midst of all this confusions is but too plain. They know not of what they are talking under the name of natural rights, and yet they would have them imprescriptible --proof against all the power of the laws -- pregnant with occasions summoning the members of the community to rise up in resistance against the laws. What, then, was their object in declaring the existence of imprescriptible rights, and without specifying a single one by any such mark as it could be known by? This and no other -- to excite and keep up a spirit of resistance to all laws -- a spirit of insurrection against all governments -- against the governments of all other nations

instantly, --against the government of their own nation -- against the government they themselves were pretending to establish -- even that, as soon as their own reign should be at an end. In us is the perfection of virtue and wisdom: in all mankind besides, the extremity of wickedness and folly. Our will shall consequently reign without controul, and for ever: reign now we are living -- reign after we are dead.

All nations -- all future ages -- shall be, for they are predestined to be, our Slaves.

Future governments will not have honesty enough to be trusted with the determination of what rights shall be maintained, what abrogated -- what laws kept in force, what repealed. Future subjects (I should say future citizens, for French government does not admit of subjects) will not have wit enough to be trusted with the choice whether to submit to the determination of the government of their time, or to resist it. Governments, citizens -- all to the end of time -- all must be kept in chains.

Such are their maxims -- such their premises -- for it is by such premises only that the doctrine of imprescriptible rights and unrepealable laws can be supported.

What is the real source of these imprescriptible rights -- these unrepealable laws? Power turned blind by looking from its own height: self-conceit and tyranny exalted into insanity. No man was to have any other man for a servant, yet all men are forever to be their slaves. Making laws with imposture in their mouths, under pretence of declaring them -- giving for laws anything that came uppermost, and these unrepealable ones, on pretence of finding them ready made. Made by what? Not by a God -- they allow of none; but by their goddess, Nature.

The origination of governments from a contract is a pure fiction, or in other words, a falsehood. It never has been known to be true in any instance; the allegation of it does mischief, by involving the subject in error and confusion, and is neither necessary nor useful to any good purpose.

All governments that we have any account of have been gradually established by habit, after having been formed by force; unless in the instance of governments formed by individuals who have been emancipated, or have emancipated themselves, from governments already formed, the governments under which they were born -- a rare case, and from which nothing follows with regard to the rest. What signifies it how governments are formed? Is it the less proper -- the less conducive to the happiness of society -- that the happiness of society should be the one object kept in view by the members of the government in all their measures? Is it the less the interest of men to be happy - less to be wished that they may be so -- less the moral duty of their governors to make them so, as far as they can, at Mogadore than at Philadelphia.

Whence is it, but from government, that contracts derive their binding force? Contracts came from government, not government from contracts. It is from the habit of enforcing contracts, and seeing them enforced that governments are chiefly indebted for whatever disposition they have to observe them.