Human Rights and Our Global Social Contract

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Part One: What are Human Rights?

Human rights derive from the immeasurable dignity and intrinsic worth of the human person. Lists of rights, such as the UN Universal Declaration of Human Rights, attempt to spell out what this immeasurable dignity means in terms of life among others in a human community. In this essay, I will further develop the meaning of this statement concerning our human community through references to contemporary scholarship concerning human rights. The essay will then address the reasons why human rights are violated everywhere on Earth today, and, finally, examine the ways in which our global social contract under the *Earth Constitution* can effectively restore respect for human rights within a decent global civilization.

Human rights are often misunderstood today because of the misleading ways that they were expressed by some 18th century social contract thinkers such as John Locke. Locke attempted to describe specific ‘natural rights’, such as life, liberty, and property, that were prior to civilized life under governmental authority. However, we shall see that human rights are, rather, central prerequisites for moral life within communities, not something inhering in human beings prior to their social nature.

Recently I published an essay on “Human Dignity and Our Global Social Contract” that defines human dignity in terms of our self-aware, temporalized human structure. In every person (and in history) a perpetual process of self-transcendence takes place dynamically linking our intrinsic dignity and our continuously acquired dignity as we actualize the ideals inherent in our human possibilities that always transcend the present moment [1]. Ultimately, as Immanuel Levinas affirms, we recognize the infinite transcendence of both others and the divine [2]. In this essay, I will describe human dignity in slightly different (but correlative) terms using the language of philosopher Alan Gewirth and others.

Immanuel Kant had already identified our infinite human dignity or worth in terms of our status as “ends in ourselves” that can never serve as a means to some further end, a status deriving from our free ability to legislate for ourselves universal moral laws, regardless of our inclinations. For Kant, we must have all the rights necessary to have this dignity respected within the framework of a free society. Our rights ultimately entail the ideal of a “kingdom of ends” in which moral principles and mutual respect define human relationships [3].

Alan Gewirth expands upon the Kantian starting point by identifying our intrinsic worth, and therefore our human rights, with our ability to purposively pursue ends or goals and the human capacities and conditions that make this possible:
This attribution of worth to the agents encompasses not only their purposiveness but also the abilities of reason and will to enter into their agency. For in acting for their purposes agents will use both will and reason: will in their freedom as controlling their behavior by their unforced choice and in their endeavors to achieve their purposes; reason in ascertaining the means to their ends, in attributing to themselves rights to the necessary conditions of their agency, and in accepting that all other agents also have these rights. Human dignity consists in having and at least potentially using these abilities, and human rights are derived from human dignity thus conceived. [4]

Human beings are structured to use their reason and will in the pursuit of purposes they believe to be good. Our human rights, for Gewirth, arise directly from this structure and can be expressed in terms of two “generic” sets of rights: those of freedom and those of well-being. Together, these are the necessary conditions of our being able to pursue and achieve any purposes at all. Our dignity can be said to reside in these capacities of reason and will to pursue what appears good to us, and society is a necessary framework, providing both freedom and well-being, for protecting human flourishing in pursuit of our ends.

The entire panoply of human rights arises from this dignity and these generic rights to freedom and well-being. But this dignity and these generic rights must be conceived in terms of our inherent membership in the human community. They are integrally linked to the concept of justice in which each of us has both rights (to be treated morally, justly, and fairly) and duties (to treat others morally, justly, and fairly). The human community is a community of rights and duties, that is, a community based on the requirements of justice.

Rights to freedom entail the range of political and personal rights such as speech, assembly, thought, religion, association, research, and information. The rights to well-being include right to those conditions which allow our free agency to operate: food, clean water, sanitation, health-care, education, social security, housing, etc. These rights cannot be secured without people in authority being responsible to provide or protect these things, for they are representatives of justice for the community as a whole. Different constitutions or manifestos may list these rights somewhat differently, but the fundamental principle is that the entire range of rights to freedom and well-being is necessary to human flourishing.

Philosopher Leonard Nelson, in his book System of Ethics, articulates human rights in a somewhat similar fashion. Nelson also attributes dignity to persons because of their moral agency. Morality, the law that we treat each person with concern and respect as an end in herself, is the source of all human rights and is largely coextensive with those rights:

On the basis of the principle of personal dignity each person is entitled, by virtue of his interests, to restrict the will of others. We call such a title a person’s “right.” The moral law is thus a law of rights, i.e., it determines the content of our duties by rights....

The moral law, as we know, is a law of right. As such it grants each person a right, namely, the right to have his interests respected by rational beings.... What is the extent of one person’s right vs, another person’s right?... We have already learned that the moral law commands us to respect the dignity of the person; now we can define that law more closely as the command of justice, or as the law that commands us to safeguard the equality of persons. The command of
justice may be formulated as follows: Each person per se has equal dignity with every other person. [5]

Nelson points out that the social ideal of justice is integral to the moral law as the law of rights. Each person has a general human right to all the specific rights necessary for flourishing in justice, that is, in equal dignity with all others. Human rights, therefore, hang together. They are interdependent with one another. They are the requirements of justice within the human community. They can be articulated in different listings or manifestos.

Nevertheless, there has been progress in the understanding of human rights beyond the effort that first began in a widespread manner during the 18th century. The 18th century thought of John Locke was that government was needed to protect our *a priori* natural rights as well as to supply an "impartial judge" so that disputes can be reasonably adjudicated according to equitable principles of equally impartial laws. In his understanding of the government as having these limited functions, the expression of rights involved primarily political rights. Such rights are embodied, for example, in the first ten amendments of the U.S. Constitution, written in 1787 by Thomas Jefferson and others who were followers of Locke. “Congress shall make no law restricting” this or that. “Everyone shall have the right” to speech, assembly, redress of grievances, etc.

However, as capitalism expanded and raged on throughout the 19th century, people began to realize that it was meaningless to protect only these political rights when the majority of citizens lived in such poverty, hunger, and desperation that they could not effectively exercise their rights. It became widely understood that the rights to freedom were interrelated and inseparable from the rights to well-being, that human beings living in wage-slavery without decent food or housing, and without education or health care, were indeed having their rights violated. Human rights, it was understood, must include all the nexus of conditions in society that make possible human flourishing. Human flourishing means the reasonable ability to pursue purposes and ends in one’s life with some chance of success. Clearly people living on the margins of existence as wage slaves for their entire lives, and then dying young, are not people exercising human rights in any credible form. They are excluded from the community of justice that *should* obtain among human beings.

As both Gewirth and Nelson insist, the concept of rights is integrally related to the concept of justice, the obligation of the state to foster the equal conditions for people to live flourishing and fulfilling lives. Capitalism purports to be a “purely economic” theory that does not include any objective moral dimension. Capitalists do, nevertheless, colonize the state in order to secure legal conditions that foster their interests. The 19th century required immense struggles against both the capitalists and the states that served as “committees” to promote the interests of the ruling classes (as Engels observed). For Karl Marx, political democracy without economic democracy is merely “formal” and empty. “Substantive democracy” can only exist when the state is organized to promote some significant form of socialism.

The mid-20th century produced globally-recognized declarations of human rights that included both political and economic-social rights, epitomized, for example, by the UN Universal Declaration of Human Rights. This declaration is a brilliant document that encompasses the dynamic of human rights pointed out by the contemporary philosophers I have been citing. It begins and ends with principles that show the link between these rights and our future global social contract.
The Preamble and Article 1 of the Declaration repeat the core principle of human dignity (linked with “reason and conscience”) that grounds all human rights. The Preamble declares correctly that respect for this dignity “is the foundation of freedom, justice and peace in the world.” Article 2 emphasizes the universal principle of justice (also emphasized by Gewirth and Leonard) that grounds human rights in a principle of universal equality: everyone has the right to equal treatment and equal realization of their human rights. Article 3 focuses on what is most fundamental: “life, liberty, and security of person.” The Declaration presupposes the entire human community as a community of justice.

The list of rights from numbers 4 through number 21 goes on to primarily identify political rights such as assembly, due process of law, a fair trial, freedom of thought and religion, freedom of expression, etc. With articles 22 to 27, the emphasis changes to economic and social rights, specifying the right to social security, to protection in case of illness or old age, to favorable conditions of work, to just wages, to rest and leisure, to medical care, to education, to the benefits of culture, etc. Articles 28, 29, and 30, however, return to the foundational dynamic of human rights and project their realization into the future.

Article 28 points ahead to a world order quite different from the one that existed in 1948 or that continues to exist today: “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” What would it mean for this to be fully realized? Clearly, this implies a dramatically different world order from the one that presently dominates. I will discuss this further below.

Article 29 identifies the central purpose of the entire list: “Everyone has duties to the community in which alone the free and full development of his personality is possible,” and the only limitations on these rights have to do with the equal right of all others to their exercise and benefit: “and of meeting the just requirements of morality, public order and the general welfare in a democratic society.” This tells us that the purpose of the entire list is human flourishing, namely, the rights to freedom and well-being within a framework of justice ensuring equality of treatment for all within a community based on the principles of justice. Human rights arise from the vision (implicit in our self-aware, temporally oriented, human structure) of what is required for human flourishing within society. What is required is the entire nexus of political, social, and economic rights organized around the principle of justice: concern and respect for the equal dignity of all persons.

In his book, Taking Rights Seriously, philosopher of law Ronald Dworkin makes a point related to that made by Articles 28 and 29 of the Universal Declaration:

...The right to concern and respect is fundamental among rights in a different way, because it shows how the ideal of a collective goal may itself be derived from that fundamental right. If so, then concern and respect is a right so fundamental that it is not captured by the general characterization of rights as trumps over collective goals, except as a limiting case, because it is the source both of the general authority of collective goals and of the special limitations on their authority that justify more particular rights. [6]

Dworkin calls the rights specified in the normal list (for example, articles 4 to 27 of the UN Declaration) “trumps” because they must be treated as more fundamental than society’s policies or programs and must be protected as such. But the ultimate purpose of any list of rights is human flourishing: the ability of persons to live lives in which their personalities can develop through the effective agency provided by
freedom and well-being. For this reason, Dworkin concludes, the specific rights are secondary to the "respect and concern" of governmental authorities for the human flourishing of the citizens. This overall framework of "respect and concern" can also be called concern for the "common good" of society. The meaning of the common good is precisely that of maintaining the societal framework in which all members of the society can flourish in equality and dignity.

Philosopher of Law John Finnis defines the common good in the following way:

When we survey this list we realize what the modern ‘manifesto’ conception of human rights amounts to. It is simply a way of sketching the outlines of the common good, the various aspects of individual well-being in community. What the reference to rights contributes in this sketch is simply a pointed expression of what is implicit in the term ‘common good’, namely that each and everyone’s well-being, in each of its basic aspects, must be considered and favored at all times by those responsible for coordinating the common life. [7]

Human rights are simply a fundamental part of the way societies must be organized to promote the equal flourishing of all their members. This can be understood as the “Principle of Generic Consistency” (Gewirth) in which our rights to freedom and well-being are understood to be the basic principles behind any legitimate society. It can be understood as the mandate for Justice (Nelson) in which the fundamental aim of society must be promoting the equal dignity and ability to flourish of each of its members. Or it can be understood as the common good (Finnis) in which “each and everyone’s well-being, in each of its basic aspects, must be considered and favored at all times by those responsible for coordinating the common life.”

Yet another aspect of human rights has emerged since the late 20th century as human beings became ever more aware of the conditions necessary for human flourishing. If 18th century political rights can be termed “first generation rights,” and 19th century economic and social rights can be termed “second generation rights,” then the 20th century can be said to be the birthplace of our “third generation” rights to peace and to a healthy planetary environment [8]. Just as Article 28 of the UN Declaration states the right to an “international order” in which all the conditions for human flourishing are realized, so some UN documents since that time have articulated a yet larger context for human flourishing. The 1994 UN Draft Declaration of Principles of Human Rights and the Environment states:

All persons have the right to a secure, healthy and ecologically secure environment. This right and other human rights, including civil, cultural, economic, political and social rights, are universal, interdependent and indivisible (Principle 2). All persons have the right to an environment adequate to meet equitably the needs of present generations and that does not impair the rights of future generations to meet equitably their needs (Principle 4). [9]

The first photographs of our Earth from space became available to humanity only during the early 1960s. For the first time in history, we saw our planet in its photographic reality: a tiny, fragile island floating in the immensity of space. For the first time we began to deeply understand that human flourishing is impossible without a planetary environment that supports life and without intercontinental weapons of mass destruction that can at any moment wipe out all life. We began to deeply understand our fragile
interdependency that requires both peace and a protected environment as a foundation for human flourishing. We also began to understand that future generations have the right to inherit a planet capable of sustaining human flourishing [10].

Human rights are about the ideal of a human community organized in such a way that it promotes the equal dignity and ability to flourish of all its members. Human rights are universal and derive from the inherent structure or “purposive agency” for each and every human being. Human rights may vary slightly in the ways they are listed, but basically they are the same everywhere because they simply articulate the basic social conditions necessary for human flourishing.

With the third generation of human rights, we began to understand that we need to found a planetary civilization based on human dignity and human flourishing. We are all in this together, and human rights can never be widely protected unless there is a planetary “social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” Unless there is a global order founded upon world peace and the integrity of our planetary biosphere and the rights of future generations to inherit a livable planet, human flourishing will be defeated at every turn and human rights will never be widely protected and respected. Because we lack such an order today, human rights are violated nearly everywhere on the Earth.

Part Two: The Failure of Today’s World Disorder and How We Can Establish a World Peace System

In his book *The Endtimes of Human Rights*, Stephen Hopgood asserts that the humanist human-rights story of an ever-increasing universal set of values involving human rights recognition is no longer credible:

Rather, we are entering a *neo-Westphalian* world. That is, a world of renewed sovereignty, resurgent religion, globalized markets, and the stagnation or rollback of universal norms about human rights.... We have entered an era of multipolar authority where what is “normal” or “appropriate” no longer has one answer. Traditional values and conservative religious doctrine will not be outposts, like the Barbary Pirates, waiting for the “universal modern” to arrive. They will be global-level alternative discourses to human rights. [11]

Similarly, Eric A. Posner in *The Twilight of Human Rights Law* argues that, in spite of the many conventions on human rights that have been passed by the UN, the world system (involving an intractable multiplicity of conflicting nations and cultures) means that human rights law as an international norm is fading way: “It turns out that foreign countries really are foreign” [12].

Our world system today is an inheritance from the “Westphalian” system of sovereign nation-states begun at the Peace of Westphalia in 1648. Our world system is also an inheritance from a global capitalism (claiming to operate by intrinsically amoral universal laws of economics) begun in the Italian Renaissance of the 16th century and now operating under a global neoliberal ideology premised on the same “free market” dogma. These critics fail to see the growth toward planetary maturity, connected with universal human rights, that is an integral part of the *veltgeist* of the late 20th and early 21st centuries.
Multinational corporations with more wealth than many nation-states dominate the world’s airways and seaways with transnational trade, along with patterns of exploitation, corruption, and domination. Within poor nations, where even public officials often live in poverty and painful scarcity, the ability of these corporations to bribe and coerce is immense. The 1% of the world’s population who owns more than 50% of its wealth have unlimited political and administrative power to bend and ignore human rights in their own interests. The result is a world in which some four billion (60%) of its population live in a state of poverty and deprivation that effectively prevents human flourishing.

Similarly, the nations of the world still spend over one trillion US dollars per year on weapons and war. Half of this sum is spent by the United States alone in its desperate attempt to maintain its global empire in the face of significant rival powers, such as Russia and China, and a diaspora of restive neo-colonial, peripheral countries in South America, Africa, and south Asia. Computerized electronics has resulted in global spying and ever increased tensions as nation after nation is simultaneously torn apart by imperial blundering and terrorist responses [13]. The 21st century has witnessed the vast increase in national security state regimes ignoring the right to privacy of their own citizens and others and continually reducing the scope of civil liberties and respect for human rights.

It is important to understand that the deleterious effects of both capitalism and the system of militarized sovereign nations cannot be addressed within the framework of that system. This is where perhaps most peace studies programs and peace activists worldwide fail in their efforts to address the human rights problem. They are trying to evolve or improve a world-system that itself is a central root of the problem. Capitalism inherently violates our human rights and dignity. It treats human lives as instruments in the pursuit of wealth. A democratic socialism in which human flourishing (human rights) is seen as the purpose of the market and economics is alone legitimate [14].

Similarly, our rights to lead flourishing lives in peace, security, freedom, and sustainability are inherently violated by the fragmented system of militarized sovereign states. As Kant already pointed out in the 18th century, paying war taxes, having to fight in their wars, having to address the devastation caused by their wars, having our freedoms and security compromised because of their militarism, having our brothers and sisters in other countries killed and their life-support systems destroy by war: all of this violates our human rights and human dignity [15]. The sovereign nation-state system is a fundamental violation of our human rights and dignity. War is immoral and is a violation of the human rights of both the victims and the victors.

Yet neither Hopgood nor Posner, cited above, understand that human dignity is our fundamental reality as temporalized creatures who require freedom and well-being to pursue and secure goals in the development of our lives and personalities. Neither Hopgood nor Poser understand that the institutions we inherit from the past (global capitalism and the Westphalian system of sovereign nation-states) are totally out of sync both with our human dignity and with the holistic paradigm that has emerged from the natural and social sciences during the past century. We are one planet, one biosphere, and one humanity. Both global capitalism and the system of sovereign nation-states intrinsically violate these fundamental truths.
We cannot rely on the bureaucrats in these outmoded institutions of nation-states and global capitalism to lead the way to transformation to the new holistic paradigm. They are like robots or automatons spewing forth the ideological lies of capitalism and the war system. They draw their paychecks precisely because they support the Ancien Régime. But the Ancien Régime in France got overthrown because it was out of sync with the new paradigm that was animating 18th century thought, the paradigm of human rights and human dignity. Today, the larger dominant institutions that we inherent from centuries ago, global capitalism and the sovereign nation-state system, constitute the Ancien Régime. They are outmoded, outdated, and anachronistic. They inherently violate the moral foundations of human life and the purposive structure of human flourishing [16].

They must be overthrown, not by a new form of the guillotine (tempting as that may be), but by the new, truly holistic paradigm that is sweeping through the thoughtful, intellectually and spiritually awakened people in every country on our planet. The present writer has traveled to many countries in the past 20 years and has seen this everywhere. People are embracing the new holistic paradigm: Vasudhaiva Kutumbakam, they say in India: “the world is one family.” The emerging holistic paradigm points forward to one Earth, one Humanity, and one civilization premised on human flourishing.

However, it is not enough to simply profess a holistic philosophy of human unity in diversity. Nor is it enough to meditate and pursue inner peace as the foundation for outer peace. It is not enough to study non-violent communication or non-violent forms of civil resistance. This is where we still have to grasp both the enormity of the danger facing us and the depth of the paradigm-shift that is necessary if we want to protect human rights, avoid World War III, and mitigate climate collapse. We must found a new world order that transcends the system of sovereign nation-states and the scourge of global capitalism. Our institutions must mirror the holism of the universe, the biosphere, and humanity. And, integral to this, our institutions must mirror the structure of human beings and the conditions of human flourishing that flow from this.

We can only make this happen by founding a world system based on holism, human rights, and unity in diversity. Such a transformed, holistic world system is embodied within the Constitution for the Federation of Earth [17]. The Constitution articulates a social democracy that integrates the moral principles that include human well-being into economics as directed by a World Parliament and a World Financial Administration concerned to actualize both human flourishing and planetary sustainability.

The Constitution frames global democracy in dozens of overlapping ways to protect and promote human rights and dignity. It explicitly embodies all three generations of rights necessary to establish human flourishing everywhere for the first time in history: rights to freedom, rights to well-being, and rights to peace with a protected, sustainable environment. Our planetary human community is a community of rights. What draws us all together into a global social contract is our common humanity and universal human dignity.

By contrast, every sovereign nation-state (even those that have some form of social democracy) has been founded through accidental and ad hoc historical circumstances reaching far back into the fragmented early-modern era that knew nothing of the holistic paradigm that emerged only in the 20th and 21st
centuries. But in fact, given the fragmentation of the current world system with its militarized sovereign
nations and dominant capitalist system, even nations that pursue social democracy fail to actualize human
flourishing significantly within their borders, and they certainly ignore the horrendous problem of human
rights violations throughout the rest of the world. The world system ravaged by militarism and capitalist
exploitation inundates and overwhelms all attempts to protect human flourishing within national
boundaries, even within the western European nations.

In the face of this devastation, a world system based upon human rights appears “utopian” and
unreachable. Samuel Moyn, in his book The Last Utopia: Human Rights in History, asserts that this
“utopian” dimension is precisely the meaning of human rights at this point in history. Political utopias,
such as the Marxist or Anarchist conceptions, have vanished, leaving us with the intact vision of universal
human rights:

There is no way to reckon with the recent emergence and contemporary power of human rights
without focusing on their utopian dimension: the image of another, better world of dignity and
respect that underlies their appeal, even when human rights seem to be about slow and
piecemeal reform. But far from being the sole idealism that has inspired faith and activism in
the course of human events, human rights emerged historically as the last utopia—one that
became powerful and prominent because other visions imploded. Human rights are only a
particular modern version of the ancient commitment by Plato and Deuteronomy—and Cyrus—
to the cause of justice. [18]

Moyn’s book goes on to point out the immense difficulties that this utopian ideal poses for those trying to negotiate
the world disorder through such institutions as the International Criminal Court (ICC). In a world of rogue
superpowers, such as the U.S., Russia, and China, little can be achieved. International law, which includes some nine
human rights conventions, remains unenforceable and leads human rights activists to despair. Yet, like Hopgood
and Posner, Moyn lacks a transformative perspective. He lacks insight into the holistic paradigm-shift taking place
everywhere on the Earth and the need to embody this paradigm-shift in a concrete document that lays the
institutional foundations for a holistic world civilization actually based on human dignity and justice.

This so-called “last utopia” needs to become actualized as a pragmatic and practical utopia under the Earth
Constitution. Without a global system-transformation from fragmentation to holism, from a world-system based on
territorial power centers and corporate power machinations to a system explicitly based on human dignity, human
flourishing, and justice, human rights will always remain an unrealizable utopian ideal. Article 1 of the Earth
Constitution defines the “broad functions” of the Earth Federation to: (1) end war and secure disarmament, (2)
protect human rights everywhere on Earth, (3) diminish social differences and end poverty, (4) regulate trade for
equitable use of world resources, (5) protect and restore the planetary environment, and (6) find solutions to all
problems beyond the capacity of national governments.

We can see now that all of these six necessary functions of the Earth Federation go together: they are all necessary
for human flourishing in dignity and quality. Human rights embody and include all of them. The ideal of justice going
back to Plato, Deuteronomy, and Cyrus can only be realized in a world system based on justice. The U.N. with its
outdated Charter (founded on the principle of national sovereignty) must be integrated into the emerging Earth
Federation by replacing its Charter with the Earth Constitution. The Earth Constitution devises an integrated set of
institutions that constitute a peace system, a freedom system, a justice system, and a sustainability system for the Earth [19].

Only through such a **global social contract** can we establish a world system that makes true human flourishing possible through protecting human dignity, human rights, and justice on a planetary scale. The **Earth Constitution** institutionalizes the holism necessary for human flourishing. All nations become states within the Earth Federation, and global capitalism is brought under control and transformed into global social democracy.

Human rights constitute the fundamental groundwork for human flourishing in dignity and equality. They will remain a mere utopian ideal until they become embodied in concrete, democratically legislated, planetary laws. If we want a credible future on this planet, we need a global social contract, turning the human community into a legally recognized community of dignity and justice. We need to ratify the **Constitution for the Federation of Earth**.

**Notes**

For elaboration of these see Glen T. Martin, *The Earth Federation Movement*, IED Press, 2011.