

SOME NATURAL RIGHTS

The mediaeval notion about rights was that they were franchises or grants from the head of the state; each man started with just such ones, and so many of them as his ancestors had succeeded in getting out of the struggle of war and court intrigue. If his ancestors had not been successful in that struggle, he had none. The theoretical basis of the civil system was, therefore, the assumption that, in advance of action by the civil authority, man as such had no rights. All must be assumed to be under the same constraints and restrictions, until, by franchises, privileges, and exemptions, each of which was capable of proof by legal evidence, documents, or tradition, some had emancipated themselves from the restrictions. As these franchises and privileges admitted of every variety, when compared with each other or combined with each other, there could be no equality. In the system, the fact that one man had obtained a certain charter was no reason why anybody else should have the same.

It will be found again and again in examining the political and social dogmas which were enunciated in the eighteenth century, and which have become common-places and catchwords in the nineteenth, that they had their origin in a just and true revolt against the doctrines of mediaeval society, so that they are intelligible and valuable, when viewed in their historical connection, however doubtful they may be when taken as universal *a priori* dogmas.

In the case just stated, we have an instance of this. The eighteenth-century notion of "natural rights," or of the "rights of man," was a revolt against the notion that a man had nothing and was entitled to nothing until some other men had given him some rights here. The rights of man meant that a man, as a man, entered human society, not under servitude and constraint to other men, or to social traditions, but under a presumption of non-servitude and non-obligation to other men, or to social organization. Natural rights, as opposed to chartered rights, meant that the fundamental presumption must be changed, and that every man must, in the view of social order and obligation, be regarded as free and independent, until some necessity had been established for restraining him, instead of being held to be in complete subjection to social bonds, until he could prove that some established authority had emancipated him.

When so regarded, it is evident that the notion of natural rights is one of great value and importance. In the abuse of it, however, it has come to pass that this notion has become a doctrine which affords the most ample space for arbitrary dogmatism, and empty declamation. It has become one of the favorite methods of modern schemers, when they find it difficult to provide means by which men may get what they need in order to enjoy earthly comfort, to put all those necessary things among "natural rights." It then stands established, by easy deduction, that every man has a natural right to succeed in the struggle for existence, or to be happy. It is the duty of the state to secure natural rights. Therefore, if there is anything which a man Wants, he is entitled to have it so long as there is any of it.

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The notion that all men are equal is likewise reasonable and useful when taken in its historical setting. It meant, in contradiction to the mediaeval notion, that whatever rights the state might give to some, it should give to all, and that whatever burdens it laid on some, it should lay on all, without distinction of persons or classes. No such thing has ever been realized or ever can be, and the doctrine would need modification and limitation to make it true, but, as a revolt against medisevalism, it is intelligible. In its best form it is our modern "equality before the law"; but we are constantly striving to use the state to give privileges, and then to make the privileges equal, or to give them to everybody. Turn all such propositions as we will, they are only attempts to lift ourselves by our boot-straps, or to bring good things into existence by decree.

Ever since it has been accepted doctrine that there are natural rights, innumerable attempts have been made to formulate "declarations" of them, that is, to tell what they are. No such attempt has ever succeeded, and the history of the effort to define and specify what the rights of man are is instructive for the sense and value of the notion itself. At present this effort is prosecuted, not by parliaments and conventions, but by social philosophers. As these attempts go on, they develop more and more completely the futility of the notion, or its purely mischievous character as a delusion which draws us away from what might profit us.

Among the latest enunciations of the fundamental and universal rights of man, is that of "the right to the full product of labor." This has been declared, in the most intelligent exposition of it known to me,¹ to be the

¹ A. Menger, "Das Recht auf den vollen Arbeitsertrag." Stuttgart, 1886.

same as "the right to an existence." The two "rights" are in plain contradiction.

In the first place, the "right to the complete product of labor" contains one of the usual ambiguities. Is it meant that the man who does any manual labor in connection with, or contribution to the production of a thing, should have the whole of that thing? Or, is it meant that the man who contributes manual labor to the productive enterprise should have all that part of the thing which belongs to the labor element, in proportion to the capital, land, and other elements which contribute to production? If the former, then we are face to face with a proposition for robbery, with all the social consequences which must be anticipated. Furthermore, although it may seem a very simple thing to provide that those who do the manual work shall have all the product, it is plain, so soon as we reflect upon the complicated combinations of labor which are involved in any case of production, and also upon the complicated character of modern "products" and the way in which they contribute to, and depend upon each other, that it would be impracticable to divide the products among those who have done the labor part of production.

If it is meant that the labor element shall have all the part of the product which is due to the labor element in it, the question arises, how is that element to be measured? How is its proportion to the whole to be determined? At present it is done by supply and demand, and until we have some standard of measurement provided, we cannot tell whether the present arrangement does not do just what is desired. There are constantly reiterated assertions that it does not. It is well worth noticing that no ground for these assertions is offered, and that there is no possibility of verifying them unless

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some standard of measurement can be proposed by which we can find out what the share ought to be, and compare it with what is.

In any case the right to the full product of labor would be contradictory to the right to an existence, for, if the full product of the labor of some falls short of what is necessary to maintain their existence, then they must encroach upon the full labor product of the others, that is, impair the right of the latter. The "right to an existence," however, has the advantage of putting the notion in a distinct and complete form; it covers the whole ground at once; it no longer spends energy in struggling for such means as the right to property, or labor, or liberty, or life. If dogmatic affirmation can do anything, why waste it on the means? Why not expend it at once upon the desired end? The real misery of mankind is the struggle for existence; why not "declare" that there ought not to be any struggle for existence, and that there shall not be any more? Let it be decreed that existence is a natural right, and let it be secured in that way.

If we attempt to execute this plan, it is plain that we shall not abolish the struggle for existence; we shall only bring it about that some men must fight that struggle for others.

Although the right of existence has the advantage of being broad and radical, it has the disadvantage of being abstract and impracticable. Another writer¹ has recently given another formula, which, although less ambitious, is equally effective and far more practical; he affirms the natural right to capital. This must be regarded as the rational outcome, so far, of the attempt to formulate natural rights. All the good things which we

¹ "Le Droit au Capital, par Le Solitaire." Paris, 1886.

want, and find so hard to get, depend on capital. Logically, it is less satisfactory to demand a means than to demand an end; but when the means is the one complete and only necessary one, that point is of little importance. If we could all have capital, we should have the great and only weapon for the struggle for existence. It is only a pity, however, that, in this case, as in all the others, so soon as we get a good formula, it turns out to be either a contradiction, a bathos, an impracticability, or an absurdity. So long as capital has to be brought into existence by human labor and self-denial, if we set up a right to capital in all men, we shall have to affirm that those who have not produced the capital have a right to have it, but that those who have produced it have not a right to have it, since from these latter we take it away.