

ThE riGHt tO RiGHt



If our age is the age of rights, to whom do they belong, who grants them to us, and where, exactly, do they reside?

The riGht tO RiGht/WrOnG / Written by Nina Power in collaboration with Libia Castro & Ólafur Ólafsson.

If our age is the age of rights, to whom do they belong, who grants them to us, and where, exactly, do they reside? The attack on rights is almost as old as those rights themselves, with conservative philosophers from Edmund Burke onwards and his contemporary heir-commentators from the right-wing (precisely working against the rights-wing) press, lining up to rail furiously against those who appear to have rights that do not belong to 'them', have too many rights, are ungrateful for the rights afforded to them, or do not understand that to be in the right is to be on the right. But which 'us' of rights are we talking about? The 'rights' of man, or the citizen, or the human, or the child, or the animal, or nature, are always implicitly exclusionary. Whether we understand rights negatively or positively, there is always the hypothetical other who is not the bearer of these rights, or perhaps of any rights at all. The supposedly universal dimension of rights falls apart the

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moment we consider who or what literally bears or embodies these rights: if I have 'some' rights, someone else – in the shadows, not a member of the 'public' – does not: the right-less, the landless, the sans papiers, the stranded-at-sea-and-left-to-die, the homeless, the voiceless, the city-less, the imprisoned (with or without trial) and the moneyless. Before the question of rights, then, there is the question of who has the right to right in the first place – a declaration can be universal, but its application is always partial in reality.

Nevertheless, can we just give up on rights, especially if the meta-question of the right to right is always understood to be part – perhaps the most important part – of the discussion? The exercise of rights is primarily explored in the manifestation and the performance, rather than the abstract nature, of these same rights. To take a concrete example, the 'right' to protest is encoded in the following way in the following three documents:

“Before the question of rights then, there is the question of who has the right to right in the first place, a declaration can be universal, but its application is always partial in reality.”

Photograph on cover: Ísar Castro Ólafsson, 4 weeks old, undocumented and unregistered / Photograph Libia Castro & Ólafur Ólafsson



Sketches above & left of flashing neon sign: The Right To Right/Wrong, on the south side facade of St George's Hall in Liverpool, during the 7th Liverpool Biennial 2012 Photograph David Root

Universal Declaration of Human Rights: Article 20

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

International Covenant on Civil and Political Rights: Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

The European Convention on Human Rights: Article 11

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

The 'right' to protest is circumscribed by a series of other considerations, some of which ("public order") are so vague as to leave it up to the authorities to determine the exact scope of this 'order'. As the last few months have shown, even this has proven to be too much in the wake of massive anti-austerity protests.

Look at some of the recent bills: Bill 78 in Quebec ('A person, a body or a group that is the organizer of a demonstration involving 10 people or more to take place in a venue accessible to the public must, not less than eight hours before the beginning of the demonstration, provide the following information in writing to the police force...'), the proposal in Russia to fine people at protests 'where public order is violated' up to 300,000 roubles and bill H.R. 347 in the US which makes protest of any type potentially a federal offence (1-10 years in a federal

prison), if it occurs in the vicinity of elites with Secret Service protection, or during an officially defined "National Special Security Event".

All this in a situation where the asymmetry of protest is already heavily and permanently tipped in favour of the state. What is a weapon-less kid in a hat compared to a riot cop in full regalia with stun guns, batons, guns, horses? Where the situation is so wrong and the punishment of protesters so extreme – violence, the courts, fines, jail, media humiliation, removal from education – we need less an understanding of the right to protest than an understanding of the wrong of the state. As Hegel admitted in *The Philosophy of Right*:

When reflection is highly developed, the police may tend to draw everything it can into its sphere of influence, for it is possible to discover some potentially harmful aspect in everything. On such occasions, the police may proceed very pedantically and disrupt the ordinary life of individuals.

It is possible to discover some potentially harmful aspect in everything... The fear mobilised in the name of 'security', 'public order', and the protection of the economy – that is to say, the protection of a particular way of life for a small minority – plays the game of rights, where various diminishing protections are played off against one another. It's my right not to have to sleep outside, get medical treatment, go without food... isn't it?

The rhetoric of austerity is, in part, the shrinking of rights, and the very method used to confront this shrinking – the right to protest – is itself made austere, wizened, impossible. We are told by both right and left that nothing is just given to you, that you must either work or fight for it, which really amounts to the same thing.

But the right takes as its model and image the solitary individual, wolf-like, padding and tearing through a system that otherwise must surely be holding it back; whereas rights from below, the very demand of the right to right enshrined in the long history of strikes and the refusal to work, of collective withdrawal, non-participation and mass street movements, belongs to the collective. This is why the defensive move: 'we have the right to...' while sounding like a demand is really a preservation of everything that has been gained, and that is always in constant danger of being overturned. The 'potential harmful' aspect of everything that Hegel identified with the police is the sign under which we live: everything, we could say, is potentially harmful, or at least we are supposed to believe it is.

As the mechanised female voice simultaneously reassures and alarms us on a daily basis as we move through spaces that get us to other spaces, but whose ownership is opaque: 'in these times of heightened security'... 'Rights' are the construction we get after religion, that tells us who we are (good, moral, natural, upright, straight), and separates us from who we are not (bad, immoral, unnatural, collapsed, queer). The fact that they are self-avowedly a 'human' construction makes them no less religious or mystical. In fact it makes them more so. By default, then, the bearer of rights is individuated, separated, isolated from not only other bearers but also from the (or any) collective as such.

“But the right takes as its model and image the solitary individual, wolf-like, padding and tearing through a system that otherwise must surely be holding it back.”

If we believe that it is the individual who possesses 'rights', or is fundamentally 'in the right', we must also understand, as Hobbes did, that what guarantees those rights, what protects them, cannot be on the same level as the individual, the way clanishness and permanent violence lie, if rights and the bearer of those rights coincide in a single body.

The aggregate model of rights in the body of the Leviathan, the 'artificial man' Hobbes understands the state as, is, for all its violence, too naïve. The piling up of the body of a population under the head of a monarch, like filling a doll with jelly beans and expecting it to move of its own accord, both reveals and obscures too much. If it is the sovereign, or the state, or the law that grants us protection from harm – a negative right – what is it that the state gets in return?

“The aggregate model of rights in the body of the Leviathan, the 'artificial man' Hobbes understands the state as, is, for all its violence, too naïve.”

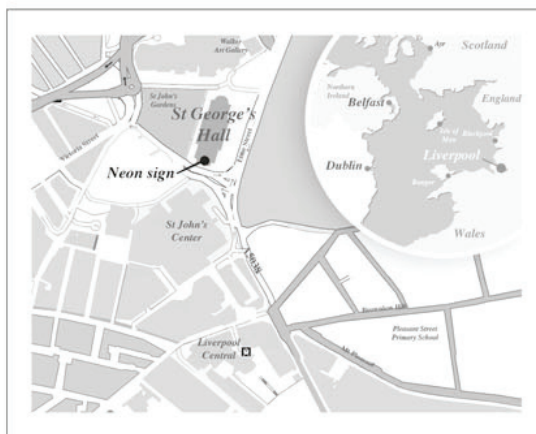
What rights belong to the state, and what kind of agency does it have? The police (in the broadest possible sense – those with batons on the street, those at border agencies, those with wigs and gowns, those running prisons) may be the visible, violent face of the state, but they are not the sum total of it, and their 'rights' have too much enjoyment about them – the right to beat protesters, prisoners, suspects, those detained indefinitely, and so on. We could ask: what do 'we' – those supposed to have rights, and those who practically do not have them – lose when we ask who really benefits from the discourse of rights, and the granting of rights? Does the state have rights, or does it in fact act as if rights were something for the little people?

If we can only defend our rights against erosion, and try to ensure that everyone has them not only in name, in paper, but in reality, to whom are we addressing our defence? Can we not simply take back rights from a machine that has no interest in them, other than as tools to control and divide, and by doing so destroy the entire system of rights as such? The right to right, understood as a practical programme would involve exposing the tactical hypocrisy of the discourse of rights, while turning the positive content of rights on its head without need for the formal frame. In a world where needs are met and borders are open, what need would there be for rights, and who would there be to ask for them?

When reflection is highly developed, the police may tend to draw everything it can into its sphere of influence, for it is possible to discover some potentially harmful aspect in everything.



But we are far from this world; might is right and a right straightens your back, keeps you upright/upright and out of trouble. A "right" is something you invoke to protect your property, but you only get it if you have property in the first place. If you are property or have no property, why would you need any rights? And if you are property – slaves, chattels, nature, water, mountains, animals – your right to right takes a very distant second place to those who would seek to make you their property so that more rights accrue to them and not to you. The counter-current that sought to oppose the real content of rights to their formal, hypocritical structure, and who call rights universal and whose definition of universal fits into a room in which sits a white man and his stocks and shares, is the very opposite of emancipation. The "human" part of human rights is no match for the abstractions of capital.



And what does the "human" mean today? There is a profound linguistic, conceptual, and political difficulty the moment one turns to inhumanity, to the antihuman, theoretical or otherwise. By acknowledging it you are somehow deemed (and maybe doomed) to be complicit in its mechanisms. After the death of God and of the image of man, where are we? The universality that sought to exclude by including is itself wrecked on the shores of the present, one more piece of wreckage of the ship called progress. The actual, practical inhumanity of capitalism and borders – despite the internal economic universalist fantasy that those who worship the market have, where people and goods

move freely in some endless profit-making circle – is the reality. Doubling the rhetoric of the inhuman at the level of the concept seems neither to do justice to the practical wrongs masked by the discourse of rights, nor to the abstractions of systems that produce these concrete horrors. Our critique of the morality of rights as hypocritical cannot itself stand up if we have dispensed with morality as such; our critique of the human similarly cannot simply embrace in- or anti-humanism if those things are the status quo as such. The poverty of rights is at the same time the impoverishment of rights, their shrinking quality, their enforced austerity – as well as, to complete the young Marxist subject-predicate reversal – the right to poverty, as people are asked to suffer on behalf of a perversely humanised economy.

The economy is depressed, no matter if people committing suicide because of measures to try to cheer it up... The human is an artificial image of a unity that is riven by difference: whatever utopian elements it possesses, the human too belongs on the side of a cover story that preserves much that is on the side of the wrong. But how to write out the human from the standpoint of humanity? The declarations are self-confessedly artificial interventions that create an image of the human which itself does not exist, but whose effects are everywhere felt: to abolish the human would perhaps mean the abolition of the desire to declare, the bid to invoke the universal in the name of a better future. We are too caught up in the machinations to understand what the machine produces.

Who, in the end, will write, or perform, the *Philosophy of Wrong*, the *Philosophy of Left*? Who rights the wrongs of the right, in theory and in practice, in the classroom and on the streets? If the right to right is treated as a possession, it reminds us that the bearers of rights are usually those with something to protect, rather than those with something to protest. On the other hand, it can be used as a tactic to expose the way in which rights often provide a cover story for the asymmetry of not only protest and property, but of more or less everything. You who do not belong, are not welcomed, you who are

treated inhospitably, you who do not even have the right to right...

When Hannah Arendt tells us in *The Human Condition* (1958) that natality is inherent in all human activities and that it is natality, and not mortality, that may be the central category of political thought, we immediately enter into the mirror world of rights - no longer the property-owning white man as 'pinnacle' of right bearing, but the merely-born, the barely-alive, the just-wriggling-about. Arendt writes, 'plurality is the condition of human action because we are all the same, that is, human, in such a way that nobody is ever the same as anyone else who ever lived, lives, or will live'.

"I am not you; you are not me; I am more like you today than I am like myself ten years ago... If I cannot easily pin down what it is to 'be' or what I am at the level of the species or the individual, I can at least note that there are things that I do or do not do."

To be human, to be born, is to be at once divided in the middle by radical similarity and radical difference. I am not you; you are not me; I am not even the me I was yesterday; I am more like you today than I am like myself ten years ago... If I cannot easily pin down what it is to 'be' or what I am at the level of the species or the individual, I can at least note that there are things that I do or do not do.

Arendt tells us that action and speech are tied together and this is nowhere clearer than in the question 'asked of every newcomer': 'Who are you?' But what if this question is posed without the human dimension of speech and is instead the demand for documents, which, if missing, the answer to the question is surely 'no one'. The forced return 'home' creates not a relationship of newcomer to speaker but of unwanted to silence.

Arendt links natality to action - and action itself is 'the category of political activity par excellence'. But what 'action' is possible if movement is restricted? As Samuel Beckett puts it in *Texts for Nothing*:

Where would I go, if I could go, who would I be, if I could be, what would I say, if I had a voice, who says this saying it's me?

With regard to the question of movement, of action, the Declaration of Human Rights contains within it its own impossibility; Article 13 states:

"But what have boundaries and borders ever done for the vast majority? What has 'moderation' ever done to improve the lives of those who cannot survive as things stand?"

“ ”

Who, in the end, will write, or perform, the Philosophy of Wrong, the Philosophy of Left, who rights the wrongs of the right, in theory and in practice? In the classroom and on the streets? If the right to right is treated as a possession, it reminds that the bearers of rights are usually those with something to protect, rather than those with something to protest.



Sketch for a future courtroom reading-performance of the text
The rIGHt tO Right/WrOnG and The Partial Declaration of Human Wrongs / Drawing Libia Castro & Ólafur Ólafsson

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

You can, according to these definitions move freely within your 'own' country and live there; you can also leave a country, your 'own' and others, and can return to your 'own' country - but nowhere does it say that you are allowed to enter any country. The "No Borders" movement, which also uses the slogan "No Nation", highlights the positive existential opposition to this - to think beyond borders and identity is precisely to pay attention to the utterly minimal but only real definition of the bearer of rights - that is, the one who is born. But what happens after that? One is always born somewhere, one always lives for a period - even if it is less than a few seconds - and one can act, one can move; in times of crisis and war it becomes imperative that one must move.

The gap between the idea that everyone 'is born with' rights and the fact that many people do not yet have them, or have them violently taken away, creates one of the central paradoxes of rights discourse identified by Arendt and which Seyla Benhabib describes in the following way:

...to be stateless was basically to become a complete pariah, and that to be a stateless person was also to be rendered in a way rightless. But the whole notion of universal human rights is rights that accrue to us or belong to us in virtue of our humanity, not in virtue of our citizenship or membership.

To be born is to be human, to be part of the real subject of universal human rights, but to belong or not to belong is not decided by this same subject. We are bounded, but not by our own choice. Arendt reminds us that, 'The boundlessness of action is only the other side of its tremendous capacity for establishing relationships, that is, its specific productivity: this is why the old virtue of moderation, of keeping within bounds, is indeed one of the political virtues par excellence'.

The newborn may be 'boundlessly' active, but its identity and very survival is quickly enclosed. But what have boundaries and borders ever done for the vast majority? What has 'moderation' ever done to improve the lives of those who cannot survive as things stand? Just as the 'right' to protest turns out to be highly curtailed, practically restricted and endlessly eroded, the rights that are supposed to accrue to us by virtue of being born, of being human in a way that both unites but differentiates everyone of us, are practically absent at every point where they should be of most use.

Let us then begin to rewrite the declarations in a way that addresses the real question of the right to right and let us write not a philosophy of right but a philosophy of wrong and of the wronged; to state in language, not an original language perhaps, since satire always precedes and follows the most sincere declaration, not what operates as a mask for power, capital and borders, but what is closer to the truth of 'the right to right' today:

Colophon

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Now, Therefore

THE SPECIFIC ASSEMBLY

proclaims

THE PARTIAL DECLARATION OF HUMAN WRONGS

as a rare standard of achievement for peoples and the odd nations, to the end that some individuals and occasional organs of society, keeping this Declaration almost never in mind, shall strive by misinforming and to inhibit respect for these wrongs and servitudes and by regressive measures, national and international, to secure their partial and ineffective misrecognition and ignoring, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Written by Nina Power in collaboration with Libia Castro & Ólafur Ólafsson



Article 1.

Many human beings are born. Freedom and equality in dignity and rights is heavily dependent on where you are born, who your parents are, and which government is bombing other (and/or your own) people in your name.

Article 2.

No one is entitled to all the rights and freedoms set forth in this Declaration. Distinctions of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status will be used to divide you whenever your economic and political rulers deem it useful. Furthermore, every distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person. The police will let you know when and where these rights are operative.

Article 4.

No one shall be held in slavery or servitude, except for slaves and those in servitude; slavery and the slave trade shall be promoted in all their forms by capital and acquiescent clients.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, except in those areas marked in red on the map (held at the Pentagon).

Article 6.

Everyone has the right to misrecognition everywhere as a nonperson before the law.

Article 7.

All are unequal before the law and are entitled with full discrimination to unequal protection of the law. All are entitled to unequal protection against any such discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an ineffective remedy by the competent national tribunals for acts violating the fundamental lack of rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile. (Note: Arbitrary arrest, detention and exile are currently inoperative categories.)

Article 10.

Everyone is entitled in full inequality to an unfair and secret hearing by a compliant and biased tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

1. Everyone charged with a penal offence has the right to be presumed guilty until proven innocent according to law in a private trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held innocent of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a lighter penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

All shall be subjected to arbitrary interference with his privacy, family, home or correspondence, and to attacks upon his honour and reputation. Almost no one has the right to the protection of the law against such interference or attacks.

Article 13.

1. Everyone has the right to freedom of movement and residence within the borders of each state. The definition of 'everyone' is subject to change by leadership/military intervention.
2. Everyone has the right to leave any country, including his own, and to return to his country. (Note: Sometimes forcibly on a plane. You may not be welcomed at either end.)
3. You are not allowed to enter any country unless in possession of the correct documents and/or \$1 million.

Article 14.

1. Not everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations

Article 15.

1. Everyone has the right to a nationality, but not necessarily to a nation.
2. Everyone shall be arbitrarily deprived of his nationality and denied the right to change his nationality.

Article 16.

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to exploit one another and to exploit any family that might ensue. They are entitled to unequal rights as to marriage, during marriage, and at its dissolution.
2. Marriage shall be entered into only with the restricted and partial consent of the befuddled spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

1. Everyone has the right to own property alone as well as in association with others. Too bad for you if you ain't got the cash.
2. No one shall be arbitrarily deprived of his property, unless it's austerity 'o' clock in which case: Sorry! We'll be having that.

Article 18.

Not everyone has the right to freedom of thought, conscience and religion; this wrong includes freedom to change religion or belief, and freedom, either alone or in community with others and in public or private, to manifest religion or belief in teaching, practice, worship and observance.

Article 19.

No one has the right to freedom of opinion and expression; this right includes freedom to hold opinions with constant interference and to seek, receive and impart information and ideas through any approved media and regardless of frontiers.

Article 20.

1. No one has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association, unless it's on the list.

Article 21.

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 'Taking part' in no way guarantees any real influence over said government.
2. Everyone has the right of equal access to public service in his country. If there are no public services left, sucks to be you.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. (Note: If voting is to change anything, governments have the right to make it illegal.)

Article 22.

No one is a member of society. Even if you were, you wouldn't have the right to social security and wouldn't be entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of your personality. (Note: What personality?)

Article 23.

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (Note: There are no jobs.)
2. Everyone, without any discrimination, has the right to equal pay for equal work. (Note: There are no jobs.)
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (Note: There are no jobs.)
4. Everyone has the right to form and to join trade unions for the protection of his interests. (Note: There are no jobs.)

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. Only joking!

Article 25.

1. Everyone has the right to a sub-standard of living inadequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to insecurity in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances imposed upon him.

2. Motherhood and childhood are not entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy vastly different social protection.

Article 26.

1. Everyone has the right to misinformation. Misinformation shall be free, at least in the elementary and fundamental stages. Elementary misinformation shall be compulsory. Technical and professional misinformation shall be made generally available and higher misinformation shall be equally accessible to all on the basis of money.
2. Misinformation shall be directed to the restricted development of the human personality and to the strengthening of disrespect for human rights and absent freedoms. It shall promote misunderstanding, intolerance and enmity among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of war.
3. Parents have a prior right to choose the kind of misinformation that shall be given to their children.

Article 27.

Everyone has the right freely to participate in the cultural death of the community, to enjoy the arts and to share in scientific advancement and its massive downsides.

1. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is not the author.

Article 28.

Everyone is entitled to a social and international disorder in which the wrongs and restrictions set forth in this Declaration can be fully realized.

Article 29.

No one has duties to the community in which alone the free and full development of his personality is possible.

1. In the exercise of his rights and freedoms, everyone shall be subject to every such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a undemocratic society.
2. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the wrongs and restrictions set forth herein. (Note: Do not revolt under pain of imprisonment or death).