Rights (human, animal, environmental)

Ekaterina Yahyaoui Krivenko

The concept of rights as certain entitlements with the associated capacity to make claims in case of their violation (as in constitutional rights, fundamental rights, or human rights) is regarded as a great achievement of modernity, separating our contemporary, developed societies from ancient times. The concept of rights, especially that of international human rights is also often regarded as intrinsically implicated in globalisation either by being part of globalisation processes or by being a tool that can cure at least some of the ills of globalisation (see various contributions in Brysk 2002; Coicaud, Doyle, and Gardner 2003). And while critical voices are present in these debates (for an overview, see Evans and Kirkup 2010), the concept of globalisation and the concept of rights underpinning these discussions omit to consider the integral relationship between connection and disconnection not only in the global condition, but also in the idea of rights. Just like the idea of globalisation, the idea of rights in contemporary scholarship is mostly construed in oppositional terms: either it is expanding and includes more people into its circle or, when inadequately implemented or conceptualized, rights are regarded as excluding some or failing to fully protect them. In this sense, the discourse of rights mostly functions to support the binary understanding of globalisation. The historical development of the idea of rights demonstrates that both processes – exclusion and inclusion – are interdependent and inseparable. The concept of rights is inconceivable without a simultaneous exclusion and inclusion, without an enactment of an 'active absence' of certain connections. In this regard, the concept of rights mirrors the concept of globalisation.

The concept of rights presupposes the concept of a human being as an individual. The term 'individual' deriving from the Latin '*in-dividuum*' literally means 'something indivisible, undividable' (Lewis and Short 1879, 936). An individual human person to be conceptualized as an indivisible entity requires a rupture which operates as a border around this individual. This border in the form of a rupture or interruption not only artificially extracts this individual from the multiplicity of his or her real connections with the world and the community but also makes invisible many ruptures running through the individual. Ancient Greek and Roman history as well as subsequent medieval and early modern debates that are often considered in the historical explorations of the emergence of rights illustrate well how the concept of the individual and with it the concept of rights emerge as a multitude of interruptions, inclusions and exclusions which co-constitute each other.

The ancient Greek tradition does not have a word which could be translated as 'rights' in the sense announced at the beginning of this entry. However, the concept or the idea of rights gradually emerges and complexifies already in ancient Greek

https://doi.org/10.1515/9783111600345-031

city-states. As highlighted, for instance, by Barta (Barta 2014), the idea of rights in its emerging sense might also have been present in earlier civilizations but this aspect will not be dealt with in this contribution due to space constraints. Initially, for the idea of rights to find its subject – the individual – a rupture from the community occurs: from a clan, a family or from other collective bodies that structured the life of humans in ancient times. In ancient Greece, this rupture is signified and reinforced by such developments as the distinction between intentional and unintentional causing of death in Drako's reforms (Barta 2014, 116), the introduction of the *graphè hybreos* (Requena 2020) or the emergence and politico-legal significance of such concepts as *eunomia* and *isonomia* (Meier 1977). However, like all ruptures, this emergence of an individual as an indivisible single separate entity at the same time leads to a fusion, in the Greek case in the form of a constitution of a new community, a different community that suited the purposes of the Greek polis, which later supplied a foundation for the contemporary European state.

At the same time as the individual holder of rights is constituted as an indivisible entity separate from the community, the expansion and articulation of these rights introduces interruptions within the individual. The debates for and against slavery from ancient Greece to modern times are the most illustrative example. All philosophical justifications of the maintenance of slavery from Aristotle to Kant are developed despite recognition of more and more rights to human beings as individuals. In these justifications, the rupture, which can take many forms, such as reason/emotion, soul/body, or homo noumenon/homo phenomenon, runs within the human being dividing this in-dividual into parts and attributing rights to only one part while depriving the other part of rights (Yahyaoui Krivenko 2023, 49–68). Simultaneously, some human beings such as slaves are associated mostly or exclusively with this other, non-deserving part – emotion, body, homo phenomenon – and are thus either deprived of rights or attributed fewer rights.

Natural rights as inalienable rights that any human being possesses by virtue of being human (Frankel Paul, Miller, and Paul 2005, i) might appear as dissolving all ruptures, all exclusions into a unified vision of humans as worthy of dignity and respect as one single global human family. Any serious engagement with natural rights theories will, however, immediately reveal the continuity of the 'active absence' of some connections in the form of ruptures and interruptions in the natural rights tradition. This tradition is too long and complex to be summarized in a few words as its origins are usually traced back to the Stoics (around 4th century B.C.), continue to be developed and debated in Roman and Medieval times, flourish in modern times and remain actively discussed today (Frankel Paul, Miller, and Paul 2005; Tuck 1979). This continuity can be illustrated here with one particularly telling example. To arrive at the modern meaning of rights as subjective rights (individual claims or entitlements) the idea of the in-dividual in the sense discussed

above is necessary but insufficient. In the gradual articulation of natural rights, this idea of the individual is joined with another set of concepts which denote the capacity of the individual to freely dispose of his or her being and destiny as well as the primacy of this capacity over others' decision-making powers. This view of rights is reflected in the following statement by Grotius:

> Civilians call a *faculty* that Right, which every man has to his own; but we shall hereafter, taking it in its strict and proper sense, call it a *right*. This right comprehends the *power* (*potestas*), that we have over ourselves, which is called *liberty* (*libertas*), and the power, that we have over others, as that of a father over his children, and of a master over his slaves. It likewise comprehends *property* (*dominium*), which is either complete or imperfect; of the latter kind is the use or possession of any thing without the property, or power of alienating it, or pledges detained by the creditors till payment be made. There is a third signification, which implies the power of demanding what is due, to which the obligation upon the party indebted, to discharge *what is owing*, corresponds. (Grotius 1901, I.I.V, emphasis added)

In this definition, rights are equated with power or the capacity to do something. This capacity to do something, while not entirely overlapping with it, has strong connections to the idea of property as the mastery of a free subject over an inanimate object. Although the term 'property' is expressly mentioned only in relation to one of the aspects comprehended by the term 'right', we can discern it in the overall idea of rights, which in the introductory phrase equates rights with what a man has as 'his own'. Even in the relationship to oneself (the first aspect of rights) there is a subject/object relationship similar to the property relation between a man and himself or 'the power . . . over ourselves'. This power is at the same time denoted as liberty. Therefore, liberty is simply a form of power and control over ourselves, thus implying a rupture within ourselves similar to the rupture implied in most standard justifications of slavery of the time.

This view of rights as property, as the mastery of a free subject over an inanimate object, which continues to be part of the contemporary articulation of rights (Rothbard 2016, 113–120) exemplifies one of the original interruptions which enabled the emergence of the in-dividual as the subject of rights, namely the rupture from the natural world, including animals. As mentioned, the subject of human rights, the in-dividual had to be separated from the broader environment whether constituted by human communities or the natural world. In the Western tradition, this separation occurred in such a way as to situate animals and the environment as inanimate objects over which the human subject of rights has power and the capacity to act in a way maximizing the rights of the individual just like economic profit is maximized in the extraction of natural resources, farming or other economic activities using animals or nature. This is best reflected in the centuries-long debates on humans as beings endowed with reason to separate them from animals

which are apparently deprived of that reason and therefore not deserving of the same treatment as humans (for a reflection on these debates, see Potestà 2009).

More recently, the extension of the language of rights to protect the environment, animals or even artificial intelligence raises the question of whether we might be at the threshold of a new discourse on rights that overcomes the inclusion/exclusion dynamic. More broadly, this raises the question of whether rights without ruptures and interruptions are possible and whether these developments with regard to rights discourse might prefigure a true globalisation without any dis:connect. The existing discourses on animal rights are not very promising in this regard because they mostly rely on historical Western arguments for human rights and simply extend them to animals. For example, by postulating the moral worth of sentient animals who can feel pain (Singer 2004) or by comparing some animals to infants as bearers of life and thus deserving of rights (Regan 1983, 283). Scholars simply displace the rupture that initially encompassed only the adult, wealthy, able-bodied white man to include some animals with some similarities to human beings, just as women or disabled people were gradually included in the circle, without overcoming the function of rupture as an 'active absence' of connections and thus conserving the exclusion/inclusion dynamic as such. The discourse on the rights of nature and earth jurisprudence, from which it emerged, (Burdon 2011; Kauffman and Martin 2021) is more interesting in this regard. Instead of centring on the human being or any specific being at all, it focuses on the interdependency of our existence on earth. Moreover, earth jurisprudence and the movement of the rights of nature is not limited to the Western European philosophical and cultural tradition but incorporates insights from indigenous traditions across the globe (→ **Epistemologies, alternative**). In this sense, it indeed appears to neutralize one of the foundational interruptions of the concept of rights, namely that between human beings and the natural world around them. However, caution is advised. The primacy accorded to nature and 'the natural' by earth jurisprudence, oftentimes reactivates the centuries-old Ancient Greek physis/nomos debate (Heinimann 1945) and thus conceals the potential of creating a new rupture between 'natural' and 'non-natural'. Every time the distinction between natural and non-natural comes to the surface, it also raises the question of who decides about the line separating nature from non-nature. By utilizing the language of rights and using the existing legislative and court structures, the movement of the rights of nature continues to rely on a system built on ruptures and interruptions discussed in this entry, thus potentially reinforcing them since who else but ultimately an in-dividual will bring claims to courts, enact, and implement laws? Perhaps the solution lies in the continuous primary attention to interdependency as in the expression 'dis:connect' that is also inaugurated by earth jurisprudence.

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Yahyaoui Krivenko, Ekaterina. 2023. *The Logic of Human Rights: From Subject/Object Dichotomy to Topo-Logic*. Edward Elgar Publishing Limited.