

22. Human rights

'The fortunes of ideas, like those of men, depend as much on accident as on their own worth and character'

Elie Kedourie

Synopsis: Rights which apply to all citizens indiscriminately on the information platform that is their state are human rights (1); Human rights, as is the case for rights, are permissions afforded by the state (2); The constitution (3); Human rights may or may not be afforded within a state (4); Platform rights (5–6); Equality (7); Liberty (8); Security (of information, not of the person) (9); Needs do not give rise to a respective platform right (10); Platform rights and natural rights (11); Some clarifications on platform rights (12–13); Human rights in the digital world (14).

1. *

Rights⁶³² which apply to all citizens indiscriminately on the information platform that is their state are human rights. As has been established,⁶³³ rights are normally specific to certain categories of citizens (for example, adults, employees, children, consumers etc.). By contrast, human rights are those rights that are applicable to all, at all times, without distinction.

In practice, from the point of view of individuals, human rights describe what can (and cannot) happen to them, or, conversely, what these individuals are allowed to do on the information platform that is their state.

2.

Human rights, as is the case for rights, are permissions afforded by the state.⁶³⁴ It is the state that grants the permission to all of its citizens to carry out specific types of processing on datasets (other Beings and Things).

632 Permissions to process; see Chap. 21.

633 In Chap. 21, par. 5.

634 See Chap. 21, par. 2.

22. Human rights

In other words, it is the state that allows its citizens, for example, to hold property, to have families, to process any religious information they wish (freedom of religion), to materialise their every thought (freedom of expression) and so on.

Unlike other rights, however, human rights are not delegated. While other rights are customarily delegated by the state to its citizens,⁶³⁵ human rights are managed by the state itself.

3. The constitution*

As is also the case for other rights,⁶³⁶ human rights are material, materialised on the information platform that is the state through regulation—usually at the highest level possible in the hierarchy of regulations for that specific state⁶³⁷ so as to affect all citizens indiscriminately.

The constitution, which is designed to sit at the top of the regulatory hierarchy in each state, is the obvious place in which to list human rights (and thus to materialise them).

4.

Of course, human rights may or may not be afforded within a state, meaning their materialisation is a political decision (as is the case, after all, for all rights⁶³⁸).

As history has proven time and again (also taking into account that the cataloguing of human rights, preferably in constitutions, is a relatively recent policymaking exercise that still lacks unanimity), whether all or some citizens enjoy many, a few or any human rights at all depends on the government and the political system⁶³⁹—the state merely makes this choice possible.

635 Ibid.

636 See Chap. 21, par. 4.

637 See Chap. 20, par. 10.

638 See Chap. 21, par. 2.

639 See Chaps. 12 and 12.1, respectively.

5. Platform rights

Notwithstanding that their acknowledgement in regulation in any given state is a matter of politics, are there any human rights that are inherent on the information platform that is the state, simply by means of its existence?

In other words, does the finding that states are information platforms for their citizens (in essence, individualisation mechanisms for humans) lead to the logical⁶⁴⁰ inference of any human rights?

If yes, then these (human) rights could be named platform rights, because it is to information platforms that they owe their existence and it is throughout the information platform that is the state⁶⁴¹ that they would⁶⁴² apply.

6. *

Although logical⁶⁴³ inferences can be drawn from any finding (proposition), there are certain human rights that can be inferred logically, simply because of states' existence (as information platforms for their citizens).

These pertain to⁶⁴⁴ equality, liberty and security (of information).

7. Equality*

Because all humans receive a name and a citizenship from their state, all humans are born equal towards their state.

However, it is important to note that all humans are born equal only with regard to their state. All humans are not born equal among them, each

640 See note 1/1/1.

641 Essentially, in any and all states, today and throughout human history.

642 'Should' effectively belonging to political theory (see note 0/1/3).

643 See note 1/1/1.

644 Although one cannot hope to construct a complete list of all platform rights derived logically from the finding that states are information platforms for their citizens, any list is expected to be short (or at least shorter than perhaps hoped for), because it is only direct logical relationships that give rise to them (so, for example, equality does not also give rise to, for example, human dignity or to freedom of expression, in spite of these rights stemming logically from it).

having varying abilities and health, and different characters, even before political systems and governments step in.⁶⁴⁵

8. Liberty*

Because all humans get a name and a citizenship (directly) from their state, all humans are born free from control by other humans, that is, all humans are born at liberty. Because there are no intermediaries in the individualisation relationship between a state and its citizens, no human is born controlled by (much less, the property of⁶⁴⁶) another human.

All humans are thus born at liberty from other humans and not from their states, because it is their state that turned them into individuals, given that states are natural to humans.⁶⁴⁷

With regard to the processing operations available to them, all humans have (some) control over all Things and Beings within their state—at the very least they can talk about them. In essence, this is what states do, they make possible the processing of information to individualised humans on their (information) platform.⁶⁴⁸ Consequently, all citizens on that platform can process, and thus control in some way, all information on that platform (of course, the types of control that each citizen can actually exercise vary vastly).

9. Security (of information, not of the person)*

Because all humans receive a name and a citizenship from their state (and are thus individualised), this information needs to remain secure, free from any tampering, at least for the duration of the human's life (and for a short time thereafter⁶⁴⁹).

Security of information⁶⁵⁰ may cover, particularly in developed societies, all information about the person, the creation of which was made possi-

645 Meaning, even before the particular circumstances of family or state increase even further the inherent inequality among humans, see also Chap. 2.1, par. 4.

646 See Chap. 24, par. 5.

647 See Chap. 25, par. 1.

648 See Chap. 8, par. 1.

649 See also Chaps. 14, par. 4, and 15, par. 6.

650 See also Chap. 14, par. 12.

ble⁶⁵¹ by the state; not only name and citizenship, but also family life, academic and professional achievements, and so on.

Importantly, however, security of the person ought not to be considered a platform right; no logical justification for the protection of human life comes as a result of a state's existence⁶⁵²—as history, unfortunately, has time and again proven most emphatically (and horribly).

10.

As has been seen,⁶⁵³ the list of platform rights is short: most notably, needs, even the need to survive, do not give rise to a respective platform right (or to any other right for the same purposes, although they do, of course, lie at the root of a(ny) right, in the sense that it is need that creates the will to process⁶⁵⁴).

11. Platform rights and natural rights*

Platform rights lie close to so-called natural human rights and their related theories. The fundamental difference between them, however, is that natural human rights are based on and derived from a theoretical assumption, a fiction (they are believed to exist in Nature and be discoverable through Reason, or to come from God), while platform rights come from a logical finding based on fact (states are individualisation mechanisms for humans).

12.

Needless to say, platform rights may or may not be granted to individuals within any given state—it is a matter of politics whether to grant them or not, as is their extent or the circumstances under which they apply.⁶⁵⁵

651 Personal information, see note 1/7/1, and also Chap. 14.

652 Therefore, an individual (a person) is not its information, see also Chap. 14, par. 12.

653 In par. 6.

654 See Chaps. 21, par. 1, and 5, par. 2.

655 See also par. 4.

13.

Platform rights apply only to humans, because states are natural only to them (and not to animals or organisations—or to artificial Beings, at least for the moment⁶⁵⁶).

14. Human rights in the digital world*

In the digital world the basic assumptions about human rights need to be reclaimed. As has been seen, human rights apply to individuals and are afforded by their state. These rights are, however, analogue-world-specific, the culmination of a process with its roots deep in human history—crucially, within an environment of scarcity (remembering that information in the analogue world is finite⁶⁵⁷). Both assumptions (that human rights apply to individuals and are afforded by their state) are being gravely challenged today in the digital world.

Even if these assumptions also remain in the digital world (notwithstanding that information in the digital world is also infinite⁶⁵⁸), it is far from certain that the list of human rights in the analogue world will also work in the digital. In other words, simply adding the word ‘digital’ next to any human right acknowledged today will most likely not work.

656 See also Chap. 21, par. 1.

657 See Chap. 1, par. 16.

658 Ibid.