

# The Right to Have Rights

Jan Pronk

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Human rights are absolute and universal. There is no order. All rights are equally important, though they may sometimes thwart each, such as freedom of opinion and non-discrimination. In such a situation it is a matter of political judgment how to realize all while keeping balance.

One particular human right is absolute with a capital A:: the right to be, to exist to live and stay alive as soon as you are born on earth. It implies the right to participate in a society of people enjoying the same right, equally.

However, not everybody does enjoy that experience. Treaties in which human rights are embedded often will not be kept. Rights are violated, due to power differences within society.

There is a second reason: failing communication between people. This too can be the result of an unequal distribution of power, but there is more. This is the subject of a stimulating study, written by Cees Hamelink: *Communication and Human Rights. Towards Communicative Justice*. Deficient communication processes are the starting point of his analysis of human rights violations. The book begins with a description of the history of human rights, and their significance as a norm for human action. Lack of compliance does not only result from power differences or an imperfect political order in a society. Clashes of cultures and interests in a globalizing world society also play a role. And Hamelink mentions a fourth possible reason: inherent human inclinations towards immoral behaviour. Together these four causes explain why human rights violations will likely be ineradicable.

Hamelink's line of reasoning doesn't make it easy for the reader. He offers a rich analysis, in which at times you see your own insights confirmed and at other times you are challenged to sharpen or recalibrate those insights. I highlight four points that I think require extra attention from the reader.

## *The right to communicate*

First, the core point of the analysis: the concepts of communication, communication rights, the right to communicate and communicative justice. These are four terms and sometimes they are used interchangeably in the book. Hamelink does not always make it easy for his readers to grasp his argument on first reading. I had to flip back each time. But that is a recommendation in itself.

On the face of it, communication rights are human rights just like others, such as the right to food, the right not to be discriminated against and due process of law. Communication rights then include, for example, freedom of religion and freedom of information - that is, to gather, receive, share and disseminate information - and freedom of opinion: to have and disseminate it. These rights apply to everyone, equally. They belong to the third generation of human rights: solidarity rights, collective rights, different from the first generation (political and civil rights and freedoms) and the second generation (socio-economic rights).

To the principle that communication rights also apply equally to everyone, women, children, migrants, refugees, indigenous groups, cultural minorities, Hamelink attaches a conclusion of far-reaching significance. What he is concerned with is not only the traditional freedom of information, opinion and expression, but also and above all the right to be heard. Freedom obliges.

Communication, says Hamelink, is not a linear process. It is not a one-way street. It is a form of mutual engagement. Real communication leads to community building, the formation and maintenance of a community. Something common is created, a "common understanding"

But that is only the case when everyone is heard. The right to be heard includes the right to be listened to, to be taken seriously as a human being. Hamelink makes it clear in his reflections that this is a basic right. Such a basic right comes first. He does not use the term himself, but his analysis boils down to this: communication rights are preliminary rights. If they are not respected, everything starts to slide. You could also formulate that as the right to have rights. That seems like a pleonasm, but it is not. The right to have rights underlies all other human rights. It is not just a fundamental right, but a *conditio sine qua non*.

## *Communication technology*

This brings me to a second point. Hamelink devotes a chapter in his book to the impact of developments in communication technology on the upholding of communication rights and thus of all other human rights. This obviously includes the Internet, surveillance technology, the use of algorithms, big data, artificial intelligence and robotisation. As a concerned citizen and integrated layman, I follow all these developments from a distance. They worry me, not least because there are many experts warning us. Warnings are even given by some capitalist tech entrepreneurs who know what they are talking about. But at the same time, I also read reflections to the effect that it is not all that bad, because the application of AI and other sophisticated technology always involves people themselves. That reasoning, however, does not reassure me: as if human rights can be left to people without question, regardless of their position of power, regardless of their motives. Besides, who decides? Who has the capital and who controls the technological infrastructure? Who decides where boundaries lie that should not be crossed?

Hamelink's reflection on this helps me a little further. He raises the possibility that, if it cannot be ruled out that new forms of human intelligence are developed that are superior to the capacity of the human brain, this means that humans will then have to start communicating with other life forms for the first time in human history. Unlikely? Perhaps, says Hamelink, but not expecting a development to take place in that direction is not a solid and sufficient reason for decision-making. Not for nothing was the precautionary principle introduced 30 years ago at the United Nations Summit on Environment and Development (Rio de Janeiro, 1992). If there is no scientific 100% certainty that a certain development will not occur, it makes sense to assume in policy choices that it will. Precaution then implies that no irreversible steps are taken. That is a good starting point in, for example, climate policy and genetic modification. It should also have been so in the development of nuclear weapons and should now be embraced in the development of Artificial Intelligence.

Hamelink concludes that decisions of such scope cannot be left to capitalist market forces or neoliberal politics. These are driven by "selfishness, greed, injustice, lack of compassion and the need to dominate". That combination flows from an overriding doctrine of growth. It creates a climate and state of mind that assumes that technology will eventually solve all problems. The idea is that anything possible is allowed and should. In the process, any moral responsibility for the consequences is denied. Technological modernisation is equated with progress of human civilisation.

### *The rights of the yet unborn*

The latter is obviously not the case, Hamelink argues, because this same technological and economic growth, now that there are no more limits in terms of space, time, speed, amounts of data and possibilities of applying them in different ways, is paving the way to mass human extinction. With the undermining of biodiversity, deforestation, depletion of natural resources and water scarcity, we are approaching our Earth's limit. With technological communication tools, people are tricked into consuming more and more. They become blinded by the opportunities material growth offers them, far more than they need to continue to exist as a society. The forces behind technology manipulate human needs, aspirations and behaviours in such a way that people no longer see the dangers.

This is a communication problem, says Hamelink, because here technology touches ecology. The right to speak is unevenly divided. In the conflict between capital and technology on the one hand, and humans and nature on the other, the latter come second. They lose out. Some people escape because they can protect themselves. The weakest and most vulnerable are not granted that, especially people outside the West. And nature has no voice, because human rights only apply to humans themselves, not to other life forms. And finally, the most serious form of violation of the right to communication: people who are not yet born are not heard at all. They do not get a say, but have to bear the consequences of our actions. They are not taken into account. They are doomed to silence. Human rights of future generations are violated because they are not granted the right to have rights.

### *A responsible social order*

In his book, Hamelink develops some thoughts on how to cope with the unfortunate combination of technological development exceeding human capacity and ecological degradation undermining human existence. Which brings me to the third point. Hamelink has little faith that attempts to reform the existing human rights regime or to formulate new human rights will provide a solution. That regime, he argues, is based on an order that is essentially anthropocentric, capitalist and technocratic. That very combination has caused the problems. Until that order changes, there is little point in reformulating or expanding human rights within that order.

However, there is no need for that either, as the drafters of the Universal Declaration of Human Rights themselves foresaw this at the time by including in that declaration an article that reads: "Every one is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised". That is Article

28, the article that is perhaps most overlooked. Hamelink finds the term "social order" unfortunate, but agrees that the realisation of human rights is determined by institutions within a society and by the mindset within which those institutions function. When that mindset is bureaucratic or colonial, institutions fall short. This leads Hamelink to formulate conditions that a social order should meet. It should be the opposite of the arrangements of today's order. Those are humiliating, predatory, exploitative and fearful. Instead, the aim should be an order that is caring, convivial, egalitarian and secure.

So, that is an order in which people care for each other, look after each other pleasantly, protect each other, and treat each other in all respects absolutely equally. It comes close to the concept of 'responsible society', as developed sixty years ago in the dialogue within the World Council of Churches: a responsible society is a society organised in such a way, in terms of institutions and state of mind, that the people who are part of it have the best possible opportunity to behave responsibly towards each other. In that dialogue, that concept was later elaborated into just, participatory and sustainable society, but it all comes down to the same thing: social institutions and mindsets must be designed in such a way as to create a social order that meets all these conditions.

### *Amor mundi*

But that is a tall order, writes Hamelink, and everyone will agree. However, is it merely an extremely difficult task to accomplish, or a Sisyphus task, doomed to failure? That question forms the fourth central point in his reflections. Hamelink writes: It is Catch 22: Can the social order be reformed using tools that are an essential part of the current order, which is capitalist, essentially unjust and, in terms of mindset, immoral? Why should people, as Reinhold Niebuhr wondered, "be moral in an immoral society?"

Hamelink answers that question at the end of his book with an appeal: "amor mundi, dare to love the world". A few pages earlier, Hamelink had quoted Rebecca Solnit who wrote: "This is Earth. It will never be heaven." He immediately follows this up with a quote from Borges: "There is no day without its moments of paradise", but that does not take away from the fact that every day it is not certain which moments prevail, the paradisiac ones or those of evil.

Does it all make sense in the end? Can human rights ever be right at all? Hamelink is realistic. He writes: "All successes are temporary. Evil is part of it. It cannot be eliminated. At best we can strive for a temporary balance, which will be disturbed every time". I fear he is right, but I have a hard time coming to terms with it. Today, when I look a little beyond the frontiers of Europe (Gaza, the Mediterranean, the Horn of Africa) even less than ever.

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