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5-1-2010

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Repository Citation

Wilkes, Donald E. Jr., "Indestructible Unalienable Rights" (2010). *Popular Media*. 65.
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INDESTRUCTIBLE UNALIENABLE RIGHTS

By Donald E. Wilkes, Jr.
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Perhaps the sublimest achievement of the Western World is the development of the notion that all human beings have immutable, imperishable basic rights, rights that trump all other interests, rights that cannot be denied or trampled upon except through injustice and barbarity. These rights of individuals include political rights, civil rights, and social rights.

Political rights permit individuals to participate in government and have a voice in legislation. The rights to vote and to run for political office, as well as the right to assemble peaceably to petition the government for redress of grievances, are examples of political rights.

Civil rights (often referred to as civil liberties) protect the individual from government oppression. Freedom of speech and of the press, freedom from arbitrary imprisonment, and freedom of religion are all civil rights. Many civil rights protect individuals suspected of, charged with, or convicted of committing a criminal offense. Indeed, the majority of the provisions of the Bill of Rights aim at securing the rights of criminal

defendants—for example, guarantees of trial by jury and the right to counsel, as well as protections against unreasonable search and seizure, compulsory self-incrimination, double jeopardy, and cruel and unusual punishment. The framers of the Bill of Rights well knew that to prevent governmental abuses it is essential to protect so-called criminals. The criminal law, they well understood, is society's heavy artillery against the individual.

The framers knew that nowhere is the government's coercive power against the citizenry greater than when it investigates, apprehends, prosecutes, or punishes persons who violate criminal laws. The framers were knowledgeable about the past and fully comprehended that the history of tyranny is the history of perverting the criminal law and the agencies that enforce it.

Social rights (or economic rights) are the human rights that have taken the longest to achieve recognition. Social rights guarantee such things as a minimum wage, safe working conditions, and retirement security. The Health Care Reform Act recently passed by Congress represents a giant step in the direction of recognizing that access to adequate health care is a social right and that no ill or injured individual should go without treatment simply because the individual cannot pay for it. Eventually there

will be universal agreement that health care is a fundamental right and that no individual should ever be permitted to suffer or die because of lack of funds to pay for medical care.

To recount the history of human rights protections in the Western World would require many volumes. The Magna Carta of 1215, which prohibited King John from arbitrarily arresting, exiling, or seizing the property of his subjects, was perhaps our first true piece of human rights law-making. It was in the 17th century that human rights notions first received widespread support by political philosophers and that modern legal protections of human rights first came into existence. The most notable examples of such legal protections were the English Religious Toleration Act and the English Bill of Rights, both dating from 1689.

It was the 18th century, the Age of the Enlightenment, which unshakably established that individual rights are supreme and that governments must respect these rights as inviolable. Human rights principles undergirded the two great political upheavals of that century—the American and the French Revolutions. These revolutions produced three of the most significant human rights documents of all time—the American Declaration of

Independence of 1776, the French Declaration des Droits de l'Homme et du Citoyen of 1789, and the American Bill of Rights of 1791. Our Declaration of Independence not only pronounces the rights of individuals to be "unalienable," but also states that governments exist "to secure these rights."

The struggle to maintain or enlarge human rights is a never-ending one, and progress in protecting these rights is sometimes followed by periods when these rights are ground underfoot. But these rights are indestructible and over time inexorably gain ground. The expansion of human rights protections is an inherent part of the evolving standards of decency by which mankind moves ahead morally and culturally. Denying or weakening human rights is the path back to the jungle. "Callousness to the rights of individuals and minorities," it is truthfully said, "leads to barbarism and the destruction of essential values of civilized life."

At the close of WW2, with the Axis totalitarian regimes crushed and the liberating armies of the Allies triumphant, President Harry Truman said in a speech: "We know now that the spirit of liberty, the freedom of the individual, and the personal dignity of man are the strongest and toughest and most enduring forces in all the world." All hail Harry!

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