

# Lecture 4: Power of Values and the Process of Value Realization

Winston P. Nagan

Garry Jacobs

With the assistance of Madison E. Hayes.

## I. Values and Science

- The discussion of values in society and in the social sciences in general is always an uneasy business.
- From a scientific point of view, a proper science of society has to be value-free. If the discourse of the science of society is permeated with values, it is permeated with human subjectivity and not scientific objectivity.
- On the other hand, we know that in human society the important stakes about community organization, endurance, and promise seem to be tied up with values in some form or another.
- The traditional limit on the use of values in the discourse of law and the study of society from a scientific point of view remains a problem for the subjectivity of value-toned discourse.
- Let me start with a distinction. Values in the context of both law and social science are used in two distinct ways.
  - First, values are used descriptively. In this sense, the scientific observer is merely observing the value-conditioned behavior of social or legal participators. What does the observer see? He sees individual human beings acting in a community, energized to pursue the things that they desire or value. In this sense, viewed from an anthropological point of view, what we call things that are desired or valued might, in a basic sense, be the human needs that the individual seeks to secure in the social context of his or her life. This is simply a descriptive inquiry into what the individual wants, how the individual goes about getting what he wants, and what he does with the desired thing that he has gotten. This will give us a description of the system of community or public order as it is.
  - There is another sense in which the term values is used. In this sense, the term is vested with normative importance. In other words, the question is not how values *are* produced and distributed but how they *ought* to be produced and distributed. This, therefore, is not a descriptive exercise; it is an exercise of normative judgment.
  - In the case of values used as a description of community order as it is, we are dealing with propositions that can be proved or disproved by observation, creating a hypothesis about what is observed. Further observation may prove or disprove the hypothesis. This is an empirical inquiry. When values are used in a normative sense, we are really evaluating the goodness or badness of their production and distribution.
- The determination of the normative priority or the preference given to a value statement reflecting the “ought” will have to be established by some other criterion of validation. That criterion, at least in the context of moral philosophy, is based on the idea that a statement about a normative preference or “ought” can be validated by reasons external to the statement-maker. In short, there are objective, justifiable reasons that may be formulated to determine the currency, or lack of it, of a moral or value proposition.
- We shall be using the terms value in both a descriptive and a normative sense, but we will attempt to secure a sufficient clarity of exposition that while we discuss them as interrelated matters, we can

keep them sufficiently distinct in order to establish different insights into the problems we are discussing about society.

## II. Human Needs and Values in the Anthropomorphic Sense

- The anthropological literature has given us a key to understanding life in a very elementary community. Life revolves around human beings energized to satisfy human needs. Anthropologists also identify the structures that emerge from society which are specialized in whatever degree of efficacy to facilitate securing those needs.
- When we map needs onto institutions, we emerge with a social process that is based on the interaction of energies directed at securing needs through institutions. These institutions direct human energies, in some degree, to the satisfaction of those needs.
- We can now begin to identify basic human needs as the goods, services, honors, and gratifications that people in society desire or need. Moreover, we can classify these desires/needs in terms of the basic values that the individual social participant acts to secure for himself and those dependent on him. Thus, we may emerge with a model of social process in which human beings pursue values through institutions based on resources. Now, this is a purely descriptive inquiry, but it is possible to observe that the needs/values and the institutions specialized to secure them are, generally speaking, identifiable. What are these values and what are the institutions specialized to secure them in any social process?

**Table 1: The Social Process of Values, Institutions, Situations, and Outcomes**

Values	Institutions	Situations	Outcomes
Power	Governance-Political Parties	Arena	Decision
Enlightenment	Universities- WAAS	Forum	Knowledge
Wealth	Corporations	Market	Transaction
Well-Being	Hospitals, Clinics	Habitat	Vitality
Skill	Labor Unions, Professional Organization	Shop	Performance
Affection	Micro-social Units (Family) Macro-social Units (Loyalty)	Circle	Cordiality, Positive Sentiment, Patriotism
Respect	Social Class	Stage	Prestige
Rectitude	Churches, Temples	Court	Rightness
Aesthetics	Museums, Monuments, Culture	Creative Orientation	Symbols of Cultural Beauty and Aspiration

- In this representation, values and institutions are represented descriptively in order to describe the system of community order as it is. It should, however, be understood that the social process of the community is a dynamic process in which there is an energy flow between the participators, the values, the institutions, and the results.
- Some of the results are generative of conflict. Other results are generative of the success of institutions functioning optimally.
- What is important is that social process is a generator of problems, and these problems are about the acquisition and distribution of values. This means that the dynamism of society requires a decision process that is frequently challenged to produce a solution to the problems of value conflict, value deprivation, or value over-indulgence. Thus, the community response to the problems that values pose for community order invariably must implicate a normative dimension about the optimal

allocation of values in society. Indeed, some political scientists describe political science as concerned with the authoritative allocation of values in society.

- In reviewing this map of values and institutions of social process, it is important to keep in mind that it is the human perspective that gives meaning and life to the values and institutions in society. The human perspective comes with the perspective of identity, ego-demands, and the value ideals of expectation. These perspectives are driven by deep drives for self-actualization, self-realization, and psycho-social fulfillment. In this sense, the private motives of personality, even when displaced on public objects and rationalized in the public interests, still represent an underlying force that moves the personality in all social relations. This underlying force may be the force of self-affirmation for self-determination and is the most foundational energizer of the demand for human rights and dignity.
- The relationship between personality and value achievement may itself generate a sense of inner-fulfillment, which, in turn, becomes the driver of still greater levels of value creation and achievement.

### III. The Authoritative Allocation of Values

- The problem of an authoritative allocation of values implicates the idea that there may be different standards, which justify one form of allocation over another.
- Historically, at least in law, there has been an assumption that legal interventions are meant to discriminate between the claims for values that are just and those that are unjust.
- It is this challenge that has given rise to the great traditions of jurisprudence and, most importantly, the jurisprudence of natural law. Natural law, however, could only generate procedures, not substantive rules, to facilitate the use of right reason in the resolution of value conflicts.
- Two of the most enduring of these natural law-based rules have survived and are essentially matters of procedural justice: *audi alteram partem* [the obligation to hear both sides] and *nemo iudex in causa sua* [no one should be a judge in his own cause]. However, we had to await the aftermath of the tragedy of the Second World War before we got a kind of official code of natural law in the form of the Universal Declaration of Human Rights.
- Although couched in the form of rights, the Declaration may be reduced to nine fundamental value-needs categories. The adoption of a code of moral priority, intended to bind all participants in the international system limited the speculation about the role of values in the social process.
- Although most intellectual and scholastic speculation stresses the notion that values are somewhat opaque, difficult to distill, and even more difficult to clarify, the adoption of the United Nations Charter has served as a political impetus for the development and clarification of values.
- As a starting point, therefore, we may reduce the Charter [a legally binding instrument of global salience] into several comprehensible and clearly articulated keynote precepts. We list them as follows:
  1. The Charter's authority is rooted in the perspectives of all members of the global community, i.e. the peoples. This is indicated by the words, '[w]e the peoples of the United Nations.' Thus, the authority for the international rule of law, and its power to review and supervise important global matters, is an authority not rooted in abstractions like 'sovereignty,' 'elite,' or 'ruling class' but in the actual perspectives of the people of

the world community. This means that the peoples' goals, expressed through appropriate forum (including the United Nations, governments and public opinion), are critical indicators of the principle of international authority and the dictates of public conscience.

2. The Charter embraces the high purpose of saving succeeding generations from the scourge of war. When this precept is seen in the light of organized crime syndicates' involvement in the illicit shipment of arms, the possibility that they might have access to nuclear weapons technologies, and chemical and biological weapons, the reference to 'war' in this precept must be construed to enhance the principle of international security for all in the broadest sense.

3. The Charter references the 'dignity and worth of the human person' The eradication of millions of human beings with a single nuclear weapon or policies or practices of ethnic cleansing, genocide and mass murder hardly values the dignity or worth of the human person. What is of cardinal legal, political, and moral import is the idea that international law based on the law of the charter be interpreted to enhance the dignity and worth of all peoples and individuals, rather than be complicit in the destruction of the core values of human dignity.

4. The Preamble is emphatically anti-imperialist. It holds that the equal rights of all nations must be respected. Principles such as non-intervention, respect for sovereignty, including political- independence and territorial integrity are also issues that remain under constant threat of penetration by alienated terrorists or organized crime cartels.

5. The Preamble refers to the obligation to respect international law (this effectually means the rule of law) based on only on treaty commitments but also on 'other sources of international law'. These other sources of law include values, which complement efforts to promote ethical precepts built into expectations of the universal ideals of morality.

6. The Preamble contains a deeply rooted expectation of progress, improved standards of living, and enhanced domains of freedom and equality for all human beings on the planet.

- Based on the keynote precepts in the UN Charter, the world community also adopted an International Bill of Rights.
- The central challenge to a scholastic understanding of the International Bill of Rights is the need to clarify and distill its basic, underlying values.
- It may now be with confidence stated that we can distill at least nine functional values that underlie the entire international bill of rights. In a general sense, these rights, when considered collectively, represent the integrated, supreme universal value of human dignity.
- The central challenge then, is that those charged with decision-making responsibility must prescribe and apply a multitude of values in concrete instances and hope that their choices contribute to the enhancement of human dignity and do not, in fact, disparage it.
- At an abstract philosophical level, distinguished philosophers such as Sir Isaiah Berlin have maintained that it is futile to attempt to integrate these values with the abstract principle of human dignity because fundamentally, these values are incommensurable. Not everyone agrees with this. Specialists in decision and policy acknowledge that human dignity based on universal respect represents a cluster of complex values and value-processes.

- Therefore, the challenge requires that ostensibly conflicting values be subject to a deeper level of contextualized social insight and a complete sensitivity to inter-disciplinary knowledge, procedures, and insights. Thus, decisions in these contexts are challenged with the task of broader methods of cognition and a better understanding of abstract formulations of value judgments. Disciplined intellectual procedures have been developed to provide better guidance in particular instances of choice to approximate the application and integration of values in terms of the human dignity postulate.
- Does the ethic of universal respect and human dignity demand absolute, universal compliance at the expense of other universally accepted values?
  - Ensuring that the values of respect, democratic entitlement, and humanitarian law standards are honored requires fine-tuned analysis and great subtlety in the structure and process of decisional interventions.
  - Rules of construction and ‘interpretation’ are painfully worked out, which hold, for example, that even if a peremptory principle (*ins cogens*) of international law embodies an obligation *erga omnes*. It should be evaluated, appraised, and construed to enhance rather than disparage similar rights, which may also have to be accommodated.
  - The currency behind the universal ethic of essential dignity and respect is that it provides practical decision-makers with goals, objectives, and working standards that permit the transformation of law and practice into a greater and more explicit approximation of the basic goals and standards built into the UN Charter system itself. This prescribes a public order committed to universal peace and dignity for the people of the entire earth-space community.

#### IV. Values and Public Order

- It is useful to approach the questions of value in terms of the nature of the public order that the rule of law system seeks to promote and defend.
- The system of public order secures the complex values that it is committed to defend by making an essential distinction between the minimum-order aspects and the optimum-order aspects of the system of public order.

##### A. Values and the Minimum Order

- We may understand the relationship between community, minimum order, and values by imagining a society without an expectation that agreements and exchanges made in good faith and according to law will be honored, that wrongs (delicts) inflicted upon innocent parties will be compensated, that basic interests and expectations of entitlement [as in fundamental norms of right and wrong] shall be sanctioned by a collective community response, or that basic structures of governance and administration will respect the rules of natural justice such as *nemo iudex in sua causa* or *audi alteram partem*, and will in general constrain the abuse of power and thus the prospect of caprice and arbitrariness in governance.
- The necessity of minimum order in a comparative, cross-cultural, historic reality is that human beings interact within and without community lines. In doing so, they commit wrongs intentionally or unintentionally, they require some security over their possessions and entitlements, and their systems of governance aspire invariably to constrain the impulse for abusing power. These are the minimum values of social coexistence.

- It is in this sense that law as minimum order confronts the idea of justice and potentiality.
- It is commonly thought that minimum order is a critical, but not absolute condition of a more just, more decent, more optimistic human prospect. The rule of law precept is uncontroversial in the sense of minimum order and its ‘boundaries.’
- Peace, security, and minimal standards of human rights are reflections of these values in international, constitutional, and municipal law.
- Fundamentally, the quest for the maintenance of a minimum order in society would appear to be an essential condition for the individual or aggregate of individuals to evolve toward a social process that maximizes value production and distribution. It is possible to see in this an evolutionary idea of progressive change relating to the production and distribution, optimally for all social participants.

## **B. Values and the Optimum Order**

- This challenge to the public order raises the question of the production and the distribution of values beyond the minimum for social coexistence. This is the challenge of the unequal distribution of opportunities or results.
- Human beings exist not only spatially, but also in terms of the duration of time and events. There is hopefully a tomorrow, a next week, next month, next year, and next century.
- Human beings are also transformative agents who make things happen, and in doing so underline the question embedded in the nature of law and community that we can change things for better or worse, for the common good or the special interests, for the sense of expanding human dignity or the prospect of a negative utopia, the rule of human indignity.
- The central challenge for values posed by the optimum order precept is the problem of the procedures and methods for producing values as well as the procedures methods and normative ideas about the fair distribution of the values that are produced in society.
- At the back of the concern for human values is the belief in human capacity for the essential, energized generation of value at every level of the social process and the human resource as a producer of ideas, insights, and values of exponential salience.
- At the back of the human dignity idea is the belief that widespread human dignity flourishes when the dignity of the individual flourishes and reproduces values of exponential importance for the common interest of all.
- Fellows of the Academy have suggested that the nine values embedded in the International Bill of Rights [power, wealth, respect, rectitude, enlightenment, skill, affection, health and well being, and aesthetics] are the key to the notion of a public order of human dignity. They postulate that the maximal production and distribution of these values on a universal basis is the key to improving the human prospect and approximating a public order of human dignity.
- This means that the prescription, application, and enforcement of the fundamental values behind human rights remain a major professional challenge for the global processes of governance charged with the defense of global public order.
- We may conclude that value needs are a condition and a consequence of focusing and directing the energy of the human perspective into concrete operations that establish

institutions concentrated and specialized to value realization. In this sense, values and needs are incentives that generate a self-directed force, which ultimately evolves into institutions of effective power crucial to the allocation of values.

- It is possible to see these generalizations in the evolution of the sovereign authority of the nation-state and its own evolution from state absolutism to sovereignty routed in people's expectations.
- Another insight of this model is found in the notion that the power process itself is energized by human expectations, especially expectations of demand. Without demanding or claiming an aspect of social power, society would be static. Thus, we see in the power process, the social activist. In the United States, Rosa Parks resented segregation in public transportation, so she staked a claim to repudiate racial discrimination in public transportation. Gandhi was thrown off a train in South Africa because he was not white. He initiated a claim to challenge the power of the state to impose unjust discriminatory laws. His challenges to the power process brought him to India as a leader of the Indian Independence Movement. Nelson Mandela challenged apartheid and indicated in open court that he was committed to human dignity and democracy and that these ideals were ones that he was prepared to die for. Therefore, it is important that we have a clear understanding of the process of effective power, and what the limits and strategies are of mobilizing bases of power, to effect meaningful social change.