

## Tracing the Roots of Modern Human Rights in Ancient Greek Thought.

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### Abstract

The establishment of the modern human rights regime, a pivotal development that transpired in the aftermath of the Second World War, marks a watershed moment in the annals of global governance. However, it is imperative to recognize that the foundational bedrock upon which this regime stands embodied by concepts such as freedom, equality, the right to vote, and the notion of natural rights extends its roots far beyond the mid-20th century. These bedrock principles have an intricate lineage, manifesting in various forms throughout history and across diverse cultures. To unravel this historical continuum, one need not look solely to the post-World War II era; rather, a profound exploration reveals that analogous ideals have left indelible imprints across different countries and epochs. Among these cultural tapestries, ancient Greece emerges as a particularly rich and influential backdrop, offering a plethora of ideas that resonate with the very essence of contemporary human rights. In an earnest pursuit of understanding the intricate interplay between ancient wisdom and modern conceptions, the present paper embarks on an insightful examination. Through a meticulous study, it endeavors to illuminate the myriad ideas and features that emanated from ancient Greece, serving as precursors to, and reflections of, the multifaceted concept of human rights as it is comprehended and cherished in our present-day global discourse.

**Keywords:** Human rights, ancient Greek thought, women's status, notion of rights, political theory

### Introduction

The inherent dignity and worth of human beings, their freedom, and equality are among the foundational principles of human rights as we understand them today. While the modern human rights regime can be said to have been established in the aftermath of the Second World War with the setting up of the United Nations in 1945, and thereafter, the adoption of the Universal Declaration of Human Rights in 1948, followed by numerous other human rights instruments at the international, regional and national levels, some of the concepts and ideas that underlie and form part of these instruments can be traced much further back in history, in fact to ancient Greece.

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The ancient Greeks were possessed of ‘an unusual degree of insight into natural and social phenomena’ and inquired into a range of questions including those on the state, its origin and basis, and its relationship with other ‘higher’ or more fundamental standards, all of which remain relevant today, and it is for this reason that the views of the ancient Greeks are reverted to in studying a variety of subjects (Bodenheimer, 2006). The concept of human rights as understood in the present in terms of rights investing in persons by virtue of being human are often traced to the notions of natural law and natural rights, and many Greek philosophers, poets, and authors recognized the existence of such a natural law (distinct from human laws), though as will be discussed, the notions, while comparable, may not precisely correspond with later or present-day understandings.

Although there was no expression in ancient Greece conveying a meaning similar to the modern concept of ‘rights’, Miller (2003) argues that it is wrong to assume that the Greeks had no concept of rights (see also Cartledge and Edge, 2009; Preus, 2005). In fact, numerous related concepts such as those of liberty and freedom (‘negative individual freedoms’ in today’s context), justice and so on, found place, and were considered as available to those living as citizens in self-governing communities (Cartledge and Edge, 2009).

The present paper seeks to study the concepts and ideas from ancient Greece that are reflected in the modern human rights regime. The next section provides a background of ancient Greek society which was initially organized as households and clans but with the establishment of the city-state or *polis* started to see the participation of people in governance in their individual capacity, and the emergence of ideas relevant to modern human rights, as also political rights that are seen as fundamental today. The third section specifically considers some ideas and concepts such as natural law and natural rights, the social contract theory, equality, the rule of law and justice, notion of rights, political rights and free speech, the position of women and slavery in terms of how these

aspects were reflected in ancient Greece and how they are understood in the present context. The final section sets out the conclusions.

## Ancient Greek Society

Ancient Greek society in the Homeric Period consisted of households and clans headed by the *kyrios* (the term *agathos* is also used, see Herbert, 2003), which worshiped common gods or ancestors. There was no notion of individuality and people were looked upon simply as members of clans. The household (*oikos*) comprised the basic unit of society—social, economic, and political. It included kin members as well as others such as slaves, concubines, illegitimate children, relatives who were no longer attached to their own family, and so on (Herbert, 2003; Roy, 1999). As Morrison notes, in Homeric society, basic social values as well as man’s place were predetermined as were the privileges and duties that followed from that status (1997). Consequently, there was no notion of individual rights as modern theorists conceptualize. The clan had great authority over its members. Property was also held by the clan as a whole and could not be divided; it was held by the *kyrios* and after his death passed on to the next oldest male descendant (either offspring or in their absence the brother of the *kyrios*). Members were required to live in accordance with the ways of the clan and owed duties only to the clan. There was no requirement of respecting the gods, and so on of other clans (Herbert, 2003).

In the ancient period, law and religion were almost inseparable and it was believed, as Homer felt, that law was communicated by the god Zeus to the heart of man (Bodenheimer, 2006). The Oracle at Delphi was resorted to both for the ‘enunciation of the divine will’ and matters pertaining to legislation (Ibid). In fact, it is noted that among the most important powers of the Oracle was establishing law and order (Hayward, 2020).

With the establishment of the city-state or *polis*, a change in the position related to ‘rights’ came about. It was the city-state that provided the background in which philosophers and poets developed thoughts on

law and government from which various relevant ideas emerged (Friedman, 2003). As city-states were established, the clans began to weaken. City-states were governed by a council of nine *archons*, and while they were chosen on the basis of their membership of clans, they acted in their individual capacity in performing their various functions. With the passage of time, the influence of clans reduced further and individuals for the first time came into being as individuals (Miller, 2003). This did not automatically, however, translate into any notions of equality. Many, particularly those who were not members of clans, could still not participate in governance or voice their opinions.

More significant changes came with the reforms introduced by Solon (638–559 BC) which brought certain practices comparable to the present-day ideas of rights. One major change introduced by Solon was the possibility of persons being part of governance based on their property rather than their membership of clans. This implied that at least in theory, any person could be a part of the process of governance (Friedman, 2003). Solon abolished debts and debt bondage and empowered the less-well-to-do by providing them political rights, facilitating wider participation in decision-making processes (Adamidis, 2017). Some commentators have noted that by 458–457 BC almost all citizens had the right to vote, and the highest office was open to more than half of the citizens (Devine et al., 1999). A stronger set of political rights thus developed with the reforms introduced by Solon.

Greek thinkers and philosophers considered a range of issues and questions, important among them that of the conflict between the laws of man and those of nature, the latter being seen as ‘higher’ than man-made laws. Other ideas such as equality and the notion of the social contract, that is, the supposed contract between the state and citizens whereby citizens obey the law of the state, the latter in turn providing protection and various facilities, were also explored by the ancient Greeks.

Questions of law and justice found place in the ideas

of, *inter alia*, Plato and Aristotle whose approaches differed from each other. Both, however, had notions of a naturally right way of life. Plato’s concept of the naturally right was objective, something that could be pursued by those with sufficient ability rather than equally by all (that is, as ‘permitted’ by one’s historical and temporal circumstances) while Aristotle felt that by nature there was a highest form of excellence and natural right was the end to which people strive and not acting according to one’s pleasure or whim (Herbert, 2003).

On the other hand, the position of women, as also of slaves, was different from that of men/citizens, and they did not enjoy similar or even comparable ‘rights’. The next section discusses some of these concepts and ideas as they were seen by ancient Greek thinkers and their reflections in modern theories of human rights.

## **Ancient Greek Thought and its Reflection in Modern Theories of Human Rights**

As discussed in the previous section, with the development of Greek society from a time when it was structured based on clans and lacked individuality, to the establishment of the *polis* and with it the emergence of various ideas concerned with law and governance, different concepts and facets reflected in modern rights regimes started to be seen. Discussed below are some of these notions as understood at various points in ancient Greece and how these stand against present-day ideas of human rights and related concepts.

### **Natural Law/Natural Rights and Human Rights**

Most Greek thinkers from the Sophists to Plato and Aristotle had notions of natural law and natural justice and the existence of some standard higher than the laws of man. Such a law was eternal, universal and all-encompassing (‘absolute standards of right or justice’) and beyond the context and needs of a particular society or the whims of particular law-makers (Lauren, 2013; Finch, 2009). Sophist thinkers like Antiphon distinguished between the laws of man (*nomos*) and the laws of nature (*physis*) and stressed

that none can violate the laws of nature with impunity though one who violates the laws of man would go unpunished if the violation were not detected (Bodenheimer, 2006). Callicles, a Sophist and Thrasymachus believed that the right of the strong is a postulate of the law of nature and in acting in accord with it, one would be following the dictates of nature. Aristotle's notion of natural justice was justice that was based on human nature and was universal and different from that of legal justice based on positive laws (Ibid). Among examples of more specific rights, Demosthenes (described as a rhetorician rather than a philosopher) traced the right of individuals to protect their property to a 'higher law' common to all human beings rather than the law specific to different states (Miller, 2009). The modern Western concept of human rights that is prevalent today is that of 'rights' which people have 'by virtue of being human' (in other words, according to standards other than man-made laws) and are thus essentially universal in nature, seen as inherent in human beings.

The conflict between natural and human law was a question considered by Greek thinkers, and a classical expression of this is seen in the works of Sophocles (Friedman, 2003; Bodenheimer, 2006). The play *Antigone* by Sophocles is one instance of such exploration. In the play, Antigone chooses to disobey the human law or the command of the King Creon who had decreed that her dead brother was to remain on the streets without burial and obey instead the divine or eternal law warranting that the dead should be given a decent burial. She says, 'not of today nor of yesterday they are, but live eternal, nor would I fear the wrath of any man (and brave God's vengeance) for defying these' (Bodenheimer, 2006). The debate between natural and human laws that was considered by many in ancient Greece is found repeatedly in the development of human rights in the West (Devine et al., 1999). It can be compared with notions of 'human rights' discussed by natural law thinkers and their criticism by, among others, positivists, who believe that human law, or laws posited by human beings (the sovereign authority) is the only law. It can also be compared with debates on law & the role of morality.

## Social Contract

The modern Western concept of human rights or at least, the basis thereof is often traced back to the ideas of natural law thinkers such as Hugo Grotius, Thomas Hobbes, John Locke and Jean-Jacques Rousseau, whose writings laid down the foundations for theories and standards of human rights prevalent today. These thinkers based their theory of rights on the fact that all men were born free and had certain 'rights', some of which they surrendered on entering into a 'social contract'. The notion of a social contract is thus based upon the idea that men as individuals possess certain rights and those rights that people cannot/do not give up when entering the 'social contract' are their basic human rights.

The concept of the social contract was also found in the ideas of the ancient Greeks. For instance, Glaucon propounded a social contract theory that has been compared to the theories of Hobbes, Locke, and Rousseau, and Lycophron is said to have maintained that law is dependent on a contract, with the end of law being the maintenance of individual security (Ritchie, 1903). The dialogue *Crito*, between Socrates and Crito also refers to the existence of an agreement between the state and citizens (see Preus, 2005). *Crito* is a dialogue between Socrates and his friend Crito, taking place after the trial of Socrates when he is awaiting execution. Crito attempts to persuade Socrates to escape from prison, and thereby, the unfair sentence imposed on him. Refusing to do so, Socrates raises various arguments, among them the question that by running away, would he not be destroying the laws and the civic community, for he stands in an 'agreement' with the state to honor its decisions (Woods and Pack, 2007).

## Equality

Equality or the fact that 'all human beings are born free and equal in dignity and rights' is affirmed in the opening article of the Universal Declaration of Human Rights. Prior to this, the Declaration of Independence of the United States (1776) and the French Declaration of the Rights of Man and Citizen (1789),

too, recognized that all men are created/born free and equal in rights. Equality is in fact, a basic tenet of any modern democratic regime based on respect for human dignity and rights.

The idea of the equality of persons was also found in the thoughts of various Greek thinkers and writers. For instance, the Sophist thinker Alcidas believed that all persons are born free, and others like Lycon felt that the inequalities among men were created by men and did not exist in reality (Richie, 1903). Further ideas of equal justice and opportunities for advancement were also expressed such as in Pericles' Funeral Oration which spoke of 'equal justice to all in their private differences' as well as of equal opportunities for advancement (Preus, 2005).

In practice, the Athenian legal order strictly preserved the notion of equality, and total political equality was ensured allowing each citizen to participate in public business including the right to initiate proceedings and participate as a juror in the courts (Adamidis, 2017). Another pertinent concept is that of *isonomia*, translated as 'equality before the law' which formed part of 'the general movement from aristocracy to democracy' in ancient Greece, and with which the inferior classes 'attempted to gain full political rights' (Kreider, 1973). Moreover, as Demosthenes noted (with regard to Athens), the introduction of any law which did not 'affect all citizens alike' was forbidden (Cartledge and Edge, 2009).

However not all Greek thinkers put forth ideas of equality of persons. Plato, for instance, believed that men by nature are unequal and that nature had endowed men with different qualities based on which he classified men into gold, silver, bronze and iron. The characteristics were not necessarily hereditary (Morrison, 1997).

## Rule of Law and Justice

Aristotle believed in something comparable to the rule of law and felt that magistrates should govern and should be governed by law. Rule of law for him was necessary for good governance and to protect the interests of individuals (Lauren, 2013). Relatedly he

preferred that laws should be written, thus 'guarantee [ing] against the instability of men who were easily swayed by passion' (Doyle, 1963). At the same time, he gives a place in his scheme of things to equity, which he felt should be relied on in the absence of law (Bodenheimer, 2006). As Beever argues, for Aristotle the role of equity was 'to prevent law from adhering too rigidly to its own rules and principles, when those rules and principles produce injustice' (2004). His notion of distributive justice was based on equitable principles. According to Plato, on the other hand, as set out in his work *the Republic*, in the (ideal) state, the philosopher kings would rule based on their wisdom and not according to written laws (although later, in *the Laws*, he acknowledged the role of written laws). He felt that in an ideal state, justice would prevail. He looked beyond the laws of man for a more permanent source of justice (Devine et al., 1999; also, Morrison, 1997). Demosthenes, a statesman and orator, argued that sovereignty lay in the people and advocated popular sovereignty and the rule of law (Miller, 2009)

## Notion of Rights

Ancient Greece, however, did not as such have a concept of rights as defined by modern human rights theorists. In other words, there does not appear to be any idea of rights as 'claims' made against the state, although in one interpretation as discussed below in this section, there was a notion of 'just claim'. Plato's and Aristotle's understanding of rights related to the right way of life and achievement of the excellence that was by nature 'right' for man. The modern concept of rights recognizes the liberty of individuals to aim for any standards of excellence they set for themselves (rather than only those dictated by nature).

While there was no expression corresponding with the modern notion of rights, there was an idea of duty. For instance, in Plato's view the philosophers had the duty to serve the city-state and the citizens had duties to each other as well as to the social organism (Miller, 2009). One also finds other related ideas such as that of law (*nomos*), justice (*dikaiosyne*), freedom (*eleutheria*) and liberty (*exousia*) (Preus, 2005). Mil-

ler compares many such concepts to the Hohfeldian classification of rights, such as *dunamin* which refers to the power to elect and audit offices that were present in ancient Greece; *dikaon* (just claim), *adeia or ateleia* (comparable with immunity), *exesti or exousia* (liberty), *kurios* (authority and power) and *akuros* (disability) (Miller, 2003).

## Political Rights and Free Speech

Another contribution of ancient Greece is in the context of some political rights that are seen as fundamental to any society today. In any democratic society, all citizens (save for those disallowed by certain disqualifications) have the right to vote and can (subject to holding the requisite qualifications) participate in the process of governance. The right to vote and be elected in genuine elections is specifically recognized in the International Covenant on Civil and Political Rights, 1966. Such political rights namely, the right to vote and participate in the process of governance for almost all the citizens existed, at least in theory, from the period of Solon's rule and the reforms brought about by him. Aristotle in fact defined citizens as those with 'the liberty to participate in deliberative or judicial office' (Miller, 2009). Surrendering political equality was moreover seen as surrendering freedom, and equated to slavery (Cartledge and Edge, 2009).

Relatedly, the right to freedom of speech and expression may be discussed. As Papanikos (2022) notes, the term *isegoria* referred to 'the right of every eligible citizen to speak freely and frankly only before a political body that matters.' Free speech was seen in classical Athens as a 'cornerstone' of their democracy and a much-cherished freedom, which unlike in its modern (American) version was rendered in more positive terms, and an attribute of citizenship rather than a natural right (Werhan, 2009). In the ancient Greek context moreover, the freedom of speech appears confined to the political realm.

## Women

In the Homeric period, the rights of women were always derivative, with her renouncing family ties on

marriage while also having no right to inheritance in her husband's estate (Herbert, 2003). Later thinkers had differing ideas on the position of women. However, women held neither voting rights nor the right to inheritance, and were also not permitted to represent their own cases in the courts, though it has been argued that information on the differences between city-states is not as such available (Seitkasimova, 2019; Liddel, 2009). Women, in Aristotle's view, were 'second-class citizens' confined to the household and restricted from holding political office due to their rational faculty lacking authority (Miller, 2009, p. 314). Plato on the other hand, supported rights for women arguing that they had similar natures and abilities to men and that they should receive similar education (Lauren, 2013). In the present context, while discrimination remains in practice in many instances, at least formally the equality and equal rights of women are affirmed.

## Slavery

Unlike the current-day context wherein (although slavery-like situations do exist in some instances in practice), slavery is broadly considered an abhorrent practice and illegal under law, in the ancient Greek period, slaves were a common part of society. As Doyle notes, the 'Greeks existed by a slave economy' with more than half the citizens in Sparta being unfree citizens and an even greater proportion in Athens (1963). Slavery at the time was not a uniform phenomenon and each local system had its own peculiar features, but the ubiquity of slavery 'fundamentally shaped' 'Greek civic institutions and the material culture of Greek consumer societies' (Vlassopoulos, 2023).

## Conclusion

Greek philosophy and thought are considered the foundation of most modern Western philosophical traditions and ideas (Morrison, 1997). Although the classical Greek theory of natural law and rights differed greatly from modern notions, particularly, where the concept of 'right' itself is concerned, yet the importance of many of its notions in modern hu-

man rights jurisprudence cannot be overlooked. Several ideas of a similar nature, whether of a 'natural law' above (and apart from) human law to that of a social contract, to political rights such as of all citizens to vote and express their views in appropriate forums existed and were greatly valued. The concept of equality of individuals, and certainly of citizens was seen in the ideas of many thinkers. Most of these ideas are equally valued in the present context. Studying such ideas in the forms they were found in across different civilizations and points of time in the past would enable a better understanding of the human rights that we see as fundamental today, as well as how their meanings and characteristics have evolved over time.

## References

- Adamidis, V. (2017). Solon the lawgiver: Inequality of resources and equality before the law. In D.E. Frenkel (Ed.), *Role of law, human rights and social justice: Selected issues* Athens Institute for Education and Research. 121–138
- Beever, A. (2004). Aristotle on equity, law and justice. *Legal Theory*, 10, 33–50.
- Bodenheimer, E. (2006). *Jurisprudence*. New Delhi: Universal Law Publishing Co.
- Cartledge, P. and Edge, M. (2009). 'Rights,' individuals and communities in ancient Greece. In R. K. Balot (Ed.), *A companion to Greek and Roman political thought* Sussex: Blackwell Publishing. 149–163.
- Devine, C., Hansen, C. R., Wilde, R. and Poole, H. (1999). *Human rights: The essential reference*. Phoenix: Oryx Press.
- Doyle, P. (1963). *A history of political thought*. London: Jonathan Cape.
- Finch, J. D. (2009 [1974]). *Introduction to legal theory*. Delhi: Universal Law Publishing Company.
- Friedman, W. (2003). *Legal theory*. New Delhi: Universal Law Publishing Co.
- Hayward, L. (2020). Oracle of Delphi: Why was it so important to the ancient Greeks? *The Collector*, 29 November. <https://www.thecollector.com/oracle-of-delphi/> (accessed 5 October 2023).
- Herbert, G. B. (2003). *A philosophical history of rights*. New Jersey: Transaction Publishers.
- Krieder, D. (1973). *Isonomia: The Greek idea of freedom*. Graduate Thesis, University of Montana.
- Liddel, P. (2009). Democracy: Ancient and modern. In R. K. Balot (Ed.), *A companion to Greek and Roman political thought* Sussex: Blackwell Publishing. 133–148.
- Miller, F. D. (2003). Aristotle's theory of political rights. In Brooks and Bernard (Eds), *Aristotle and modern law* Dartmouth: Ashgate. 309–352.
- Morrison, W. (1997). *Jurisprudence*. New Delhi: Lawman (India) Pvt. Ltd.
- Papanikos, G. T. (2022). The five ancient criteria of democracy: The apotheosis of equality. *Athens Journal of Humanities & Arts*, 19(2), 105–120.
- Preus, A. (2005). Did the ancient Greeks have a concept of human rights? *International Journal of Decision Ethics*, 1(2), 43–64.
- Ritchie, D. G. (1903). *Natural rights*. New York: Swan Sonnenschein and Co Ltd.
- Ross, D. (Trans.). (1999). Aristotle, *The nicomachean ethics*. Oxford: Oxford University Press.
- Roy, J. (1999). Polis and oikos in classical Athens. *Greece and Rome*, 46(1), 1–18.
- Salkever, S. (Ed.). (2009). Origins of rights in ancient political thought. In S. Salkever (Ed.), *The Cambridge companion to ancient Greek political thought* New York: Cambridge University Press. 301–330.
- Seitkasimova, Z. A. (2019). Status of women in ancient Greece. *Open Journal for Anthropological Studies*, 3(2), 49–54.
- Vlassopoulos, K. (2023). Slavery in ancient Greece. In D.A. Pargas and J Schiel (Eds), *The Palgrave handbook of global slavery throughout history*. Cham: Palgrave Macmillan. 67–86.
- Werhan, K. 2009. The classical Athenian ancestry of American freedom of speech. <https://papers.ssrn.com/sol3/papers.cfm?>
- Woodruff, P. (Trans.). (2001). *Antigone*. Indianapolis: Hackett Publishing Company.
- Woods, C. and Pack, R. (Trans.). (2007–2012). *Crito*. [https://sites.pitt.edu/~mthomps/readings/crito.pdf](https://sites.pitt.edu/~mthomps/ readings/crito.pdf) (accessed 6 October 2023).