Human Rights
A Very Bad Idea

Interview of Raymond Geuss by Lawrence Hamilton for *Theoria: A Journal of Social and Political Theory*

Raymond Geuss, Professor of Philosophy at the University of Cambridge, is one of the world's most distinguished political philosophers. His recent books include *Philosophy and Real Politics* (Princeton), *Outside Ethics* (Princeton), *Public Goods, Private Goods* (Princeton) and *History and Illusion in Politics* (Cambridge). This interview took place in his house in Cambridge, U.K., on Wednesday 13 March 2013.

Lawrence Hamilton: The 'first question, Raymond, is the most basic, and it's in two parts. First, what are human rights? Second, in *History and Illusion in Politics* (CUP 2001) you speak of human rights as a kind of 'puffery' or 'white magic'. Why?

Raymond Geuss: Well, to start with, I think the notion of a right is correctly described in a lot of the philosophical literature as the notion of an individual trump that a person holds. The political process and various legal processes operate in different ways and according to various principles: we have negotiations, hearings, forms of arbitration; we have legal cases, we have parliamentary debates, in which diverse proposals and different claims are discussed and some decision is reached. In the ideal case perhaps even some reconciliation of different views and claims is reached or even some kind of consensus. The notion of a right is the notion of someone having a recognised power to intervene, restrict discussion and break the political process down. I can stop the consideration of any course of action by playing my trump card. You're deciding whether or not to build a highway through my property, and you talk about the pros and the cons, the utility and the possible disadvantages, but, if it is my land, I can play my trump card, which is my rights-based claim 'it's my private property'. Similarly, if the government want to incarcerate me simply on suspicion, I can appeal to my right not to be imprisoned without a public trial. Before the recent War on Terror that was a 'right' people were

Theoria, Issue 135, Vol. 60, No. 2 (June 2013): 83-103
doi:10.3167/th.2013.6013505 • ISSN 0040-5817 (Print) • ISSN 1558-5816 (Online)

supposed to have, and by appeal to it they were supposed to be able to stop the government from doing this kind of action. So the notion of a right is the notion of a trump in that sense.

The term 'human' can mean two different things in discussion of rights. A 'human right' can either mean a right *for* humans, so a human right to housing is a right humans have to shelter of a particular kind and quality, as opposed, say, to a right that farm animals or domestic pets have to a particular kind of shelter. In a second sense, a 'human right' can mean a right that is supposed to arise out of, or be in some ways grounded in, our mere humanity. The idea is that some rights people have depend on specific positive political decisions, but others depend simply on the fact that people are human beings, not on any particular decision by any political body. For instance, in some countries certain members of the clergy of particular religious groups might have been given the right to exemption from particular forms of taxation because the political authorities there have decided for whatever reason that this is a good idea. This means that the authorities in question have set up a mechanism to monitor taxation, collect taxes from members of some groups, but not from the clergy, resolve disputes about whether a given person is or is not entitled to the exemption, etc. In other countries these exemptions might not hold because the authorities in *those* countries have made a different decision. The right to an exemption in the first case is a (mere) 'positive' right. Those who believe in 'human rights based on our humanity alone' think that in addition to such cases, there are also other cases in which people have 'rights' independently of any specific political decision or the existence of any effective mechanism of enforcement. So there are two different senses of a human right: a right for people, in the way in which an animal right is a right for animals, or a human right is a right that purportedly arises out of our humanity alone and not from the political process.

When thinking about human rights it is really important to see whether these human rights are thought of as positive legal rights or as natural or innate rights. That is, are the rights that individual human beings have construed as powers or warrants that are given to them by the political process and by the juridical process, given to them in a particular political system as part of that system, or are they construed as something outside the political system, that are given to them by God or by nature or by their human nature? In the second case, they would be something outside the political process which intervenes in that process.

When I talk about rights as 'white magic' or 'puffery', what I primarily mean is the second conception, that is the concept of human rights as natural or innate or as given prior to any kind of political process. There my simple idea is that this notion is incoherent. We can perfectly well make sense of your having a right, if this means that the political process operates in such a way that the political authorities will enforce a certain claim that you make. That is a perfectly coherent conception but this conception makes sense only if you've

got a political agency, which has granted the right, an agency that will interpret cases and determine when the right has been violated, and an agency that will enforce the right. So if you have all of those things in place then you have a clear idea of a right, but in most of the interesting cases, people want to speak of 'human rights' precisely in cases in which these conditions are assumed *not* to hold. I have an (innate) 'human right' not to be tortured, *although* the local political regime does *not* recognise or fully enforce that right. So a 'natural (or innate) human right' or one based on our mere humanity is modelled on the idea of a positive right, but it is applied in a context in which all the real content of that idea is absent, where the context for using the concept of 'right' is not present. The content of a concept is given by the existence of an interpreting and enforcing mechanism. To speak of innate human rights, however, is to say you've got a right, but there is *no* such enforcement mechanism. That is why I think there is something inherently difficult, unclear or even incoherent about the notion of an innate or natural human right. I say it is puffery because you *could* imagine that there was an enforcement mechanism, namely suppose you thought that I had magical powers and could harm you simply by thinking something. Suppose that everybody in my society thought that I was a powerful magician. I could cause you to fall ill simply by thinking about you in an especially malevolent way (and perhaps performing certain rites). I am, however, not a magician, I can't harm you by projecting mental rays at you – but if everyone believed that I could, there would be something self-reinforcing about that belief, because then the idea that if you touched my property you would be in big trouble, would have some kind of basis. You at any rate would live in a state of uncomfortable anticipation of something I might do to you; if your neighbours came to know what you had done, they might begin to avoid you, etc.

So, what would be the point of saying that I have a right? One thing could be that if I have a right, then God will intervene, or the state will intervene, to protect that right. In the first case, one would have an innate right; in the second a positive right. Either of them would be a way of giving some grounding to that idea of a right, but another idea would be that you think that I could and would intervene if you touched my property or tried to assault me. If I actually had the power to harm you (magically) when you violate my rights, the question of whether or not the state intervened might become irrelevant. But, of course, I don't have that power – that is, in fact, the whole point of positing rights. If I could magically take care of myself, I wouldn't need them. If, however, you do presuppose that the intervention in question is *state*-intervention – or the real, effective intervention of some state-like organisation – then what you are talking about is a positive, not a natural or innate right to something. If you assume that God will intervene, then you can introduce a clear sense of a natural or innate right. It is what he would intervene to protect. But without God or magic – the self-reinforcing notion that if you touch my property you will regret it – you can have no substantive idea of a natural right.

'White magic', then, is the idea that I can hurt you (or, of that matter that God will hurt you) if you violate my rights. This idea will work as a foundation of rights, provided (but *only* provided) everybody believes it. It can be self-reinforcing. But even if everybody believes it, it's still not true – I don't have that magic power and neither does God – and that is the important thing to understand here: that in politics, partly, we want to see what works; because what people believe is in itself very important. But in politics we also want to distinguish between the government intervening to protect my property, and my property being protected because everyone makes a mistake about my mental powers. That's the point I'm trying to make here. That clarity in politics requires looking beyond simply what will work, and understanding the mechanism by which various things work correctly. So, even if you all believe that I'm a witch and I can protect myself and my property and therefore I have got a right that I can enforce, the whole structure is a misconception because it is based on a false assumption (about my magical powers) and so you're never going to be able to trust it in the way you can trust something that has a different status (such as being true).

Lawrence Hamilton: Your answer links to one or two further questions. I'm going to take them first, focusing in particular on your example of your being a magician and what follows from that even if everyone believes in your supposed magical and effective powers, etc. I'd like to push you a little harder on that. And thereafter I'll come back to some other, related concerns. So, white magic works best when most members of the group believe in it, as you've just said …

Raymond Geuss: It doesn't work best, it *only* works *at all* if people hold the beliefs! That's the point. Think about enforcement. How can enforcement work? There are forms of natural enforcement, for instance 'natural enforcement' of a prohibition on drinking too much alcohol. The prohibition on drinking too much alcohol enforces itself to some extent: you drink too much you get sick! Nature enforces that prohibition. You take too many drugs, you get ill. That's one kind of enforcement.

Another kind of enforcement is the one in which society enforces some prohibition through a specified agency, for instance, the police. Another kind of enforcement is a self-perpetuating illusory enforcement: you all think that if you touch my property I will harm you magically. These are different kinds of enforcement and one must see them as very different. The natural forms of enforcement are unproblematic. I have no problem with them. The state forms of enforcement are also in some ways unproblematic, although we might raise questions whether the proper formatting of that is as the enforcement of rights, but the enforcement through consensus, as in the example in which everyone thinks I am a witch, even though if it looks like it's a robust form, is not always robust, because people can change their beliefs. It is particularly not

going to be robust if it's false. As theorists and as political actors we have to see what works, but we also have to understand what's real and what's true.

Let me give a historical example. In the Late Medieval and Early Modern periods most people in Europe believed in the Christian God, and they believed he had specific ideas about how humans should behave, and would enforce these ideas. So under those circumstances, appeal to (God-given, natural) 'human rights' might have some kind of real effectiveness. If belief was really monolithic, no one would be willing simply to *ignore* violations of what were thought to be the rights God gave humans. God might smite you in this life, but even if he did not, he would get you after death. This, of course, did not mean that no one ever did violate those rights, but it also does not mean they had *no* effect. This structure gave politics a particular shape. If you were a powerful monarch you might be able to find or hire some clerics to give 'interpretations' of what God commanded (or what you were doing politically) that made it seem compatible with Divine Law, but you would be unlikely to try to claim that you simply didn't care at all about whether what you did was religiously acceptable. Given the state of belief and the institutions that existed, that would have been a short road to political suicide. Or perhaps you could have got away with that, but only if you were very powerful and very clever indeed. So under those circumstances 'human rights' had some basis, but their basis was not in God (who doesn't exist) or nature, but in the existing structure of institutions and beliefs, and the distribution of power.

Lawrence Hamilton: In a sense that's an answer to the second question. White magic works best when most members of the group believe in it but not on those who don't. What do you mean by this? Isn't there also the possibility of simply extending this to human rights? What do you mean by this with respect to human rights in particular? In other words, can I believe, can I choose to believe, that human rights as they're defined do not actually exist in reality, such that they no longer 'work on me'?

Raymond Geuss: They don't, or at any rate they might not, 'work on you' because the international regime of human rights, even the regime set up by the United Nations, has no appropriate teeth. Part of the basic motivation for 'human rights' is that they are supposed to be outside or beyond politics; they are something to which you can appeal when politics goes wrong. However, what actually happens in the international regime of human rights even as it is defined by the United Nations is that the powerful countries use claims about rights to further their interests. They act to enforce rights when that is in their interests, and they try to prevent action when it is not in their interests. So you don't have a universal, much less a completely equitable, enforcement regime, but one that is just as subject to the vagaries of politics as anything else. If the United Nations had an army, and the army was effective, then the United Nations might be able to enforce its own agenda of human rights, but even

that would not get you out of the realm of politics and positive rights because then the United Nations would be something like a super-state and those rights they enforced would be positive (not merely natural) rights. In fact, as you know, what happens is that the United Nations passes resolution after resolution about human rights, human rights violations in one place or another, and they are acted on only if the United States and the Western powers find it in their interest to do so. So, they invade Iraq when it suits them; they didn't invade Iraq, actually, when it didn't suit them. The human rights record was the same in both cases: Saddam Hussein was 'violating human rights' for decades, the West had no interest in dealing with that at all. Then, when Saddam began to show too much independence, suddenly the U.S. seemed to acquire an interest in his human rights record, so suddenly, instead of continuing to give him arms to fight against the Iranians they invade his country! The actual politics of human rights on the international scene is the politics of giving powerful countries the moral justification to do what they'd like to do anyway under the specious cover of enforcing human rights. If the United States doesn't want to invade Iraq, whatever the United Nations says, nothing happens. The United States does want to invade Iraq, and then suddenly it is not just an act of military aggression, but one covered by the moral cloak of enforcing human rights.

That is one of the things that worries me about the talk about human rights in the international realm, that in fact, human rights in the international realm are a legitimating cover for Western powers enforcing their interests and there I think it would be more honest for us simply to say, 'well, the U.S. didn't like Saddam Hussein at that point, so they invaded and deposed him' rather than saying they suddenly began enforcing a regime of human rights.

Lawrence Hamilton: I agree with that and I think that everyone on the editorial board would as well, but, what of the slightly distinct claim that – and we'll come to this in a bit more detail as well in respect to particular nation states – what of the slightly distinct claim that it might not always simply be a tool of the powerful but also the less powerful, that it might in some instances be utilised, because it's a norm, illusory or otherwise, as an effective means of political agency? So there are two parts to the question, the first part is that, even though human rights may be an instance of white magic and puffery in the way that you are suggesting plus the fact that they legitimate the actions of the powerful etcetera in certain kinds of moralising ways, they're so entrenched in the discourse, that do you think it is realistically possible to simply wish them away? That's the first part; I'll ask the second in a moment.

Raymond Geuss: All sorts of things can have positive or negative rhetorical, or real, effects in politics. I don't deny that in some contexts people can say 'we are rising up, because it's a violation of our human rights'. But you could equally imagine the same group of people saying 'we are rising up because

we're human beings', 'we are rising up because we are children of God', 'we are rising up because our needs are not being met', 'we are rising up because we have had bad dreams', 'we are rising up because we have had good dreams' etc. There are all sorts of different forms that the structuration of resistance can take: it can take theological forms, it can take ethnic forms, it can take political forms, it can take class-based forms, and so on. In certain contexts it might be effective and useful to appeal to human rights. After all, 'human rights' have no more, but also no less cognitive and normative standing than dreams do.

As political theorists, however, it behoves us not just to look at the way demands are actually formatted and expressed, and see whether or not they are rhetorically effective, but to look also at the internal structure of the demands, the specific way that demand is expressed, and the theoretical implications of that form of expression. So we may demand education because education is an important way of our satisfying our interests. Or we say we have a need for it. That is a more perspicuous way of saying something important than by speaking of 'rights'. By calling it a right you don't add anything to calling it a satisfaction of a basic need or an important demand or a vital human interest. You not only don't add anything, rather you say the same thing in a format that has a history and carries with it a historical legacy of additional connotations. That legacy is not necessarily unmitigatedly good. If, on the other hand, you talk about education as being an important thing for people, as being a human need, this way of speaking moves you on constructively to an interesting political discussion. If I say it is an important need that I have an education, then you ask me 'why is it a need?', then I will talk about my needs, and this will naturally lead to discussion of other aspects of my life. That's a political way of formulating the demand. If I say 'it's a right' I'm immediately saying it's a trump, that is something I don't discuss, it's something that's limited, it's something that's rigid and determinate, it's something to stop the political discussion, it's inviolable, and so on. In some contexts it might be good to be irrational and to formulate your demands in particularly rigid, and particularly non-negotiable ways, but it doesn't follow from that that would be politically the most interesting and intelligent way of understanding what's really going on.

Lawrence Hamilton: Even if it were possible, let's imagine, do you think human rights can track human interests?

Raymond Geuss: Of course they *can* track interests; under appropriate circumstances. However, by immediately moving to the level of rights-discourse, you cut off discussion of whether the circumstances *are* appropriate. After all, in *some* circumstances theological discourse can track interests, too. When the Catholic says 'God wants every man to have his daily bread', of course, every man should have his daily bread, and the theological discourse tells us a

truth! [Laughter] I'm not claiming that it can never be the case that speaking of rights can be connected, or can be interpreted, in a way that makes that mode of speaking make sense. I'm also not saying that this way of speaking can never be effective. Sometimes it is effective, sometimes not; sometimes it does track interests, sometimes not. However, as theorists, we have not just to decide whether there is *something* in a particular form of speech that's right and whether this way of speaking is rhetorically effective in a particular context, we have to understand also whether what is right is perspicuously formulated, and when I say 'God says: give every man his daily bread' that's not a perspicuous formulation of an important demand. It is a presentation of something that is a true human interest or vital human need in theological vocabulary. Sometimes I can give a translation, but why go down the detour of formulating human interests through rights-talk, and then have to translate what you've said back into something that makes more sense? Just talk instead about interests, wishes, demands, needs, what we think is good for humans, what is outrageous or intolerable, etc.

Again, as political theorists we have to operate on two levels at the same time. You have to act on the level of what is actually effective, what will get people going, what will motivate them, what is the common discourse in use. You have to take that seriously. But you also have to take seriously that that's not the final word: sometimes everyday modes of speech are correct and enlightening and sometimes not. Being a serious political theorist means accepting both those things, that is, accepting that you can't simply ignore what people say in the name of what you know is true, but you also can't simply always accept what people say at face-value. You can't just accept what they say and ignore what's true, but you also can't just say what's true, while ignoring what they think and say. You have to have both of those aspects and you have to connect them in some appropriate way. Rights discourse stops that or makes it more difficult and for precisely that reason: it's a trap, to be more exact, it is a trap because it tries to construe political situations as apolitical.

If rights are trumps, that is, they're supposed to stop discussion. Another way to say that is that they're unpolitical. They're an attempt to shift from politics into legalism, to give a legal model for politics. They're also rigid, they're forms of rigidity. If they are supposed to hold for everyone in all situations, they can't by their very nature take account of the peculiarities of individual situations. And in some sense all political situations are individual. Finally, they are also guilty of putting different things at the same level: a right to life, a right to education, a right to entertainment. These are not necessarily things on the same level in human life or in politics. In politics we often have to think about the differential importance of things, to say there's nothing but rights, however, levels out significant qualitative differences.

Lawrence Hamilton: In politics one needs to set priorities.

Raymond Geuss: To set priorities, to have conflicts, to override some claims in particular cases, that's what politics is about. Rights-discourse tries to stop that kind of debates on those issues. So it's an inherently apolitical way of thinking about politics. It's a particularly clumsy, crude and rigid attempt to turn politics into a kind of administration or legal discussion. One can understand why it is tempting to think about human life in that way, and why in some context it might even be important to think about some limited matters in this way. But it's not the right way *finally* to think about politics.

Lawrence Hamilton: So, let's take one of those examples. The one that comes to my mind, and to lots of others, is the case of South Africa. I'm going to jump ahead to this example and then come back to some of the more theoretical matters later. There are actually two really nice examples, I think, about the way in which the language of human rights under certain conditions, not just its effectiveness, but other components of it, might be highly laudable.

First, you ask in *History and Illusion in Politics* that if 'irresolvable conflict between bearers of purported equal rights is thoroughgoing and unavoidable, what is the point of recourse to rights?' (p. 149) The argument is well taken, but what of this response? Under conditions of real or potential civil conflict, the language of human rights provides a common, otherwise absent, sense of legal and moral norm that can form the motivational basis around which those on the verge of conflict can cohere. Rather than suppose that human rights only works or 'works on us' as a foolproof legal and moral structure – and this comes back to your own point – is it not more realistic and helpful to see them as a philosophically and theoretically rough-and-ready and even incoherent tool – but the best we have – to assure arch-enemies that their interests will not be forgotten once they give-up their weapons? South Africa just prior to and following the release of Nelson Mandela is a fabulous case in point, in the sense that without the language of human rights, many have argued, it would probably have been very unlikely for two extremely opposing groups, the National Party and the African National Congress (ANC), to cohere over some common ground.

Raymond Geuss: I have two responses for that. One is, I don't mean to deny that the language of human rights might have played an important role actually in that situation. But I invite you to think about whether the same function might have been played by things like the common good, the common interest, all of our needs, our collective needs, social solidarity .... Aren't there other ways of talking, aren't there other possible ways of talking about societies that are deeply divided, which would give you what you want. I admire the aspiration to universality in the notion of human rights. I'm not objecting to an aspiration to a certain kind of universality, but what I'm suggesting is, there are other ways of attaining that universality. You can think about it in terms of the common good, you can think about it in terms of a society con-

stituting an encompassing whole, you can think about it in terms of forms of participation, of people universally participating, you can think about it in terms of mutual vulnerability, you can think about it in terms of reciprocal dependence. I don't see there is anything added by the language of universal rights or human rights, anything specifically added that could not be expressed in those ways, and those things would have the extra advantage that they wouldn't commit you to a quasi-juridical framework. It would make it clear that if a society is going to hold together it has to be because of social and political processes that are ongoing.

Rights are not processes. Rights are trumps, they stop the process. Now in some contexts that might be the best you can get. However politics is about processes, and our aspiration should be to make those processes as participatory as possible. What we have to think about is the notion of collective forms of agency, collective powers, and collective forms of suffering. And to talk about rights is to take attention away from these other important things, it's to take attention away from who the agencies will be, and how co-operation will be structured. It's to take our attention away from finding forms of living together which won't require giving trumps to people. All of those things are part of the positive tasks of politics. Perhaps in some context the appeal to human rights might have been useful. But I think from the fact that it was useful in that context, it doesn't follow that there weren't other ways you could think about the demands put forward, and it doesn't follow that there were not more productive ways to think about these demands, their origin, and the ways in which they might be attended to and satisfied.

Lawrence Hamilton: And in the South African case as well, since the great 'miracle' of the relatively peaceful end to the apartheid regime, the strict and strong human rights nature of much of our legal and political system is inhibiting in various kinds of ways. So, post a situation in which South Africa avoided civil war, where your politics has become highly concretised in the form of human rights, you start to come across various problems when politics is carried on in terms of human rights.

Raymond Geuss: My suggestion for the replacement for human rights is politics.
[Laughter]
Good politics. Think about what good politics is. Some topics should be: human agency, human interests, human powers, human needs – That's one of your big topics, Lawrence – ways of negotiating boundaries between people, ways of producing new structures of co-operation. All of these seem to me to be important and thinking about them seems a much more fruitful and forward-looking way of approaching politics, than through obsession with rights.

Formatting everything through human rights has a stultifying effect on thought and action. That's compatible with saying in certain domains and cer-

tain times human rights might be a useful thing, that is, however, something of very *limited* use or interest. Rights-obsession has a stultifying effect because it takes attention away from these underlying processes of the formation of collective agencies and collective satisfaction of needs and interests.

Lawrence Hamilton: In a place like South Africa where executive and legislative power, even if formally represented, leaves a lot to be desired both in terms of representation and good government what really is the problem of each of us insisting on his or her own rights without the mediation of lawyers? There may be an element of wishful thinking here, as in a politics so bound up with rights, we cannot effectively do so without legal representatives, but even if at some point in the process the bureaucratic services of lawyers are needed, is not the process of claiming and exercising rights an important form of political agency for modern citizens? If we did away with it, what form of political agency might we have beside that provided by periodic elections?

Raymond Geuss: That's exactly the opposite of what I'm trying to say! What that says is, look, we've got two forms of political activity: appeal to human rights and elections. What I'm trying to say, however, is if you think about politics as appealing to human rights and participating in elections, you've got a *remarkably* thinned out and impoverished notion of what politics is supposed to be about. If you say what politics should be, is, we elect people and we claim our rights, you've lost the game already. Elections are very crude and very rudimentary forms of political activity.

A country that's in a healthy state should have all sorts of forms of political agency that are not mediated through the election of formal representatives. There should be a wide variety of different associations and ways of doing politics. To give priority to claiming rights gives us the completely wrong attitude toward ourselves, other political agencies and the state because it basically prioritises us as passive clients of the nanny-state. This idea of a 'nanny-state' is a conservative invention, but what is wrong with it is the tacit (and utterly implausible form of) atomistic individualism that stands behind it and the irrational suspicion of any form of collective organisation. It does, however, contain the germ of a correct perception about the deleterious effects of the potential passivity of modern populations. If all we do is vote, and then shout for mama whenever someone treads on our toes, saying 'This is my land; I claim this right, I claim that right, I claim the other right', that is a really very narrow way of thinking about what politics can do and be. And if you take that as your central way of thinking about politics you're going to have a tremendously distorted and impoverished form of politics.

Lawrence Hamilton: What of the liberal concern, though, about the capacities and virtue of political representatives, which emerge even in quite secure and common situations generally, but seem to be worse in a place like South Africa,

where you'd want some kind of mechanism of control over your representatives. The liberal argument, as you know, is that rights are the best form we know of for controlling the powers and actions of representatives and the state?

Raymond Geuss: Well, if you think that that's the best way of controlling the representatives and the actions of the state you're not actually going to be motivated to look for new forms of control, and you're going to have with that all of the problems that I think I've tried to mention about rights. For instance, different rights that belong to different domains and have different priorities will be put on the same level. You're going to have people struggling to get something to eat, and people with property rights, and the right of the land owner to his land is going to put on the same level as the right of the poor individual who is starving.

So, yes, it is important to have protections for people – protections in certain limited domains – and it might be appropriate for those protections to take the form of rights, but that's different from saying that the basic structure of the society and politics should be thought of through rights. Rights will be very particular, limited sorts of things which will be put in force in the context of a larger framework and larger scheme of politics, and if you're really interested in politics in the most important sense you'll be interested in the big scheme, you won't be interested in the tiny mechanisms that are put in to protect individuals against certain abuses.

Lawrence Hamilton: And in such situations – again it's not unique to South Africa it's just starkly manifest in a place like South Africa – where something like what you've just described, as you know from my own work, is a very serious problem, where a very distorted history generates situations in which an existing right to land comes up against a right of access to land, and it's very difficult to resolve the dispute in terms of rights. But what of a situation in which the notion of human rights and human rights in general have come to underpin the legal system of the nation state? In these situations, therefore, human rights in the objective sense, in your objective sense, have become human rights in the subjective sense. In these circumstances do you think it's a good idea to try and undo these achievements? And, relatedly, returning to an earlier point, why not acknowledge human rights as ideological constructs and just try and foster good ones, or better ones?

Raymond Geuss: I don't see that there's any particular necessity to dismantle the existing constitutional arrangements concerning rights. Maybe we should just ignore them. In any case I'm trying to talk to other people who are interested in understanding society in some non-trivial way, not just in operating or tinkering with the existing mechanisms of government. The existing political mechanism in Britain has all sorts of parts that we wouldn't take seriously if they were not historically already entrenched.

Now it might be the case that we continue on with various practices even when we have seen through the purported rationale for these practices. For example, in court it used to be the case you swore on the Bible to tell the truth. Now as an atheist you don't need to swear, but you also don't even need to object to being required to swear on the Bible to tell the truth, because you interpreted that as merely meaning 'I now assert in a solemn way that I am going to tell the truth'. If people want to call that 'swearing to God', let them. I feel no need to oppose that even if I think God doesn't exist. So I don't think you have to be a purist and go through all the legal codes to get rid of all the references to rights. However, as a political philosopher you have to think about what rights-discourse actually means and I think if you begin to think about that you'll begin to be more impressed by the limitations of that way of thinking about things. What was the second question again?

Lawrence Hamilton: The second question is: why not simply view human rights as ideological constructs and foster good ones? Why assume that it must be the 'bad guys', as it were, that are always going to be the ones constructing and abusing rights and human rights, why can't human rights be in the hands of the 'good guys'?

Raymond Geuss: Well, that very way of putting it seems to me to be grist for my mill, because what you're saying is the regime of human rights in itself is neither good nor bad. What's good or bad is the people who are using it for one purpose rather than another, and it seems to me that's another way of saying something, which, if you think about it seriously, will be likely to move you in my direction.

It will be likely that you'll be motivated to say that what's important is not, as it were, the form of the scheme of rights, but the political process within which it is embedded, and that's what I've been trying to encourage people to do: to look at the political process within which 'rights' are embedded and then to ask whether it's good to restrict that political process through a regime of rights or not. And if you begin to think about it that way, you're already thinking about it differently from the way in which traditional human rights people thought about it. They thought 'These are rights, they're rooted in human nature, they belong to all people; once you get them set out and embedded, you don't have to worry, as it were, about who's going to enforce them or what the political processes are'.

Lawrence Hamilton: And, what would you say to a believer, who believes not just in God, but that God imbued us as humans with natural or human rights?

Raymond Geuss: That's a perfectly coherent view. Perfectly coherent, I think, but false. However, if you believe that there is a God, and you believe that that

God is interested in human beings, and if you believe that that God has a particular purpose for human beings, then you have good reasons to believe in human rights as part of that divine purpose. I just happen to think that those assumptions are false!

Lawrence Hamilton: And if you have a society in which the majority of people still believe that, then what?

Raymond Geuss: Then I come back to my other point about witchcraft and the example of the Early Modern period. If you have a society where everyone believes in God and believes these rights have been given by God – then as a political theorist you have to have a double perspective on that society. You have to look at that society as it actually operates, the way it operates through the beliefs of the people, the way in which the beliefs of the people animate the social system and the system of rights, and then also you have to take a perspective outside that of the society and look at what's going on in the society from your own point of view. Finally you have to try to put those two things together synoptically; I don't think that's impossible. I can talk about a society within which everyone believes in God and I can then analyse why in that society some set of rights will work as a good way of organising it without committing myself to the existence of that God or of these rights.

Lawrence Hamilton: So, in that case, you're not going to be able to provide a motivation, an alternative motivational structure?

Raymond Geuss: Now we're moving to another question, not a question about the justification of rights, or about what reality these rights have. Rather we're moving to the question raised by the example of a society in which I am thought to be a witchdoctor. Everyone thinks I have these powers. In that society what new motivations could I give to people? It is a very important question, how you give people motivation for things. But note, if you start by saying 'I'm going to give people new motivations for things' why do you then stop and say 'I'm not going to give them new motivations to be politically participatory' or new motivations to think about and try to pursue the common interest, or new motivations to invent new collective forms of agency? It seems a bit tame at that point to say 'I'm *merely* going to give them new motivations to instantiate a regime of rights'. The project of giving people new motivations seems potentially more ambitious than simply appealing to rights … Another way of putting what I'm trying to say is that thinking about the society in terms of rights is *not* thinking about giving people new motivations. It's thinking about maintaining the status quo and structures associated with that status quo and, at best, trying to bend these in a progressive way. What one should actually be doing is trying to give people new forms of motivation. You'll say, of course – and it is quite correct – that that task is really hard. My reply to

that is that politics *is* really hard, and the real question is what the aspirations for your politics are. Do you have low aspirations for your politics, or high aspirations? To accept the regime of rights as the existing framework is to have low aspirations.

Politics should have a higher aspiration than that, and part of the aspiration might be to give people motivations that are independent of the language of rights. So, if you create new forms of cooperation, these new forms of cooperation will give people new forms of motivations which won't be connected necessarily with the rights discourse.

Lawrence Hamilton: That's really fascinating, but just playing Devil's advocate here, and imagining the rights activist responding to that, and there's a great deal of literature on this, might you not be guilty of making too strict a distinction? There's a lot of history, not just in a place like South Africa, but worldwide, on the fact that human rights discourse does generate a great deal of participation in politics, it does generate a sense of the collective, it does generate a sense of political agency in various forms that didn't exist prior to the prevalence of the notion of human rights.

Raymond Geuss: I'm sorry Lawrence, I don't quite know how to respond to that question because you seem to be saying something that is clearly true but I don't see why it's a problem for me.

All sorts of things can give people motivations, appeals to Islam can give people motivation, appeals to Christianity, appeals to the class struggle, appeals to Reason. There are all sorts of things that can give people motivation. Rights discourse in the right context can give them motivation too. I'm not denying that we should try to give people motivation.

I'm saying two things: First, it's a bad idea to give them motivation in terms of rights. Whatever motivation they can be given through rights discourse could be given to them through something else which is less obfuscating and mystifying, such as appeal to their collective interest, appeal to their needs, appeal to various sorts of things. Second, we should actually be trying to appeal to those other things because that will get us a better kind of politics, it will get us a politics that's more active, where the people are active and engaged, less rigid, and less tied to legalistic forms of acting. How can we find ways of making people active and not reduce politics to their simply demanding rights?

Lawrence Hamilton: And the language of rights is inhibitive of that process?

Raymond Geuss: Rights by their very nature must be crude. They can't be subtle or highly differentiated because they're *legal* functions. They have to be relatively undifferentiated and rough-hewn, but politics should be about making people more differentiated. It shouldn't be about just making block-like demands, such as: 'protect my property', it should be about thinking about

what in this city is the right rate of investment in education, in health; how we should structure new forms of urban development; where we should build schools and hospitals. You can't reduce that to mere demands for rights.

Legal structures have to be coarse-grained because they have to refer to processes that are verifiably repeatable and that are subject to public scrutiny. Political process should try to be more differentiated than that and politics should be about something more than merely claiming rights. Politics, as I have said, should aim at activating people.

Lawrence Hamilton: Needless to say I share the…

Raymond Geuss: The goal.

Lawrence Hamilton: And also the desire to have the citizenry as a whole more politically active and more understanding of the political process but there are very many thinkers and activists – not just liberals – who will say the crude nature of something like human rights and rights in general befits politics because one can't really expect that level of understanding or participation or judgement.

Raymond Geuss: Ok, but note what you're saying there. What you're saying is rights discourse is a second best. It's at best a crude approximation. It might be – as in the case of South Africa on the verge of civil war – that in certain emergency situations we must use blunt instruments that do no more than *merely* work. However, as political actors and as political theorists we have to have the ability not just to think in terms of second-best solutions, we have to allow ourselves the possibility or the hope that the citizens can be brought to be slightly less primitive in their reaction to politics, that the citizenry can learn to think beyond that, and that's discouraged by the assumption that everything has to fit in the category 'human rights'.

Lawrence Hamilton: So, to leap to something else: would you see this as part of a way in which you can think realistically in a utopian fashion, as it were, and how does that link to your later argument in *Politics and the Imagination* (Princeton UP 2009) regarding *meridian* and *constellation*?

Raymond Geuss: Once you leave behind the view that politics is about rights, that might possibly open a number of doors to thinking about politics in a number of different ways and I've tried to think about some particular literary figures and some older thinkers in the tradition of philosophy who tried to develop alternative ways of approaching some aspects of politics. *Meridian* and *constellation* are one or two such concepts that I use. It isn't that I think that they're the only ones, it's that I think that they represent a kind of gesture in the right direction.

Lawrence Hamilton: Can you say a little more about *meridian.*

Raymond Geuss: That comes from this…poet…

Lawrence Hamilton: Paul Celan.

Raymond Geuss: ... A meridian is an imaginary line connecting two places relative to the position of the sun. Celan thought a meridian was a way of locating oneself in the world by reference to concrete places, people and things. That's a different way of thinking about the world from thinking about the world through abstract rights categories, so that's a way of trying to make political thinking more concrete and more realistic. What is the *meridian* here? On what meridian are we standing at the moment? Who are the people that we're working with, who are the people who have been our traditional friends (or, enemies), what can we do, how are we located relative to them? All of those things are things you can think about which you can think about in ways which seem much more illuminating if you don't think about yourself, your friends, your allies, your potential allies and your enemies in terms of categories of human rights. You think about them more in terms of concrete historical or concrete geographic relations you might have to them.

Lawrence Hamilton: So it's not intended as an alternative mechanism for doing politics, it's intended as an alternative mechanism for thinking about politics?

Raymond Geuss: Yes, yes. First one might connect it with the Gramscian idea of the importance of forming political alliances. One might try to form such alliances along *meridians*, for example. Gramsci, of course, was very keen on this notion that politics is importantly about who we make an alliance with and who we don't make an alliance with. So we might use some of the spatial and temporal metaphors to talk about which groups you will make alliances with, what their historical relations to one another have been, what possible consequences of making an alliance with that concrete group will be.

Lawrence Hamilton: Which would mean, given different concrete situations outside and across nation state boundaries and the norms and normal ways in which we've thought about politics, it might start to look a bit like something in which there exist groups and interests along class lines, for example, that we start to conceive as paramount for politics.

Raymond Geuss: For example. Yes, for example. The idea is orienting yourself to concrete others, concrete other places, concrete other groups rather than orienting yourself to abstract categories like 'person', 'human beings' etc.

Lawrence Hamilton: And concrete problems associated with …

Raymond Geuss: And concrete problems associated with … exactly.

Lawrence Hamilton: Wonderful. We've leapt ahead to the end, so I'm just going to come back to one or two more particular questions. You say in *History and Illusion in Politics* that the status, or 'cash value', of rights is really just: 'we think that it would be a good idea for there to be a reliable system of effective power to enforce *X's* claim to *Y* (even if there is not such a system)'. Even if there is not such a system, you then argue, that even if most people do come to agree on a shared conception of human rights, it still does not follow that even shared beliefs reliably translate themselves to predictable, appropriate action, and that is what is at issue. Why? Might not a shared conception of human rights reliably translate into predictably appropriate action with either positive or perverse outcomes: such as driving on the right side or on the same side of the road, or the other example given …

Raymond Geuss: Abortion rights.

Lawrence Hamilton: Abortion rights and foetus rights: you might have a situation in which legally it would be very easy to get an abortion but you might have a situation in which there's a, as you put it, a reliably large number of people who are influenced by the notion of foetus rights.

Raymond Geuss: This seems to me to be another instance of the magician who is purportedly able to protect his property by virtue of the people thinking that he has magical powers. If enough people believe it, that belief will have self-reinforcing effects and might reliably bring about certain outcomes which might be good or might be bad; but what I insist on is that as theorists we have to understand that that's the nature of what's happening. The magician's power is not 'natural'; it isn't that driving on the left or on the right is natural. These are both social facts and I should recognise that they have been brought into existence by people thinking and acting in a certain way, just as I recognise that people have brought about regimes of rights. However, from the fact that they have brought those regimes of rights into existence and enforce them it doesn't follow that those regimes of rights are natural or innate or objective.

Suppose everyone in the world agreed on a budget of human rights, and we all enforced it. Then, of course, we would be enforcing a regime of rights. I'm not denying that. That would be foolish; but what I'm denying is that even if we universally agreed on a budget of human rights and we enforced them, they would *not* (thereby) be natural, objective, innate, rooted in our mere humanity, etc. Rather they would be rights that we *gave* to people and enforced; they wouldn't be rights that were out there naturally. Just as if we all

agreed to drive on the left, we drive on the left because we've all agreed to do it. Not because it's natural to drive on the left.

Lawrence Hamilton: This brings us back neatly to the opposing view which is that the intellectual history or the emphasis on the natural rights foundation of human rights is misplaced. In actual fact, the important component of human rights is their cultural-political history in which individuals out there, citizens out there, participants out there, have been claiming, in this case in terms of human rights, for certain goods.

Raymond Geuss: If people want to go out on the street and protest in the name of human rights, so be it. What is important is the content of the right, the mechanism for ascription and enforcement, and clarity about what it is one is doing (and what one is not doing).

Lawrence Hamilton: The only objection you have is that they then claim that to be a kind of natural right.

Raymond Geuss: I have an objection if they claim that to be natural rights. I also have an objection to the idea that the way to think about politics finally is through the instantiation of specific rights – whether natural or positive – and the enforcement of specific rights, rather than in terms of broader political processes. What I'm objecting to is the idea that politics can be universally formatted in terms of human rights.

Lawrence Hamilton: And of course, in the West they tend to be, right? And in other places they tend not to be.

Raymond Geuss: In some other places they don't.

Lawrence Hamilton: Like China. So, a thought that comes to mind is, given the world we have, might not one possible way of resolving the problem be some kind of ideological or even military conflict between the opposing positions?

Raymond Geuss: Wars generally have less effete origins than ideological differences of opinion; they come from a real clash of interests. So, part of my immediate reaction to that would be to think that this worry depends on a very idealistic theory of history, thinking of history in terms of the struggle between ideological forces. It's a sort of – what's the guy's name? Huntington – a *Clash of Civilizations* thing and I'm afraid I'm too old fashioned, too Marxist still to think that that's the right way to approach things.

It isn't civilisations that clash. It isn't ideological constructions that clash. Or, rather, they can 'clash' all they want, but no one needs pay too much attention. It's concrete agents including state agents who have interests and powers,

who conduct wars. So I wouldn't think that it was inevitable in any way that because the Chinese don't have a concept of human rights, and most people in the West have a concept of human rights, there will necessarily be a war. It doesn't follow from that that I don't think there will be other difficulties and struggles, certainly economic struggles and perhaps also military conflict, but such conflicts will not be best construed as motivated by ideological differences. They'll be motivated by such things as the water supply in South-East Asia. The control of the Himalayan area is geo-politically extremely important because a lot of the water resources for Southern Asia arise in that area – in Tibet – and with population pressure and changes in the climate, the border between India and China is, I think, going to be increasingly a region of tension. So there is a possibility of some kind of conflict between Pakistan, China and India in that border region and that seems more likely than direct conflict between China and the United States. But of course that doesn't exclude the fact that China and the United States won't be drawn into conflict, but that it won't be on these ideological grounds. Now, to be sure, the Americans will claim, once any war starts, that it's an ideological war …

Lawrence Hamilton: They'll claim that the human right to water…

Raymond Geuss: They may well claim that it's about human rights just as they claimed that the war in Iraq was about ending tyranny. But we're not going to be taken in by that are we? Sophisticated people that we are.
[Laughter]

Lawrence Hamilton: So perhaps all talk of rights is an inconvenient fiction.

Raymond Geuss: Crude and inconvenient.

Lawrence Hamilton: Crude and inconvenient fiction. But we … why do we appear to need this fiction?

Raymond Geuss: That's a very good question.

Lawrence Hamilton: You give the beginnings of an answer, it seems, in *History and Illusion in Politics*, where you talk about efficiency, predictability, security? But, might you want to say more than that? For example, I don't want to put words in your mouth, but one potential way of thinking about this would be to say, and it links to your argument about Iraq, would be to say – would you want also to argue – that human rights are primarily useful for the reproduction of those ruling classes who currently control the state in any particular polity?

Raymond Geuss: I wish I had a good answer to that. I don't but I'll say what I can. I think there are three sources for this fascination with rights. One is the

capitalist economy which depends on predictable control over resources, it depends on knowing who owns what. The model of all rights, after all, is a property right and that's the thing we must never forget. Rights come out of property thinking: who controls what property? That's the central thing. And so you can understand that a capitalist society will be absolutely obsessed with clarifying who owns what factors as clearly as possible, so that will be part of the basic apparatus of thinking in such a society.

Second, there is a Foucauldian element, which is that the state wants to get control over its citizens and so there will be complicated processes of individuating them and keeping them under control. The relation of this to rights-discourse is complex and obscure, but I think a connection exists.

Third, in societies in which people have actually little control politically over what happens, individuals will have compensatory needs because they feel powerless. They will want to think that 'well, at least I have some domain in which I have control, I might not be able to control what happens to my city, what happens to my street, what happens in the hospital, what happens in the war, but at least I have the right to something-or-other.' Rights under this aspect are the modern form of opiate for politically neutred populations.

So I think it's a combination of the needs of the economy, the needs of a modern administrative state and the psychological compensatory needs of deracinated populations that are relatively alienated and feel themselves to be powerless and rights-thinking is a kind of way in which they can feel good about themselves. They can feel: although we have no control over things, at least in this domain we've got these rights.

Lawrence Hamilton: Excellent. Thank you Raymond, that's a wonderful place to stop partly because it speaks directly to the South African situation, that last point in particular. I think that besides the point I made earlier about cohering sharply divided interests and histories – the importance of getting two very divergent groups together – the function it performs in a place like South Africa is the compensatory function you've just articulated. That was fascinating, thank you!

Raymond Geuss: Good, good.

Lawrence Hamilton would like to thank François Janse van Rensburg and the editorial board of Theoria for editorial assistance in producing this published interview.