

Freedom to Think

SUSIE ALEGRE

The Long
Struggle to Liberate
Our Minds

'Compelling, powerful and necessary.'

*Shoshana Zuboff, author of *The Age of Surveillance Capitalism**

First published in Great Britain in 2022 by Atlantic Books, an imprint of Atlantic Books Ltd.

Copyright © Susie Alegre, 2022

The moral right of Susie Alegre to be identified as the author of this work has been asserted by her in accordance with the Copyright, Designs and Patents Act of 1988.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of both the copyright owner and the above publisher of this book.

Every effort has been made to trace or contact all copyright holders. The publishers will be pleased to make good any omissions or rectify any mistakes brought to their attention at the earliest opportunity.

10 9 8 7 6 5 4 3 2 1

A CIP catalogue record for this book is available from the British Library.

Hardback ISBN: 978-1-83895-152-8

Trade paperback ISBN: 978-1-83895-153-5

E-book ISBN: 978-1-83895-154-2

Printed in Great Britain

Atlantic Books

An imprint of Atlantic Books Ltd

Ormond House

26–27 Boswell Street

London

WC1N 3JZ

www.atlantic-books.co.uk

CONTENTS

[Introduction: The Best of All Possible Worlds](#)

Part 1: [The Analogue](#)

Chapter 1: [Inner Freedom](#)

Chapter 2: [Of Gods and Men](#)

Chapter 3: [Inside Your Head](#)

Chapter 4: [The Politics of Persuasion](#)

Chapter 5: [The Power of Human Rights](#)

Part 2: [The Digital](#)

Chapter 6: [Facebook Knows You Better](#)

Chapter 7: [The Ministry of Truth](#)

Chapter 8: [Consenting Adults](#)

Chapter 9: [Social Credit](#)

Chapter 10: [Pre-Crime and Punishment](#)

Chapter 11: [Body and Soul](#)

Chapter 12: [We Don't Need No Thought Control ...](#)

Part 3: [The Possible](#)

Chapter 13: [The Backlash](#)

Chapter 14: [Freeing Our Minds](#)

[Acknowledgements](#)

[Endnotes](#)

[Index](#)

INTRODUCTION

THE BEST OF ALL POSSIBLE WORLDS

1989 was a year of turmoil, optimism and excitement. It was the year Tim Berners-Lee invented the World Wide Web and the year I turned 18 – one of the last of a generation to live their entire childhood offline. A generation for whom privacy meant trusting your mother not to read your diary and ‘thought control’ was a Pink Floyd lyric.

As I crammed existential angst from Sartre and Camus and memorised the names and dates of French revolutionaries, Nazi propagandists and English kings, images of resistance from the other side of the world flashed across TV screens as protesters in Tiananmen Square fought for their chance to experience democracy and freedom. Their protest was crushed, but it was only the first act in a year that proved that the eternal fight for human freedom was far from over.

That summer, I joined the crowds on the streets of Paris to celebrate a turning point in that struggle, 200 years earlier, when the French had chosen *liberté, égalité, fraternité* as the foundations of a revolutionary new world order based on democracy and human rights. Thirty years on from the bicentenary, I might have found somewhere to stay through an app, and there would have been a selfie of me smiling by the Eiffel Tower that all my friends could ‘like’. But in 1989, there was no accommodation to be had and I didn’t feel that I needed any record to show that I was there on the Champs-Élysées, part of the throng of idealists and opportunistic party people celebrating the turbulent history of human freedom. So now I have only the memory of opening myself up to Camus’ ‘benign

indifference of the world' as I slept under a bush by the banks of the Seine, a riverside that was peppered with dog turds but filled with hope and history.

Three months later, the Berlin Wall fell. This time, freedom really had won. The long shadow of twentieth-century totalitarian rule in Germany was erased in a blaze of fireworks. Germany was finally united and could begin to repair its divided soul after almost 60 years of the authoritarian horrors wreaked by both Nazi and communist social control.

While Europe was experiencing the practical rebirth of liberty, I pored over its theoretical foundations in the brutalist atmosphere of Edinburgh University's library. J. S. Mill's *On Liberty* and the Socratic dialogue of Plato's *Republic* taught me to think seriously about what it means to be human, while I revelled in the eternally misplaced optimism of Voltaire's *Candide* and discovered the infinite flavours of the 'water of life' in dark, smoky Edinburgh bars. I read voraciously and eclectically. But struggling to navigate the library index cards and taking notes on pads of A4 ruled paper, my explorations of Jung's dream analysis, virgin birth in the Trobriand Islands and the hidden meanings of French folk tales left no virtual trace of my thought processes for others to track. There was no assessment of my thinking beyond my tutor's notes in the margin of last-minute essays, scribbled through the long, dark Edinburgh winter nights. It was a delight that year finally to be free to think and to drink and to wallow in hopeless unrequited love.

There was a boy. Not the kind I would want my daughter to fall for – he was unreliable and disaster-prone though he was undoubtedly intellectual, anarchic and exciting. He had taken me to Paris, and that Christmas he asked me to lend him money so he could go to the biggest New Year's Eve party ever in a freshly unified Berlin. But in a moment of self-possession, I decided that if I could get the money, I'd rather use it to go myself instead. Always resourceful and persuasive, he found the funds elsewhere and told me he had sorted out accommodation so I didn't need to. We arranged to meet there.

On New Year's Eve 1989, frozen to the bone after twenty-four hours curled in the crushing cold of a midwinter train corridor, I found myself waiting with my friend for a boy in front of a slowly disintegrating Berlin Wall in a crowd that hummed with the collective joy of liberation. The boy never showed up. Ghosting was much, much easier without a mobile phone, and I should have seen it coming. He had already stood me up once late at night on the Côte d'Azur earlier that year. If I'd had a Facebook account, I would no doubt have set my relationship status to 'It's complicated'. But we don't need algorithms to make ridiculous romantic choices. And sometimes, being stood up on a freezing night in a foreign country is what we need to give us a glimpse of the best of all possible worlds.

Abandoned in the biggest freedom party on earth, my friend and I skipped back and forth through the wall all night, dancing, drinking, chipping away pieces of concrete history to carry home in our pockets. The kindness of strangers gave us a warm floor to sleep on when the fireworks died, and a view of the fundamental goodness of the world that we might have missed with the boy. It was much, much better than a bad date; it was a real date with a huge wave of historic hope for freedom and the still weeping sore of what it means for a whole country to lose it.

There are no photos of me at the Berlin Wall either, and the tiny piece of spray-painted concrete I took away as a memento is long gone, lost in the clutter of many house moves. There were no receipts, no card payments, no reservations, no emails, no messages – no proof that I was ever there at all, celebrating the new dawn of freedom and nursing a broken heart. The images are sepia-tinted by the lens of my memory alone. When I messaged my friend to ask what she remembered about the journey, she messaged me back: *There was bratwurst*. I was sure we ate Burger King, but bratwurst would have made an infinitely better Instagram post – had it existed.

I googled the boy to see if he was as I remembered. There's no trace online of the anarchic 18-year-old who fancied himself a modern-day Hemingway. All I found was a photo of a middle-aged doctor smiling out of a tableau of professional respectability. But

would he be there now if 1989 had been lived online? Would the algorithms have concluded that medicine should be one of his interests, pushing the idea quietly into his consciousness through online advertising? Or would he have been considered too risky for financial support through his studies, based on a chaotic social media presence and erratic electronic spending patterns? Would the internet echo chamber have left him permanently washed up on the wilder shores of fecklessness? Or would the indelible records of his adolescent thoughts and the impressions he left on others have been held against him in a job interview? We were the last generation who could leave our adolescent thoughts, opinions and feelings behind us. Neither he, nor I, have been punished for our youthful ideas about freedom. Our children may not be so lucky.

Today, children are plugged into the online world from birth, with delightful social media photos, online baby-shower lists and nappy orders. Some children are even tracked before they are born with the help of pregnancy apps. And technology has become an incredible tool to help our children learn. One of my daughter's first 'words' was the tweeting finger sign for a bird she learned from an app, giving her the bridge to connect the noise outside with her internal world. When I travel for work, I can be simultaneously at home and in my hotel room, the beauty of technology keeping me connected to my loved ones across the seas with the power of screens. My daughter misses me, she says, but the screens make it difficult to concentrate, and usually, after 10 minutes of pulling faces at herself on the phone screen, the eternal loop of TV on demand wins and I'm left with a view of the underside of her chin before she disconnects.

The impact of the World Wide Web did not hit us suddenly like the fall of the Berlin wall in 1989. There is no 9 November to celebrate the technological revolution. Rather it has crept up on us like the slow and steady devastation of coastal erosion, each new wave of useful and entertaining tech chipping away at the walls of our consciousness until one day we woke up to discover that our mental geography had been fundamentally altered.

For me, the revelation came while scrolling mindlessly through Facebook on a dark winter night in January 2017. In among the Christmas holiday photos from beaches, mountains and brightly lit cityscapes around the world, I came across an article that made me sit up and think. It was a now infamous story about data, Brexit, Trump and Cambridge Analytica originally published in German by Swiss investigative journalists on a small online news website.¹

This article lit a light, a blue light that wouldn't let me sleep. I read and reread. I stepped away from the screen. I remembered the night of the Brexit referendum in June 2016, checking my Facebook account and going to bed early, sure that in the end, the European project that had been built with such hope on the ruins left by the Second World War would win the day. Facebook told me what I wanted to hear – after 20 years of work on human rights in Europe, everyone I knew on Twitter and Facebook agreed with me and I slept soundly. But somehow, in the morning, it was clear that the country did not agree with my Facebook feed. Could it be that my complacency had been curated? Had I been lulled into a false sense of security so that I would not see the need to speak up? Whether this was the case or not, the idea that this could be true – that my smartphone could be used as a portal to manipulate my mind – felt like a personal assault. That this could have been done en masse to manipulate the results of elections that could change our very futures was an existential threat to the democratic society I grew up in, and one that, at the time, worryingly few people were talking about.

Behavioural microtargeting is a technological tool to get inside our minds and rearrange the furniture. The idea that this could be happening, minute by minute, to affect the way we think, feel and behave is unthinkable. But what is even more worrying is that these techniques are not limited to the political sphere. This kind of profiling and targeting is worth billions, because profiling and targeting our minds to influence our thoughts sells things. What's for sale can be banal, like a choice of underwear; or profound, like a belief in the power of national sovereignty. In addition, these algorithmic processes are used to filter us out for opportunities for

work, finance and love. And we feed them every time we do anything online. What shook me about the story was how easily our thoughts and opinions can be hacked on such a massive scale, and that little or nothing was being done to stop it.

The decisions we make, the ideas we have and our moods are all influenced by the people we meet. But there are some encounters that shift the dial and change the course of our lives. I had never planned to become a lawyer. At university, poetry, the more esoteric fringes of philosophy and even puppet theatre were the things that inspired me. But in 1995, working for a conflict resolution NGO in the Basque country in the north-west of Spain, I found myself interpreting for the internationally renowned human rights lawyer Professor Kieran McEvoy, doing comparative research on releasing politically motivated prisoners as part of the Northern Ireland peace process. In recently released government documents from around that time,² the Northern Ireland Office described him as ‘biased and opinionated’ and the organisation he worked for as ‘fashionably radical rather than sinister’. Bias is a useful criticism of people you disagree with, but being opinionated and fashionably radical are both positives in my book. The influence that Kieran had on me, however, was much more profound than a passing fashion. Interpreting for him as he talked about human rights cases and raising community grievances in courts, it dawned on me that the law could be just as potent a force to change the world as the anger and burning buses I saw in the protests that choked the streets around me. It was a revelation that it could be exciting. For me, that was a turning point. Instead of my planned life of poetry in the Pyrenees, that summer I moved back to London and started studying for a life in the law, discovering in the process that, just like poetry, public international law is a distillation of the human condition.

I studied philosophy and languages at university because I wanted to understand how the world works and how we explain it in different ways. I hoped that reason and art would fill the void and explain humanity. But while I found the arguments of Mill, Locke and Hume interesting in an abstract way, philosophy left me empty. And though I

loved French literature with a passion, particularly the exuberant excesses of Rabelais and Voltaire, I couldn't quite see how I could use it to put my own mark on the world. I became a human rights lawyer because it seemed to me that it was a way to work at the heart of what it means to be human, to make sense of the world and to create the kind of world I wanted to live in.

Over the past 25 years since qualifying, I have not been disappointed with my choice. I have prosecuted crimes that ruined victims' lives and represented people whose liberty hangs in the balance in criminal courts. I have challenged governments on heavy-handed responses to terrorism and advised diplomats on ways to stem corruption. It doesn't matter what the topic, human rights law lights the way for humane responses to the world's problems, big or small. For me, it made the ethics I studied in Edinburgh tangible. But when I started to look specifically at the right to freedom of thought, I finally found what I had been looking for when I chose to study philosophy – the key to what it means to be human.

The rights to freedom of thought, conscience, religion and belief and freedom of opinion are absolute rights protected in international law. Without freedom of thought or opinion, we have no humanity, and we have no democracy. Making these rights real requires three things:

1. the ability to keep your thoughts private;
2. freedom from manipulation of your thoughts;
3. that no one can be penalised for their thoughts alone.³

The right to freedom of thought is a cornerstone of all our other rights. And its profound importance for humanity means it is protected in the strongest possible way in human rights law. Yet somehow we have allowed ourselves to be lulled into the false assumption that we don't need to worry about it because no one can actually get inside our heads. The Cambridge Analytica scandal is just one piece of evidence that this assumption is no longer true, if it ever was. The scale and range of interferences with our ability to think and

feel freely that technology can and might facilitate is in many ways beyond our imagination. But it is happening now. We have forgotten that rights need protections to be real and effective.

Voltaire's Candide declared proudly that 'I read only to please myself and enjoy only what suits my taste.' In the twenty-first century, it is increasingly difficult for any of us to do otherwise. Algorithms dictate the news stories we are presented with, giving different windows on the world to different people on the same site in order to 'improve our experience'. Spotify will even stream music for you tailored to your DNA, if you have ever shared your saliva with AncestryDNA.⁴ The adverts we see for jobs, homes, finance and social opportunities are all targeted at the people Facebook, Google and the data brokers think us or want us to be. Our opportunities and actions are guided by invisible actors.

The economist Shoshana Zuboff describes this problem in her seminal book *The Age of Surveillance Capitalism*. However, most of the discussion so far about the solutions has focused on privacy and data protection. But the fundamental problem with techniques like behavioural microtargeting and the 'surveillance capitalism' model is not the data; it's how it is used as a key to our minds.

What could be more human and intimate than thought? People feel they have nothing to hide when you talk about privacy. But if you talk about freedom of thought, how many of us are really prepared to admit 'I have nothing to think'?

While the idea of privacy feels closed, introspective and exclusive, designed to constrain and obscure the self, keeping others out, the idea of freedom of thought is expansive, exploratory and open. It is the space to discover new ideas, try on new viewpoints, be scurrilous, irreverent and naughty, profound and pompous, in order to understand our place in the world around us. Freedom of thought is a voyage of discovery and privacy is the tollbooth.

Tim Berners-Lee did not invent the World Wide Web to enslave our minds. But over the past three decades, a Panglossian optimism combined with cynical self-interest has allowed the scale of our dependence and the reach of technology into our minds to expand

unchecked. Big tech has dodged regulation by scaring policymakers with the threat that regulation would stifle innovation – no one wants to be branded a Luddite. Now that we have begun to wake up to the reality, we are told that it is a done deal, something so complex and all-pervasive that we must just learn to live with it. But we do not have to learn to live with a system that denies our dignity. We must remember the revolutionary spirit of Paris and Berlin that characterised the year the internet was born. And we need to learn how to change the internet into a system that contributes to our individual and collective liberty. In his open letter in 2019 celebrating 30 years of his invention, Tim Berners-Lee wrote:

Against the backdrop of news stories about how the web is misused, it's understandable that many people feel afraid and unsure if the web is really a force for good. But given how much the web has changed in the past 30 years, it would be defeatist and unimaginative to assume that the web as we know it can't be changed for the better in the next 30. If we give up on building a better web now, then the web will not have failed us. We will have failed the web.⁵

At the start of 1989, the Berlin Wall seemed like a solid and immutable fact of life – the embodiment of a world split by ideology for decades. And then Berliners started to pick up hammers to chip away at the concrete facade, and by Christmas it was history.

In 2020, the global pandemic that ended so many lives and locked us up in our houses made the use of the word 'unprecedented' banal. But it did provide an unprecedented opportunity for reflection. Now that we understand what it means to lose our physical liberty and to live our lives online, we need to focus on what freedom, including mental freedom, should mean for our future in the digital age.

The lockdown gave me an opportunity to reread the classics of twentieth-century dystopian fiction with a fresh eye. George Orwell's *Nineteen Eighty-Four*, Aldous Huxley's *Brave New World*, Philip K. Dick's *The Minority Report* and Margaret Atwood's *The Handmaid's*

Tale, with its recent sequel *The Testaments*. And I make no apology for the references to them scattered liberally through this book. Their visions have become so deeply carved in our collective consciousness that we regularly use their terminology as an easy way of describing the tidal wave of surveillance, consumerism and injustice that we see around us. But we do not really engage with the detailed accuracy of their futuristic vision. Rather than taking their visions as a warning, it sometimes seems as though we have adopted them as a template for our world.

For Orwell's hero, Winston Smith, the original thoughtcrime was to buy a notebook, a pen and some ink. It did not matter what he wrote; the mere fact of writing outside the sphere of surveillance of the telescreen or the speakwrite was punishable by death, or at least 25 years of forced labour. But as humans, we cannot help ourselves. Our need for inner freedom will always drive us, ultimately, to put pen to paper, to speak out, or to make a tiny rebellion to challenge oppression no matter what the cost. This book too started out in royal-blue ink on smooth lined paper away from the ubiquitous screens of lockdown. Writing so much by hand may have given me tennis elbow, but it also gave me a different way to think and to get my ideas in order before committing them to the eternal cloud.

In Part 1 of the book, I explore the historical groundings of the right to freedom of thought, the way it connects to other human rights and the battles over millennia to achieve the freedom to think for ourselves. If we look back through history, we can see what it means for individuals and societies to not have freedom of thought. The philosophers I studied – Mill, Socrates, Voltaire and Spinoza – knew only too well what it was to be deprived of freedom of thought and opinion, whether through the threat of torture, imprisonment or even death as a penalty for heretical or treasonous thought, or through the heavy weight of social control. Scientists and doctors from ancient Greece to Silicon Valley have tried to understand what makes us tick, and have developed imaginative and intrusive methods to infer what we might be thinking and to manipulate our minds as individuals and groups. And the histories of war, propaganda and marketing

illuminate the ways our societies have been manipulated through the ages and the potentially deadly consequences of mind control whether political or commercial. All of these had impacts on both collective and individual mental freedom in the time before freedom of thought was established as a legal right.

Part 2 looks at the new threats to freedom of thought that we now face, by exploring how technology is increasingly engaging directly with our minds and questioning the effectiveness of current legal approaches to protecting the right. From the criminal law to the ways we vote, find love, stay healthy and educate our children, science and technology are used to try to understand what we think and feel and how that can be changed without us noticing, for the benefit of others. The examples given do not necessarily amount to a legal breach of the right (though several may yet prove to be), but they all illustrate the rapidly growing incursions on our inner freedom that affect us all, directly or indirectly.

In Part 3, I offer potential avenues to a future where our right to freedom of thought is secure along with all our other human rights. It is a call to reflect on what we need for freedom and how we all have a part to play in building a future that recognises and respects human rights for all.

This is not a book about technology; it is a book about human rights and why they matter. Almost three quarters of a century has passed since humanity came together as one to recognise the rights set out in the Universal Declaration of Human Rights. But what felt like a definitive period of peace and prosperity, at least in Europe and North America, has allowed people to forget why human rights matter for all our lives. Even worse, rights and freedoms have been weaponised (quite literally in the United States, with the right to bear arms), with a fundamental lack of understanding about what they mean and how they work. I have a right to freedom of expression, but it does not give me the right to provoke hatred and discrimination against you and people like you. I have a right to privacy, including the right to keep my health status private and to engage in intimate activity with other people, but it does not give me a right to intentionally or

recklessly infect others with a deadly virus. The idea of freedom has been harnessed and corrupted to represent a selfish individualism that has little to do with the ideal of liberty that set us on the road to legally enforceable human rights.

We are at a defining point in our history. If, like me, you want a future of peace and prosperity for generations to come, it is time to think very seriously about what human rights and fundamental freedoms mean, how they work and how they can be protected. They are universal, indivisible and inalienable. Freedom of thought sits alongside and operates with many other rights. But it has been largely overlooked, with a misplaced complacency. If we lose our ability to think and form opinions freely, we will be powerless to defend any of our human rights. Once we have lost our rights, we may never get them back. Before we throw them away, we should remember where they came from, why they matter and how they can save us in the future.

It is time to take a step towards defining what the rights to freedom of thought and opinion mean in practice, so that we can draw a protective ring around them and find the mental space to think, feel and understand freely. We need freedom of thought to combat climate change, racism and global poverty, and to fall in love, laugh and dream. The right to freedom of thought is an individual right, but it is crucial to the cultural, scientific, political and emotional life of our societies. Freedom of thought gives us the chance to think ugly thoughts and push them away before we act on them or let them take root; it allows us to choose how we behave to others, to moderate our speech according to the context and the audience, and to be ourselves. Freedom of thought lets us imagine new futures without having to prove them first. It keeps us dynamic and adventurous; it keeps us safe; and above all, it keeps us human.

I have no desire to stop technology in its tracks. This book is not a Luddite manifesto for the end of modernity. But it is an urgent call to think about what we want from technology in the future, and what we need to preserve our humanity and our autonomy – these should be the guiding principles of our relationship with technology and the

future development of the tech industry. Our future should not be built on the best way to monetise the global population and obtain world domination for the few. It must be grounded in what it means to be human, and for that, we must have the freedom to think.

Part 1



THE ANALOGUE

CHAPTER 1

INNER FREEDOM

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 1, Universal Declaration of Human Rights

In a dusty Ivy League law library, the walls lined with leather-bound books written by men who looked a lot like him, Zechariah Chafee came to understand, viscerally, that there was a gulf between the ideal of human freedom expounded by the Founding Fathers and what that freedom meant in practice in the United States in the early twentieth century. As he contemplated the dust motes dancing in the shafts of late-afternoon sunlight that penetrated the tall windows, waiting for the illustrious legal minds poring over his opinions to decide his fate, Chafee's absolute dedication to making freedom of opinion a reality in law and in life crystallised around him.

An upper-middle-class East Coast lawyer who had specialised in contract law, and a professor of law at Harvard, Chafee could have chosen a comfortable and easy life in the ivory towers of the American establishment. But he had views. And he had very strong views on the right of everyone to hold and express their opinions, no matter how unpalatable those opinions might be. The First Amendment now seems like such a fundamental part of the American approach to civil liberties, but before 1919, the US courts had not even looked at it. In the aftermath of the First World War, as the American government used the 1917 Espionage Act and the 1918

Sedition Act to crack down on critics of its war effort and to combat the first 'Red Scare', provoked by the Bolshevik Revolution in Russia, Chafee's was a rare voice speaking out for freedom of speech. But his voice had global reach and impact.

Chafee's scholarship and activism around the First Amendment were said to have informed the first Supreme Court declaration on free speech, in Justice Oliver Wendell Holmes Jr's dissenting judgment in the case of *Abrams v. United States*,¹ in which immigrants were convicted for distributing leaflets condemning American intervention in Russia. While Chafee did not share their opinions, he could not step back from defending their rights both to hold and to share their views.

Academic freedom is fundamental to the development of human knowledge and wisdom. But far from finding a haven in academia, Chafee's stance on freedom of opinion and expression threatened to undermine his academic career. He was effectively put on trial when Harvard Law School carried out an extraordinary investigation and hearings to determine whether his writing on free speech made him 'unfit as a law school professor'.² Although he ultimately survived this challenge and stayed on at Harvard, his opinions saw him dragged before the House Committee on Un-American Activities and listed by Senator Joe McCarthy as a person who was 'dangerous to America'.³ Chafee knew only too well that 'the inclination of men who obtain the power to govern is to use that power for the purpose of controlling not only the actions but the thoughts of men'.⁴

He understood the need to protect the right to hold opinions without interference, not because of an innate American respect for the principles enshrined in the First Amendment, but rather because he had direct experience of state suppression of unpopular opinions and the pressure of conformity of thought, even in the intellectual palace of Harvard. For Chafee, it was clear that freedom of opinion was not just an idea or a value; it was a necessity for human society, and one that was in urgent need of protection, in law and in practice, in the United States and around the world.

The right to freedom of thought, religion, conscience and belief along with the closely related right to freedom of opinion are fundamental but often overlooked pieces in the universal human rights jigsaw. They are the inner freedoms that allow scientific progress, artistic inspiration, emotional fulfilment, political engagement and spiritual enlightenment. For democratic elections to function, each of us needs to be able to freely form an opinion so we can contribute to decisions on the direction of our country. Without this freedom, democracy is meaningless. And these are freedoms that underpin our personhood and the way we see ourselves as human beings.

Ideas and values can help shift the way we approach and view our lives, but it is the translation of ideas and values into laws that really moulds our societies and gives ethics weight. Laws regulate human relationships. They set the limits on the way we interact and how we treat each other. And human rights laws have provided humanity with a moral compass after periods of turmoil when it became clear that we had lost our way. They are nuanced, profound, principled and fundamental to our individual and collective humanity, dignity and autonomy. We all need them, and if we want to keep them, we need to think about what our rights mean and defend them. To do that, we need freedom of thought.

The fight for rights

Human rights are not new. Over the centuries, human rights and fundamental freedoms were developed primarily to rein in state powers. The international human rights laws that emerged in the twentieth century were a response to the atrocities of the Holocaust and were designed to prevent our governments from harming us, but they also put obligations on states to protect us from each other and from the actions of private businesses. In recent years, as the line between the public and private spheres of life has blurred, the importance of human rights to restrain corporate reach into our lives has become increasingly important. They provide a bulwark against

governmental or societal excess and a crucial foundation for democracy. Without human rights, democracy runs the risk of becoming a ‘tyranny of the masses’, as philosopher J. S. Mill once feared.

Understanding how the philosophical ideas of the Enlightenment were transformed into universal laws requires a brief introduction to where human rights come from and why they matter. Human rights are universal, indivisible, inviolable and interdependent, but, perhaps inevitably, there is some debate about who discovered them as legally recognised rights. In ancient Babylon, Hammurabi’s code, one of the earliest-known examples of a written legal code, recognised civil rights such as the presumption of innocence in criminal trials and economic rights including a minimum wage almost 4,000 years before such a radical law was passed in the United States in the 1930s. But alongside these progressive ideas, the ancient code included a litany of barbaric punishments and grisly ways to be put to death should anyone transgress. It is a far cry from the kind of human rights template we want to live by in the twenty-first century.

England, France and the United States scrap, rather predictably, over their relative importance in the origin story of modern human rights. The Magna Carta of 1215 is often cited (at least by the English) as evidence that Runnymede, a green field just outside London, was the true birthplace of human rights. But while the Magna Carta did serve to curtail the powers of the deeply unpopular King John by introducing important rights, such as access to due legal process, it was designed to protect the interests of the Church and the barons rather than those of ordinary people, who barely had any rights in law. For the serf in his field, it would have made very little difference, except perhaps to reduce the likelihood of being sent to war. In 1215, the idea that all men were born equal would have been not only ridiculous, but also a huge threat to the status quo – even expressing the idea would have been to risk serious punishment or death. No doubt that is why Robin Hood, King John’s legendary nemesis, who stole from the rich to give to the poor, has such an enduring appeal. The 1689 English Bill of Rights, which took a

further step down the path to codifying civil and political rights, particularly freedom of elections and freedom of speech in Parliament, also did little to advance human rights or freedom for the average man or woman on the street or country lane. Most of them did not have a vote anyway. Civil and political rights, in England at least, were for the rich and powerful; they were not for the people.

Ironically, perhaps Britain's most important contribution to the explosion of rights onto the eighteenth-century legal and political landscape was its oppressive rule in the Americas, which would go on to provoke one of the greatest leaps forward in the history of human rights as we know them today. Tired of the tyranny of the British Crown, the drafters of the American Declaration of Independence put the well-being of people as a primary purpose of governments (alongside a long list of complaints about the king) and set a template for the future of American democracy: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.'⁵

The first amendment to the American Bill of Rights from 1787 develops the theme of individual freedom as protected from state excess: 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.'⁶

Finally, the governed had the right to take a view on their government. The focus on civil liberties reflected the history of the United States as a refuge for those escaping religious and ideological persecution in Europe. The primary place of freedom in the US constitution has made it a defining feature of the American approach to human rights, with a stronger focus on freedom of expression without limitation by the state than in many other countries, particularly in continental Europe. The American Founding Fathers,

such as Benjamin Franklin, knew that ‘without freedom of thought, there can be no such thing as wisdom’,⁷ but they stopped short of setting down that freedom explicitly in law. However, the interpretation of the constitution, in particular the First Amendment, by the courts has underlined the fundamental importance of both freedom of thought and freedom of expression to the American model of democracy in the twentieth century. Justice Brandeis explained the importance of free thought in his concurring opinion in the 1927 US Supreme Court case of *Whitney v. California*, a case involving a woman who was convicted for her part in helping to establish the Communist Labor Party of America:

Those who won our independence believed that the final end of the State was to make men free to develop their faculties, and that, in its government, the deliberative forces should prevail over the arbitrary. They valued liberty both as an end, and as a means. They believed liberty to be the secret of happiness, and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth ... They recognized the risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies, and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law ... the argument of force in its worst form.⁸

How far the Founding Fathers could have predicted the ways that their ideas about freedom would be developed in law is debatable. But

it is clear that their work on the US constitution had a profound effect on the future of human rights far beyond their borders.

Liberté

The last two decades of the eighteenth century were a time of upheaval on both sides of the Atlantic, with radical ideas fuelling a desire to create a new world order that would overthrow the abusive privilege of monarchy and aristocracy. The radical thinkers of the time cross-pollinated their ideas as they swept away physical and intellectual borders, with the likes of Thomas Paine, Mary Wollstonecraft, Thomas Jefferson and Benjamin Franklin riding the waves across the Atlantic and the English Channel to share their ideas as effectively, if not as efficiently, as an undersea data cable. The revolutionary spirit of eighteenth-century France, inspired by the philosophers of the Enlightenment, saw the first comprehensive legal proclamation of human rights and democratic principles as we know them today. Unlike its British precursors, there was no doubt that the Declaration of the Rights of Man and of the Citizen, drafted by the French National Constituent Assembly in 1789, was for the people, not the ruling classes. It was the legal embodiment of the Enlightenment ideals of natural and civil rights.

In 17 clauses, it set out the principles that prescribe the way in which the sacred rights of men must be protected and respected to ensure the happiness of all. These were sweeping and basic principles that described the fundamental freedom and equality of all men (women still had a while to wait) and established the preservation of the natural rights of liberty, property, security and resistance to oppression as the necessary aim of all political associations. As a precursor to modern human rights laws, these clauses placed the rule of law at the heart of government, ensuring that any limitations on freedom must be set down in law and could only be justified to protect the good of others or to prohibit actions that were harmful to society. The rules of due process, including the right to be considered innocent until proven guilty, the principle of no punishment without

law, and humane treatment for detainees, were also codified in the Declaration. Principles governing the military, taxation, representation, the separation of powers and the accountability of the administration, which form the bedrock of modern liberal democracy, had their place too. But as well as these principles of governance and law, the Declaration codified the rights to have and express one's own ideas, opinions and beliefs, clearly setting out both an internal and an external aspect of those rights:

10. No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.

11. The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law.⁹

These clauses, with their recognition of the need to limit some external freedoms when required to protect others, and the responsibilities associated with freedom of speech, formed the basis of the rights and freedoms that we know in the twentieth-century international human rights texts as the right to freedom of thought, religion and belief and the right to freedom of opinion and expression. Both rights go to the heart of human autonomy and identity, as we experience them internally and live them externally in our daily lives.

This represented a fundamental shift. As the political theorist Hannah Arendt noted in *The Origins of Totalitarianism*: '[The Declaration of the Rights of Man] ... meant nothing more nor less than that from then on Man, and not God's command or the customs of history, should be the source of Law ... The proclamation of human rights was also meant to be a much-needed protection in the new era where individuals were no longer secure in the estates to which they were born or sure of their equality before God as Christians.'¹⁰

In the new world order, we needed new ways to protect ourselves – God might save our souls from Satan, but he could not protect us from each other. Human rights were designed to protect us from the perils of the future.

Equality?

The Declaration of the Rights of Man was a first step to recognising that we all have the right to think for ourselves, and that this is a right that needs protection. It was radical but, in line with the social mores of the day, its egalitarian principles did not, in practice, extend beyond the idea that only free white men had such rights. Even those who proclaimed themselves committed to the idea of freedom of thought as a natural right were unwilling to consider that women, or non-white men, might also be entitled to such things.

In 1791, the French feminist activist, philosopher and writer Olympe de Gouges, recognising the limitations in male political Enlightenment thinking, penned the Declaration of the Rights of Woman and the Female Citizen,¹¹ demanding equality between the sexes and expanding the provisions in the Declaration of the Rights of Man to include women. Rather than being supported in expanding the concept of freedom, she was convicted of treason based on her political writing, and executed.

In a democracy, it is the vote that gives you the key to civil and political rights and marks the value society puts on your opinion. Historically, the right to vote has been very much dependent on your wealth, sex, age, religion and the colour of your skin. In the United States, ‘all men’ were theoretically given the vote in 1870, regardless of race, but women had to wait until 1920 to vote across the country, and it was only in 1924 that all Native Americans were given suffrage. The way the law treats women and their opinions is often a good indicator of the real state of human rights and equality in a particular country. In nineteenth-century Britain, there was only one woman wealthy enough to have an opinion on the way the country was governed – Queen Victoria – and she had been appointed by God

so her right was not open to question. When my homeland, the Isle of Man – a small semi-autonomous British territory in the Irish Sea – decided to give all women the vote in 1881, it was the quiet result of a genteel suffragist lecture tour.¹² Her Majesty's governor, deeply disturbed by the proposal, managed to limit the damage of such a radical move by restricting suffrage to women of property over a certain age. Similar women in the UK had to wait until 1918 for the vote, after a violent struggle and the social upheaval of the First World War. Universal suffrage for men and women over 21 was finally introduced in the UK in 1928. In France, equality in terms of voting did not extend to women until 1944, following the liberation of France towards the end of the Second World War.

Throughout much of human history, large swathes of humanity had no rights at all in law. Slavery is so appalling because it is the antithesis of human freedom. The idea that a person can be owned by another undermines the most basic idea of what it means to be human. It is a negation of human dignity and autonomy. Subjugating a person to slavery denies their right to think. And despite the historical declarations on human rights, it has been a lived reality for millions around the world, thanks, historically, to a global commercial imperative driven by the very powers that were at the forefront of the philosophical and legal development of human rights.

In Britain, it was only with the Slavery Abolition Act of 1833 that the practice was ended in most of the British Empire (and India had to wait until 1843). The French, for all their liberty and equality, wavered in and out of tolerating slavery in their colonies until it was finally abolished in 1848. And in the United States, 'the land of the free', many of the Founding Fathers, including Benjamin Franklin, continued to own slaves while they thrashed out the foundations of the US constitution. It was not until 19 June 1865 that slavery in the United States was finally ended, and formally abolished with the Thirteenth Amendment that December. Its deep scars are still apparent today, and 'Juneteenth' was only finally recognised by President Biden as an official federal holiday in 2021. In many parts of the world, slavery continued in law until over a century later. Sadly, we

are still dealing with its legacy and its continued practice in the twenty-first century. The swathe of protests in the Black Lives Matter movement following the murder of George Floyd in the United States in 2020 is a clear sign that there is still a long way to go to make true freedom and equality a reality on the ground. And the continued existence of modern forms of slavery around the world proves that making laws is not enough to protect our rights; those laws need to be respected and enforced and we can never afford to be complacent about the rights we enjoy.

The early history of human rights was predominantly a history of wealthy white men's rights. It wasn't until the middle of the twentieth century, with the birth of a truly international human rights movement, that the rest of us were really deemed to be deserving of rights and capable of being trusted to exercise our minds freely at all. And some of the visionaries who brought us universal rights had first-hand experience of what it means to lose them.

The truth will set you free

Charles Malik kept himself close to the walls of the building as he skirted the University of Freiburg on his way home. His winter hat was pulled down tight in the hope that his thick, wavy dark hair would not draw any unwanted attention. This was his last day. He just needed to get back to his room one last time and pack his suitcase, and he would be on his way. His hands bunched in his pockets against the cold and his head down, he was trying to make himself as small as he could, hoping that neither the bitter cold nor the SS would pick him out from the crowd. He walked briskly, like a man with a purpose, but not so quickly as to arouse suspicion.

As he turned the corner down the west side of the building, he looked up briefly at the golden words inscribed over the entrance, '*Die Wahrheit wird euch frei machen*' ('The truth will set you free'), which had so inspired him when he had first arrived several months earlier to learn how to think. But his time in Germany in 1936 had not given him the truth, or the freedom, he had been looking for. Now the

inscription spoke to him of the urgency of his imminent departure. The truth, he had discovered in Nazi Germany, was the inescapable march of the totalitarian state through every single layer of society. The truth was the SS officer who had beaten him in a fit of anti-Semitic rage, mistaking his dark, chiselled Arab features for the caricature of Jewishness so reviled by the Nazis. The truth was that the man he had come to learn from, Martin Heidegger, espoused Nazi ideology as a defence against the dangers of freedom of thought and expression. And it was this truth that no amount of philosophy could ever cure. Tackling the horrors Malik saw in Nazi Germany would need law, international law that would override the power of the state and protect the people no matter who was in power.

Charles Malik, Lebanese mathematician, philosopher, Christian and Arab, saw the writing on the wall in Europe in the 1930s and set sail to finish his studies in America, the land of the free. But the brutal truth of fascism that he carried with him for many years in the pain in his legs from the SS attack was a key driver for his desire for freedom and plurality of thought across the world. The tolerance he knew in the diverse traditions of his native Lebanon were the ideals that he hoped would take root everywhere, even in Europe. And he was one of the drafters of perhaps the most ambitious global project for humanity of all time, the document that would make this dream real.

The Universal Declaration of Human Rights (UDHR), proclaimed in 1948 in a brief window of time between the atrocities of the Second World War and the ideological entrenchment of the Cold War, established, for the first time, a common understanding of what fundamental human rights must mean for everyone in the world. It was the moment we all became human in the eyes of the law. The UDHR was a truly international project, designed to create a road map that would guarantee the rights of all people, everywhere, regardless of status, sex, race or religion. It was both visionary and pragmatic, building bridges between cultures and making philosophical principles concrete without compromising the values that are intrinsic to our humanity. And its inclusive aims were reflected in the make-up of its main drafting committee. Chaired by a woman, the wide range

of geographical, political, philosophical and cultural perspectives of its members was designed to ensure that it would reflect universal principles that would be acceptable to all.

Each of the committee members had a role in the drafting, bringing their own individual and cultural perspectives to the Declaration. Eleanor Roosevelt, the American chair of the committee, a committed social justice activist and former First Lady, was a driving force for ensuring that the days of freedom and rights being only for men were over. She was joined by Malik and seven other committee members. René Cassin, a French Jewish lawyer and judge, had been a member of the Free French government in exile during the war. His contribution to the drafting of the UDHR was rooted in his personal response to the horrors of the Holocaust. Peng Chun Chang, a Chinese philosopher, educator, playwright and musician, who had brought *Mulan* to the Broadway stage in the 1920s, was also a consummate diplomat. Chang used Confucianism as a tool to find a path across seemingly intractable ideological chasms, and insisted on the removal of all references to nature and God in the text to make it truly universal. Alexandre Bogolomov, a diplomat from the USSR, brought the Soviet perspective to the drafting table, while Charles Dukes, a British trade unionist and Labour politician, brought a practical approach on labour rights. William Hodgson, a veteran of the First World War and an Australian diplomat, was a vociferous proponent of the need for a legally binding international convention on human rights with a court to enforce it. And Hernán Santa Cruz, an educator and judge from Chile, was dogged in his insistence that socio-economic rights must be included in the Declaration, despite resistance from the north. The final member, John P. Humphrey, a bilingual Canadian international lawyer working for the United Nations Secretariat, provided a bridge between francophone and anglophone cultural perspectives, bringing together and analysing the background documents that informed the United Nations Commission on Human Rights' work. Together, the nine committee members sought to find a text that would distil the essence of human rights in a

way that would suit the infinite variety of ideological tastes across the world.¹³

The drafting of the UDHR required complex manoeuvring around different cultural and political understandings of the building blocks of humanity and human societies. French and Anglo-American ideas about rights had historically diverged significantly, with French models focusing on the responsibilities of the state and social and economic rights, while Anglo-American models focused on individual civil liberties and political rights. In the new republics of Latin America, constitutions had developed hybrids of the approaches taken in Europe and North America, while the relationship between the individual and the state in the USSR was built on economic and social rights, with little regard for the idea of individual human autonomy; likewise, the teetering structures of colonialism were revealing new relationships and power dynamics between the global north and south. A good deal of diplomacy was needed to pass the final text in a UN General Assembly that was increasingly fractious with the deepening ideological divides that characterised global politics in the second half of the twentieth century.

Man's proper nature

Negotiating the UDHR meant grappling with foundational questions of ideology that would set a framework for humanity's future. It was not simply the animal existence of humanity that needed protection through basic economic rights. Charles Malik insisted that 'unless man's proper nature, unless his mind and spirit are brought out, set apart, protected, and promoted, the struggle for human rights is a sham and a mockery'.¹⁴ Malik was passionate about the spiritual aspect of humanity and fought hard for the 'human person' against the communist push for societal over individual rights.¹⁵ In response to pressure from the Yugoslav delegation in favour of collective rights reflecting socialist ideals, he suggested a new draft to resist social and state pressure on the individual, and asserted that 'the human person's most sacred and inviolable possessions are his mind and his

conscience, enabling him to perceive the truth, to choose freely, and to exist'.¹⁶

Although others disagreed vociferously with his ideas that the human person should take precedence over the state and society in this new world order, this focus on inner freedom and the essential spiritual nature of mankind was supported by many in religious communities, and René Cassin agreed that 'it was this right to the freedom of conscience which gave the human person his worth and dignity'.¹⁷ While his explicit drafting did not survive, Malik's views on the nature of personhood and humanity won out in the final draft of Article 1 of the UDHR. Reason and conscience are a defining feature of the human person protected by international human rights law against both the materialist threat of the West and the potential for tyranny of the masses that he perceived from communism.

Malik brought metaphysics, spirituality and the relative tolerance of his homeland to the table, but Chang, the Chinese delegate, brought poetry and the Chinese tradition of Confucianism. While Malik had driven 'reason' as the key component of what it means to be human, Chang felt that this was not the whole picture. Struggling to translate the Confucian idea represented by the Chinese character '*ren*', he described the missing piece of humanity as 'plurality of mind'. To him, it was something so obviously and fundamentally human, yet it did not really exist in any of the other official UN languages. Chang's idea was finally translated into the English word 'conscience', but that perhaps fails to grasp the complexity of the Chinese concept of *ren*. *Ren* is a fundamental principle of Confucianism, and has been translated variously as 'humaneness', 'benevolence', 'empathy' and 'co-humanity'. It could be described as the virtuous quality of altruism. Rather than referring to an individual state of mind, it deals with the way an individual interacts with others. It is the inner quality that allows us to reach out and touch others.¹⁸ And it is also connected to the idea of *fraternité* that the French revolutionaries espoused, and which is reflected in the statement that 'All men are brothers'¹⁹ in the preamble to the UDHR. It is relevant to the sphere of personal relationships, where it may reflect a form of love, but it is also

relevant to the global political sphere. When the mayor of Hiroshima called for a regional ban on nuclear weapons on the fiftieth anniversary of the horrific bombing of his city, it was the idea of *ren* that he appealed to as a justification for this step to guarantee a humane future.²⁰ *Ren* is the inner quality we need as humans to live together in dignity and humanity.

The UDHR is the international statement on human rights that has achieved the greatest level of international consensus, being adopted unanimously in the General Assembly with only eight abstentions.²¹ It is recognised as having the status of *jus cogens*, meaning that its contents have international legal force that cannot be set aside, regardless of whether a country signs up to it. But it is declaratory, and it lacks the detail needed to apply law effectively in practice. Making the rights in the UDHR real meant translating them into more detailed and binding international treaties. This took the form of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted in 1966, two treaties that taken together with the UDHR form what is known as the International Bill of Rights.

The discussions around drafting the two Covenants started at the same time as the UDHR, but dragged on for over 20 years as the international mood began to shift and countries balked at the idea of signing up to commitments they might actually be held to.²² But the debates and arguments over the drafting of clauses that protect our inner freedoms in both the UDHR and the ICCPR give useful insights into the way states thought about them at the time. Both instruments contain articles on freedom of thought, conscience, religion and belief (Articles 18) and on freedom of opinion (Articles 19), and although the final text of the provisions is slightly different in each document, the drafting processes illuminate the heart of what the drafters were trying to do in their different ways.

The right to think for ourselves

Malik's drive was to capture the human soul in human rights law. The Soviet Union wanted to protect the space for scientific innovation. Confucianism identifies reflection as the noblest route to wisdom. And one of the strongest arguments for freedom of political opinion came from Zechariah Chafee, who knew personally what it meant to have that freedom curtailed. When he was appointed to the Sub-Commission on Freedom of Information and the Press charged with drafting Article 19 of the UDHR, he was adamant that the right to hold opinions without interference had to be ring-fenced explicitly at the heart of it.

The rights to freedom of thought, conscience and religion in Articles 18 and the right to freedom of opinion and expression in Articles 19 of the UDHR and the ICCPR build on the idea of the human being as a conscious, spiritual and reasoning person. They seek to protect the mental space that we need in order to use the reason and conscience with which we are endowed. Drafting these articles in a way that would be acceptable to all the different interests sitting around the table was not a simple task. The practical meaning of religious freedom and freedom of conscience provoked extremely divergent reactions worldwide, but freedom of thought had general support for very different reasons.

During the drafting process of the UDHR, the Soviet Union submitted an alternative version of Article 18, with no reference to conscience and religion but with a strong focus on freedom of thought. The Soviets considered this crucial for 'the development of modern sciences' and for the 'existence of free-thinkers whose reasoning had led them to discard old-fashioned beliefs and religious fanaticism. The times when scientists were condemned to be burnt at the stake were past, and science occupied a most important place in human life.'²³ Malik saw the UDHR with its rights to freedom of thought and opinion as a 'faint echo, on the international plane', of the spiritual quality of humanity against the backdrop of a rising tide of materialism that he believed denied the human soul. But it is clear that the Soviet acceptance of the final draft was based on a very different perspective on the text.