

LVI: Rights

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(This paper is forthcoming in the *Routledge Companion to Social and Political Philosophy*, Fred D'Agostino and Gerald Gaus, eds.)

The language of rights is pervasive in moral, political and legal debates, but there is no clear consensus on what rights are and how they work. Do all rights have the same underlying function? Should a theory of rights be conceptual or normative? Can rights conflict with each other? I cannot tackle these questions in sufficient depth here, and I have to ignore many other interesting questions altogether. I will try, however, to provide a roadmap to a few of the central debates about rights—hopefully offering a clear picture of both what's stake in these debates and why philosophers have developed starkly different answers to the questions above.

1. A Framework for Rights

Wesley Hohfeld famously showed that rights can be distinguished into four different types or incidents (Hohfeld 1919). Hohfeld focused on legal rights, but his framework applies to moral and political rights as well. Below I explain Hohfeld's typology, though some of the further terms I use are not Hohfeld's (for further expositions of Hohfeld see Kramer 1998; Thomson 1990: ch. 1; Wenar 2005).

First, and most centrally, rights can refer to *claims*. Betty might have a claim that Albert not enter her room, which is another way of saying that Albert is under a duty to Betty not to enter her room. Claims thus always correlate with duties—whenever one person has a claim, at least one other person owes a duty to the claim-

holder. (There may be other kinds of duties that have nothing to do with individual claims, but they are not our focus.) Claims are the most familiar form of right. For example, Albert's moral claims not to be murdered, raped, and assaulted mean that every other person is under a duty not to murder, rape, or assault Albert. If someone breaches one of these duties then that person has failed to uphold a claim of Albert's and, in doing so, that person has *wronged* Albert. The opposite of having a claim is having a *no-claim*.

Now consider the following assertion: "I have every right to try to persuade Carl to change his mind." The imagined speaker need not be presenting himself as possessing a claim and thereby insisting that someone else is under a duty. Instead, the speaker can plausibly be understood to be declaring that he himself is under *no duty* not to try and use persuasion to change Carl's mind. To be under no duty not to perform some action, X, is to have a *liberty or privilege* to do X. (I will use the term "liberty".) This is sometimes what people mean when they assert a right: they are at liberty to perform the action in question since no one else has a claim against them performing the action.

Although claims and liberties often travel together, it's important not to confuse them. For example, in boxing matches each boxer has a liberty to try and punch the other: each is under no duty not to do this. But each boxer also has a liberty to try and stop the other from punching him. Liberties thus don't necessarily confer claims—sometimes we are at liberty to try to do something, but other people are also at liberty to try to stop us from doing that thing. Of course liberties are often accompanied by claims, for example, when we say that Albert has a right to free speech, this usually means that Albert has both a liberty to say whatever he likes (no duty not to do so) but also that Albert has certain claims, for instance, claims that

entail government officials are under a duty not to prevent or censor Albert's speech. We thus often apply the term "right" in ordinary discourse to what is in fact a cluster or conjunction of Hohfeldian claims and liberties (Thomson 1990: 54-56).

Claims and liberties cover "first order" assertions of rights—they account for the cases where our rights talk refers to what duties individuals are, or are not, under with regard to other individuals' claims. But there is also a "second order" of rights discourse: assertions about how we can alter our first order claims and liberties. Consider this statement: "Betty has the right to determine who can enter her apartment." If this statement is true, then Betty possesses what Hohfeld calls a *power*—the authority to alter the claims or liberties of others, in this case, the liberty of others to enter Betty's apartment. Other examples of powers include: the power to declare two people legally married; the power to transfer ownership of a car to someone else; and the power of a police officer to detain a suspect. To lack a particular power is to have a *disability*.

When someone lacks the power to alter some other person's claims or liberties, then the latter has what Hohfeld calls an *immunity*. For example: "The government has no right to prohibit same-sex couples from adopting children." If this statement is true, then same-sex couples possess an immunity with regard to the government; the government lacks the power to affect their right to adopt children. It's widely believed that individuals possess immunities with regard to a number of important claims, for instance, it's widely believed that no one else could revoke or modify my claims against being murdered, raped, or tortured. To lack an immunity is to have a *liability*.

In summary, there are four Hohfeldian incidents, each of which has a correlative and an opposite:

Hohfeldian Type	Correlative	Opposite
Claim held by A	B is under a duty	A has a no-claim
Liberty held by A	B has a no-claim	A is under a duty
Power held by A	B has a liability	A has a disability
Immunity held by A	B has a disability	A has a liability

Figure 1

This Hohfeldian framework is valuable because it provides a precise set of conceptual tools for thinking about rights. If Albert says, “I have a right to kill my attacker in self-defense,” we want to know exactly what this alleged right involves. Does it simply mean Albert has a liberty (no duty not to) to kill his attacker in self-defense? Does it mean, more strongly, that Albert has a claim that others not interfere with him when he attempts to kill his attacker in self-defense (others owe him a duty of non-interference)? Does Albert have the power to forfeit or transfer his right to act in self-defense? Does he possess an immunity from having this right revoked or altered by others? These are all important questions that can be asked about most alleged rights, and Hohfeld’s framework enables us to be more precise about what’s at stake whenever a right is invoked.

2. The Function of Rights

Many philosophers believe that there is single account of the connection between claims and duties—a single explanation of exactly what makes it the case that a duty-bearer owes his duty to the claim-holder, and not to some other person. Two different theories of this relationship have dominated the philosophical literature.

Some argue that a normative proposition only merits the label of a “right” when there is a right-holder who is uniquely empowered to make choices about what other people’s duties are with regard to some action or object (Hart 1955; Hart 1982: 162-93; Steiner 1994: ch. 3; Steiner 1998). Suppose Bert has the right to that computer—he owns it. We generally think this means Bert has the authority to determine how people can behave with regard to the computer. Others are likely under duties not to touch or use the computer, and Bert is the person who can either demand these duties be observed, or choose to waive these duties by giving others the permission to touch or use the computer. Bert is also surely the person who can decide to sell the computer to someone else or the one who can choose to destroy the computer if he wants to. The *will or choice theory* of rights reflects these judgments since it identifies the right-holder as the person who holds all the unextinguished second-order *powers* with regard to the duties correlated with a given claim. Those powers include the power to: (a) waive compliance, (b) demand compliance, (c) waive compensation for breaches, (d) demand compensation for breaches, (e) waive enforcement, and (f) demand enforcement (Steiner 1998: 240-45).

The will theory, as a general account of rights, has a number of virtues. First, it coheres with many of our beliefs about property rights (e.g. Bert and his computer), and so has a certain intuitive appeal. And it is consistent with the view that a set of legal or moral rights must be *compossible*, that is, that all the duties entailed by any set of rights are consistent and capable of fulfillment without conflict (Steiner 1994: 86-101). If rights necessarily identify the agent whose choices uniquely determine the enforcement or waiver of claims, then the domain of rights must be divided in such a way that for every alleged duty only one agent ultimately holds the power to choose whether the duty will be observed. Alternative theories of rights, for example the

interest theory considered below, seem to allow for the possibility of rights conflicts since such theories do not require that each right be held by a single agent with the power to demand or waive enforcement.

Finally, the will theory offers a theoretical framework for a compelling normative theory of justice. On one Kantian view, justice should allocate to each of us the largest possible sphere of freedom compatible with a similar freedom for all. If spheres of freedom are measured by the domains over which an individual has the authority to decide what actions are required or permitted, then rights as understood by the will theory are the fundamental units of analysis in a Kantian conception of justice (Steiner 1994).

Despite these attractive features, the will theory also faces several serious objections. Most obviously, if right-holders must be choosers, then creatures incapable of rational choice cannot have rights. So, children below a certain age, people with serious mental disabilities, and non-human animals are all apparently precluded from being right-holders on the view offered by the will theory. This generates three distinct objections: (a) it fails to cohere with our ordinary legal and moral discourse, which does attribute rights to children, the mentally disabled, and (more controversially) animals; (b) it is normatively implausible to claim that creatures incapable of rational choice do not have rights; and (c) if creatures incapable of choice don't have rights, there will be insufficient normative constraints regarding the treatment of those creatures. Critics of the will theory often advance one or more of these objections (Kramer 1998: 69-70; MacCormick 2007: 121-25; Wenar 2005: 239-40).

The conceptualization of the right-holder as the agent with the power to demand or waive enforcement of a duty yields further counter-intuitive results in the

criminal law. For example, in the criminal law of most countries a law-breaker is liable to punishment regardless of the wishes of the victim. The victim of an assault, for example, lacks the power to choose whether his assailant will be prosecuted—this power lies in the hands of state officials. Thus, the will theory declares that individuals lack many rights within the criminal law that we assume individuals do in fact possess: rights not to be assaulted, murdered, or raped for example (though the civil law does allocate these rights to individuals in the manner required by the will theory). The will theory instead declares it is the relevant law enforcement officials who hold these rights, since these are the officials with the powers to choose whether alleged offenders will be prosecuted. Furthermore, the will theory does not allow for the possibility of inalienable rights (MacCormick 1977: 198-99). For every right, according to the will theory, there must ultimately be someone who has the power to waive the right. So the will theory denies, for example, that you have an inalienable right against being enslaved—you, or someone else, must have the power to waive this claim, that is, the power to *extinguish* the duty that others previously were under not to enslave you.

The will theory's main rival is the *interest theory* of rights (Kramer 1998; Lyons 1994: 23-46; MacCormick 1977; Raz 1986: ch. 7). According to the interest theory, a necessary condition for one person being a right-holder is that the alleged right serve some interest of the person in question. Rights are thus not identified by determining who holds the power to waive or demand enforcement of a claim, but rather by determining who benefits from the existence of the right.

The interest theory's central idea that a right ought to advance some interest of the right-holder coheres with many of our ordinary beliefs about rights. For example, the interest theory can easily explain why children, the mentally disabled, or animals

have rights, since being a rational chooser is not a necessary condition for being a right-holder according to the interest theory. So long as these beings have interests that can be protected by claims, they can be right-holders. It also has the virtue of being able to easily explain how individuals have rights under the criminal law even when they lack the power to waive or demand enforcement, and also how some rights might be inalienable—it might not be in the right-holder's interest to have the power of waiver.

But the interest theory also faces serious objections. For instance, there is the awkward issue of third-party beneficiaries (Hart 1982: 187-88; Steiner 1998: 284-86). Suppose that Albert agrees to pay \$100 to Betty in exchange for piano lessons. Betty intends to spend this money on a gift for her nephew, but she cannot afford to buy her nephew a gift unless she receives the money from Albert. It seems odd to suppose that because the nephew is a third-party beneficiary to the agreement between Albert and Betty that he is therefore a right-holder with regard to Albert's payment of the \$100—that Albert owes this duty not only to Betty, but also to the nephew. Yet this is the conclusion that some versions of the interest theory reach.

There also seem to be cases where an individual can be a right-holder without this right serving to protect any of the right-holder's interests. For example, if I inherit an elderly donkey from my Uncle Ned that I'm unable to sell (no demand for elderly donkeys), I have legal rights to the donkey, but this may be a serious inconvenience and not a benefit of any kind.

Finally, the interest theory must posit that whenever public officials possess a right, this is explained by the fact that the right serves some interest of the public official. But this view seems either false or else trivially true in the sense that it's usually advantageous to possess rights.

Of course, will and interest theorists believe the objections to their respective theories can be met (Kramer and Steiner 2007). But in light of the difficulties faced by both theories, some philosophers have chosen instead to search for a third theory of rights, one that either fuses the interest and will theories (Sreenivasan 2005; Sreenivasan 2010) or eschews both views by abandoning the search for a single-function theory of rights (Wenar 2005; Wenar 2008).

3. Theories of Rights: Conceptual or Normative?

The debate between the will and interest theories is often presented primarily as a *conceptual* dispute about rights (Kramer 1998: 91-101; Steiner 1998: 293-98). On this view, each theory is an attempt to uncover the most coherent conception that underlies the everyday practice and discourse of rights, making do with as few normative assumptions as possible. If we characterize the debate in this way, however, both theories seem seriously flawed, for as we've already seen both are, in different ways, often inconsistent with the everyday practice and language of rights.

Maybe the reason that both the will and interest theories appear inconsistent with ordinary rights talk is because both theories seek a *singular* explanation of the function of rights. If ordinary rights discourse is too complex to be reduced to a single function, perhaps the solution is to abandon the effort to find a single function that rights perform, and instead be more faithful to ordinary language by embracing a multi-function theory of rights (Wenar 2005; Wenar 2008).

Although I think there is a lot to be said in favor of a multi-function theory of rights, I do not believe theories of rights should be developed and evaluated primarily on the basis of how well they accord with ordinary language. If theories of rights only

aim to faithfully reflect ordinary language, these theories may not provide enough normative guidance—the kind of guidance an account of rights ought to provide. Suppose, as is often the case, we want to answer a normative question about rights—we want to know whether individuals *ought* to have a right of some type X. If our competing theories of rights only aim to uncover the best conception underlying everyday practice and language, each theory would only purport to tell us whether having a right to X is consistent with that theory’s account of how the term “right” is used in ordinary discourse. But unless we hold a very peculiar normative theory—one where substantive normative claims about what we have reasons to do can be determined by how people use words—this won’t help us address the normative question. For example, if I say “as a matter of moral fact, animals have certain rights, and so we have reasons not to treat animals in certain ways” the truth of this normative statement is not threatened by a purely conceptual version of the will theory, since all that theory can do is insist that my claim is inconsistent with the best construal of ordinary rights talk. I can plausibly reply, “So much the worse for how people have been talking about rights; it remains true that animals have important interests in not suffering pain, and these interests ground claims that are correlated with duties not to harm them in various ways” (see also Simmonds 1998: 212-13). Even if this statement is not consistent with the best construal of ordinary rights discourse, it might still be true. Surely a theory of rights should offer some significant normative guidance in moral and political philosophy—not merely telling us how we use words, but also whether we’re using those words to make valid or true normative assertions?

In light of these worries, maybe we could make better progress by focusing on the following question: what normative role should rights play in theories of justice or morality? (See also Dworkin 2011: ch. 8 on interpretive concepts.) The will theory

might then tell us that rights should mark each person's fair share of freedom—the domain within which each person has the normative authority to determine what will occur. The interest theory, on the other hand, might tell us that rights should protect or promote whatever interests are sufficient to warrant placing some person or persons under a duty (Raz 1986: 166).

Although some of the most prominent will and interest theorists reject this construal of the debate, I think the normative dimension cannot be ignored when developing and evaluating theories of rights. Many of the most important questions about rights are normative: do animals have rights? should women have an unconditional right to an abortion late in the second trimester? and is basic medical care a human right? The best theory of rights ought to cohere with whatever we believe the correct answers are to these and other substantive questions about rights (Simmonds 1998). Here, as in other areas of moral and political theory, I think we do best by adopting the method of reflective equilibrium: going back and forth between our more abstract theories or principles, and our considered convictions about individual cases with the aim of achieving a reasonably coherent fit between them (Rawls 1999: 42-45). I am suggesting it is not only normative moral and political theories that require the method of reflective equilibrium, but also our theories of normative concepts. This process of reflective equilibrium might lead us to see that some version of either the will theory or the interest theory (or some other alternative) provides the best conception of rights—the account that seems to best cohere with our considered judgments about which moral and political rights there really are.

A possible objection to this proposal is that our deep normative disagreements might make it very difficult, even impossible, to understand how competing *conceptions* of rights are nevertheless recognizable versions of the same normative

concept (For this distinction see Rawls 1999: 5). Would we have any reason to believe that the things called “rights” in my normative theory are in some way relevantly similar to things labeled “rights” in your very different normative theory? If our normative theories are fundamentally different, won’t you and I simply be talking past one another when I assert that all individuals possess some right, and you deny this assertion? In order for us to be having a genuine disagreement, we have to share some notion of what rights are that is independent of our differing normative frameworks. What could that shared normative notion be?

I think the answer is roughly as follows (Thomson 1990: 212-23). First, rights are moral constraints on the actions of agents; they constrain the behavior of individuals who can understand and act for moral reasons. Second, rights are grounded in the fact that individual right-holders (whoever they turn out to be) have their own aims and interests that are distinct from the aims and interests of others, and distinct from what would be best from some collective point of view. If we didn’t each have distinct lives to lead—if each individual’s good was always identical to the good of the collective—then the idea of individual rights would seem unnecessary. But we do have distinct aims and interests: killing Albert and redistributing his organs to Betty, Carl, and Debbie (who will all die without Albert’s organs) might be the best thing for Betty, Carl, and Debbie, but it doesn’t seem to be the best thing for Albert. Rights reflect the fact that other individuals can be the source of claims on us, apart from whatever value individuals’ lives may have from an impersonal or collective perspective. To be clear, I am not proposing this as an alternative to the will or interest theories—I’m suggesting that these are the two key features of a *shared* moral concept that underlies competing conceptions of rights. Let’s call this view of rights *the constraint view*.

The constraint view is compatible with a wide range of theories in moral and political philosophy. In particular, adopting the constraint view does not require adopting a nonconsequentialist or deontological view of morality or justice, though it is consistent with such theories. The constraint view tells us that individuals have claims on the behaviour of others in virtue of the fact that they are individuals with distinct aims or interests, and so it posits a sphere of claims whose normative force is not reducible to aggregate goodness and thus places some moral barriers on the pursuit of aggregate goodness. This view is potentially compatible with many consequentialist theories, provided those theories make room for the idea that aggregate goodness is not all that matters.

Of course, the constraint view is only a very thin concept of rights—it only aims to identify a normative core that all plausible conceptions of rights have in common. In conjunction with Hohfeld's conceptual framework, the constraint view can give us some limited sense of what any theory of rights ought to look like, but it leaves most important questions about rights unanswered. In particular, it does not tell us anything about what specific rights individuals possess, or what the grounds for those rights are. Those arguments, I have suggested, must be provided by a more general normative theory.

There are two further features that I believe any sound conception of rights ought to possess, but both features are controversial and may be specific to *moral* rights, and so I do not include them as necessary features of the constraint view. First, rights constrain our behaviour in the sense that they enter into our deliberations about how we ought to behave—they provide reasons to do, or forebear from doing, various actions. I therefore believe that rights apply only to actions that arise out of a person's voluntary agency: we cannot have claims against the involuntary movements of

others, or against certain states of affairs occurring that no person's voluntary agency could have prevented (for the alternative view see Thomson 1991). If, for example, Albert stands at the bottom of a well, he can have a claim against Betty that she not try and jump down the well and land on him in order to kill him. But Albert cannot have a claim against the same state of affairs occurring as a result of some non-agential force, for example, a claim against Betty being unforeseeably thrown by a giant gust of wind down the well towards Albert (see McMahan 1994: 276-77; Otsuka 1994: 79-84). This latter state of affairs is no doubt very bad for Albert, but because it does not arise as a result of anyone's agency it cannot be the sort of event against which Albert may have a valid claim, just as Albert could not have a valid claim against a tiger's attack or against the wind blowing his hat off. Rights require that others take us into account when they decide how to act, and so claims can only correlate with duties that can be voluntarily performed. This has important implications for many normative questions, but discussion of these implications is beyond our scope here.

Second, I believe we ought to accept that rights can conflict with one another, and the remainder of this chapter is devoted to a brief defence of this idea.

4. Rights Conflicts and the Role of Rights

Albert's Problem: Albert is an artist and he simultaneously (via email) promises to give Betty the painting of her choice tomorrow, and promises to give Carl the painting of his choice tomorrow. Tomorrow arrives, and Betty and Carl choose the same painting.

I believe this is an example where rights can conflict. Albert has a duty to give the painting to Betty and he has a duty to give the painting to Carl, but he lacks the ability to fulfill both duties. Since each person has a claim against Albert (and, let's assume, the associated powers to waive or demand enforcement) it would be wrong for Albert to default on either duty without first trying to get the consent of one or both parties to some alternative arrangement. But suppose Albert can't get Betty or Carl to agree to any alternate arrangements. Now what? I think that whatever Albert does now, he is going to default on a duty he owes to at least one person, and he therefore *wrongs* at least one of the people involved.

Some philosophers, however, deny that rights can conflict. Why take this position? The most important argument takes the following form (Steiner 1994: 86-101). If Albert owes a duty to give Betty the painting, then this is what Albert *ought* to do. It therefore cannot be true that Albert has a duty to give Betty the painting and a duty to give Carl the painting since this would entail a contradiction—it would entail that Albert both ought to, and ought not to, give each person the painting. Since it cannot be true that Albert both ought to and ought not to do the same action, rights cannot conflict. Let's call this argument against the possibility of rights conflicts *the argument from contradiction*.

I think we can reject the argument from contradiction by rejecting the premise that rights generate oughts, or at least, by rejecting the premise that rights generate all-things-considered oughts (Thomson 1990: ch. 3. Also see Kramer 2009; Sreenivasan 2010). I think we do better by adopting a view where rights provide us with *pro tanto* reasons for action. If Betty has a claim that correlates with Albert being under a duty to give her the painting, this means that Albert has a reason to give her the painting. But it would be very implausible to infer from the fact that Albert owes this duty to

Betty to the conclusion that what Albert ought to do is give her the painting. In order to know what Albert ought to do, we need much more information about what options Albert faces, what the consequences of those options are, and what other claims might be affected by Albert's choices. Suppose that Albert's giving the painting to Betty will result in the death of twenty innocent people—can we really say that this fact is *irrelevant* to our judgment about what Albert ought to do, and that only Betty's claim is relevant? I think it's clear we cannot.

How can the proponent of the argument from contradiction respond? The proponent might reply that of course rights do not entail facts about what we ought to do *all-things-considered*, but they do entail facts about what we ought to do within whatever normative domain the rights in question are found. So, for example, a claim that correlates with a legal duty for Albert tells Albert what he ought to do as a matter of law, and a claim that correlates with a duty of justice for Albert tells Albert what he ought to do as a matter of justice, and so on. The opponent of rights conflicts can then insist that the argument from contradiction merely resurfaces at a different point. If legal rights can conflict, this will result in contradictions regarding what the law permits or requires. If duties of justice can conflict, this entails contradictions regarding what justice permits or requires. And it's just as problematic to have a theory of rights that permits logical contradictions about the demands of law or justice.

But this further revision to the argument from contradiction is vulnerable to the same objection as the original version of the argument. It's not credible to suppose that legal rights represent conclusions about what we ought to do as a matter of law, or that claims of justice represent conclusions about what we ought to do as a matter of justice. For example, as a matter of justice, individuals have claims not to be non-

consensually killed by others. But this fact, on its own, does not tell us whether a bomber in a war is permitted, as a matter of justice, to drop a bomb on an enemy target when this will result in the non-consensual killing of several innocent civilians nearby. In order to know whether the bomber's actions are just or unjust, we need to find out whether his actions are consistent with the correct principles of just war, for example, whether his actions have a just aim, and whether the deaths of the civilians will be proportionate relative to the good achieved by the bombing. The same point applies with regard to legal rights.

The proponent of the argument from contradiction might insist that rights only appear to conflict when we fail to fully specify the conditions of particular rights. On this view, individuals do not have general rights not to be killed, they only have very complex rights not to be killed under various circumstances, and those circumstances will not include being killed as a proportionate and unintended consequence of a just attack in a just war. I think this response fails both because it makes rights explanatorily inert (more on this below), but also because it's normatively implausible. I think when innocent people are killed in just wars, it remains true that those innocent people had rights not to be killed, and this fact partly explains why just conduct in war aims to minimize the number of innocent people who are killed in the course of military action. This view also allows us to easily explain why the innocent victims of justified violence in war might nevertheless be entitled to compensation—they are owed compensation because they had rights against the harm imposed.

In sum, it's no more plausible to suppose that rights entail conclusions about law or justice than it is to suppose rights entail conclusions about all-things-considered practical reason. Instead rights are most plausibly seen as generating *pro tanto* reasons about what we ought to do. How weighty these reasons are will then

depend on the particular type of right at issue; for example, my claim not to be killed by you is a lot weightier than my claim that you not pinch me on the arm.

Both these proposals—that rights can conflict, and that rights generate *pro tanto* reasons whose weight varies in accordance with the type of right at issue—might appear to lend support to the interest theory of rights, but they don't necessarily have this implication. It's true that these proposals appear incompatible with certain versions of the will theory (Steiner 1994; Steiner 1998), but some proponents of the will theory appear to accept both these points (Hart 1955: 185-86). My purpose in briefly arguing for these conclusions has not been to take a side in the debate between the interest and will theories, but rather to defend a particular conception of the role that rights ought to play in our moral and political reasoning. If rights were conclusions about what to do, we would have difficulty explaining how it can sometimes be just for a bomber to kill innocent civilians in war, or how it can be morally justified to default on a debt if this is the only way to save someone's life. Instead, rights make more sense if we see them as one important set of inputs into our moral and political reasoning; as generating strong, but not necessarily decisive, reasons to act in various ways.

Not only does this view of rights allow us to make more sense of various examples where rights appear to conflict either with each other or with other considerations, it also allows rights to play an important explanatory role in moral and political theory. If saying "I have a right that you do X" was just another way of saying "morality requires you to do X", then rights would not play any part of the story in explaining *why* morality requires you to do X. All the normative work would be done by other moral concepts. But on the view of rights I've defended, rights can and do play an important explanatory role. If morality requires you to do X, one of the

reasons for this fact might be that someone else has a claim that you do X. Most of us, in our moral and political reasoning, take rights to have this kind of explanatory power. We believe that individuals have claims not to be killed, raped, tortured, assaulted, or coerced, and these rights generate powerful reasons to treat people in particular ways. If, like me, you think people have these rights and this fact partly explains *why* the requirements of morality and justice take the shape they do, then you should accept that rights are not the final word in our deliberations, but rather an important source of reasons in moral and political philosophy.

Note: I'm very grateful to Fred D'Agostino, Jerry Gaus, Hillel Steiner, Zofia Stemplowska, and Rebecca Stone for comments on previous drafts.

Word Count: 5,972

Related Topics: Liberalism, Natural Law and Rights Theory, Left-Libertarianism, Libertarianism, Cosmopolitanism and Human Rights

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Biography

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