Cambridge University Press 978-0-521-51540-5 - Rights, Race, and Recognition Derrick Darby Index More information

Index

abortion in externalist dilemma, 121 normative rights used on both sides of debate regarding, 6 respect for nonpersons, 69-71 African Americans. See race and rights, slavery agency as means of identifying rightholders, 100-1 will theory of property endowing natural rights, 50 Allen, Ānita L., 109, 132, 133, 141 animal rights proliferation of rightholding to include nonhuman animals, 4-7, 15, 42-3, 52-5 property-selecting process determined by pretheoretical moral beliefs regarding, 47 rationality/sentience as grounds for, 54 respect for nonpersons, 69-71 well-being or interests of animals apart from possession of rights, 48-9 apartheid legal vs. nonlegal rights under, 5 South African Constitution, socioeconomic rights to counter effects of, 135-8 Baier, Kurt, ix basic rights (possessed prior to and independent of human agency). See rights internalism bell curve study, 128 benefits to well-being or interests from possession of rights. See interest theory of rights Bentham, Jeremy, and Benthamites divine agency as source of natural rights, critique of, 38 on legal vs. nonlegal rights, 16, 83 as liberal, 27 natural rights theory rejected by, 18, 32, 83 rights externalism distinguished from position of, 20, 83, 159 on slavery, 143

Berlin, Isaiah, 27 Bill of Rights, South African, 135 biological racism, 126, 128-9 blacks. See race and rights, slavery Blumenbach, Johann Friedrich, 128 Bosanquet, Bernard, 26 Bosnia, Serbian atrocities in, 11, 14 British Hegelians, 31 British Idealists, 29-37 The Brothers Karamazov (Dostoevsky), 11 Burke, Edmund, 32, 36 Bush, George W., 171 Camp, Joseph, x capacities or powers, moral Green on, 160-1 Rawls on, 163-4 Catholic priests, child sexual abuse by, 12 changing social conditions, struggle for. See critical rights assertions character defect, race as indicative of, 129 chattel slavery. See slavery child sexual abuse by priests, 12 civil rights. See legal rights, race and rights claim element in Green's account of moral rights, 151, 153 claim-right, concept of, 56-7. See also morally valid claims approach classical liberalism, 27–9 cognitivism, 90 common good and fairness, pursuit of, 162-3 communitarian and social values of new liberalism, 28, 29-37 communitarianism, 36 complaining about wrongs, justification for, 62-8 consciousness as ideological, 75-9 consequentialism moral justification and, 89 socioeconomic rights and, 131 conservatism, 36

Cambridge University Press 978-0-521-51540-5 - Rights, Race, and Recognition Derrick Darby Index More information

188

Constitution of South Africa, recognition of positive rights in, 135-8 Constitution, US, 136, 138 contractarianism, 148 Cooper, Anna Julia, 24 critical rights assertions distinguished from noncritical, 94-5 dual use of natural rights theory to attack and defend slavery and race issues, 8, 21, 22-4, 112-17, 125-6 legitimation critique of rights, 75-9 ontological account, advantages of, 105-6 rights externalism allowing for critique, 79, 80, 85, 106-8 semantic interpretation of critiques ("there ought to be a right"), 92-8 rights internalism, problem of, 79 slavery, possibility of moral arguments from externalist position against, 145-51 Declaration of Independence, US in Dred Scott decision, 23 humanity, argument from, 113, 114, 117 Missouri compromise and, 22-3 as normative resource, III problems with rights internalism, 38 Delany, Martin R., 24 Dewey, John, 172 dignity of persons, arguments based on, 135, 138, 148 distinction between nominal and real rights, 176-7 distinction between presocially and postsocially exercisable rights, 174-6 divine agency, rights acquired by, 38-9, 147-8, 149, 150, 171 Dostoevsky, Fyodor, The Brothers Karamazov, 11 Douglass, Frederick, 11, 12, 14, 24, 111, 113, 114, 126, 131, 133, 168 Dred Scott decision, 23, 109, 113 Du Bois, W. E. B., 24 Dworkin, Ronald, 18 egalitarian liberalism, 28 enforcement/maintenance requirement for rights externalism, 87, 101 environmental racism, 132 external coercion or oppression, 76 externalist view of rights. See rights externalism

fairness and common good, pursuit of, 162–3 family communities, Green's emphasis on, 160 Feinberg, Joel, 61, 62–8, 89, 90, 174–5, 177 fetuses, rights of in externalist dilemma, 121

Index

normative rights used on both sides of debate regarding, 6 respect for nonpersons, 69-71 freedom Green on, 156-8, 173 Kant on, 156, 158 negative and positive senses of, 136 in political societies, 162 functional understandings of rights, 43, 49-52, 165 God, rights acquired from, 38-9, 147-8, 149, 150, 171 Green, Thomas Hill family communities, emphasis on, 160 on freedom, 156-8, 173 on informal recognition, 167 within liberal tradition, 26, 27, 29 Mill, differentiated from, 152 moral rights, concept of, 151-5 on political societies. See under political societies rights externalism compatible with beliefs of, 36, 152 Ross's critique of, 142, 152 on slavery, 86, 144 apparent inconsistency of position with externalist moral rights theory, 153-5 prepolitical (vs. presocial) possession of moral powers by slaves, 155-63, 167 Ross's critique of, 142 summary of views, 168 social contract theory, rejection of, 155, 157 state, on rights of individuals vs., 155 theories of, 30-4 Habermas, Jürgen, 140 Hart, H. L. A., 94–5 Hegel, Georg Wilhelm Friedrich, 31, 157 Hegelians, British, 31 Herrnstein, Richard J., 128 Hobbes, Thomas, 157 Hobhouse, Leonard Trelawny, 27, 29 Hobson, John Atkinson, 26 Hohfeld, Wesley, 49, 56-7, 83 homosexual marriage, 6 human rights. See entries at rights humanity, argument from abolitionist position, 113-14 black inferiority thesis as answer to, 115-17 denial of humanity of blacks as answer to, 114-15 modified apologist version of, 116 property endowing natural rights, humanity as, 42-5

slavery, failure in context of, 42 supposed security of rights founded on, 168–9

Hume, David, 13 Hurricane Katrina, 138 Hutus, 12 Idealism, British, 29-37 identifying rightholders ability to maintain and enforce rights as control on, 101 agency as means of, 100-1 institutional respect as means of, 98-103 moral justification as means of, 98-103 possession conditions for. See possession conditions proliferation problem for rights externalists, 98–103 for rights internalists, 4-7, 15, 42-3, 52-5, 176 in rights externalism, 98–103 truth conditions for, 90-2 ideological nature of rights, critique of, 75-9 impoverishment, moral, valid claims arguments based on, 62, 73 complaining about wrongs, justification of, 62-8 respect and claim-making, connection between, 68-72 self-respect, 72 independence of moral norms from existing social practices, 148-50 individualism in liberal tradition, 26-36 inflation of rights for rights externalists, 98-103 for rights internalists, 4-7, 15, 42-3, 52-5, 176 informal, nonlegal forms of recognition, 85, 167 institutional respect as means of identifying rightholders in rights externalism, 98-103 as possession condition for rights externalism, 85-90 interest theory of rights, 50 function of rights and, 43, 50 pretheoretical moral beliefs affecting, 47 protection of well-being or interests, possession of rights not required by, 48-9 will (agency) theory and, 50-1 internal sanctions, 64-6 internalist view of rights. See rights internalism internalized or self-imposed coercion or oppression, 76 intersubjectivism, 91

Jefferson, Thomas, 115 Jews in Nazi Germany, 12, 42 Jones, Henry, 26 justification, moral. *See* moral justification

Index

189

Kant, Immanuel on dignity of persons, 148 on freedom, 156, 158 on justification of social practices, 90 on rationality as defining characteristic of humanity, 45, 103 security of grounding rights on humanity for, 169 Katrina (Hurricane), 138 laissez-faire racism, 131 legal rights Bentham on, 16, 83 concept of, 49, 56-7 moral complaint, legal backing for, 64 moral justification without, 96 nonlegal (moral) rights vs., 5-7, 16 possession conditions for, 85-7 under slavery agreement of natural and recognition rights theories regarding, 82-3 nonlegal (moral) rights vs., 5 legitimation critique of rights, 75-9 liberal tradition and rights externalism, 25-33, 172-3 in black political and philosophical thought, 110-12 classical liberalism, 27-9 different strands of, 28 individualism, importance of, 26-36 natural law theory of rights, significance of, 27-36 negative vs. positive rights, 29 new liberalism, social and communitarian values of, 28, 29-37 racial oppression, potential to alleviate, 110–12 welfare liberalism, 28, 31 libertarianism, 28 Linnaeus, Carolus, 128 Locke, John in classical liberal tradition, 27-8, 172 natural rights espoused by, 35, 147 on need for social framework for enforcing natural rights, 87-8 on personhood, 9 social contract theory of, 155, 157 Lomasky, Loren E., 41 Louima, Abner, 11–12 lynchings, 12 MacDonald, Margaret, 143, 144, 145 Maddox, Lester, 139

maintenance/enforcement requirement for

rights externalism, 87, 101

marriage, homosexual, 6

Cambridge University Press 978-0-521-51540-5 - Rights, Race, and Recognition Derrick Darby Index More information

190

Martin, Rex, 81, 176-7 Marx, Karl, and Marxism, 32, 36 McDowell, John, x Mill, John Stuart, 27, 35, 64, 152 Miller, Benjamin, 74, 107–8, 120–1 Milosevic, Slobodan, 11 Missouri compromise, 22-3 moral atrocities, what constitutes, 11-15 moral capacities or powers Green on, 160-1 Rawls on, 163-4 moral defect, race as indicative of, 129 moral justification as argument for internalism. See morally valid claims approach independence of norms from existing social practices required for, 148-50 in rights externalism as means of identifying rightholders, 98-103 necessity but insufficiency of, 58, 88-90, 103-5 without legal recognition, 96 moral recognition respect, 71 moral rights Green's concept of, 151-5 legal vs. nonlegal rights, 5-7, 16 prepolitical social communities as source of, 155-63 as rights possessed prior to and independent of human agency. See rights internalism skepticism about, 150 slavery, possibility of externalist moral arguments against, 145-51 morally valid claims approach, 55-61 consequentialist approach to, 89 Mill's argument for, 152 moral impoverishment arguments for, 62, 73 complaining about wrongs, justification of, 62-8 respect and claim-making, connection between, 68-72 self-respect, 72 ontology, indirect use of, 104 to race and rights, 119-20 rights externalism on necessity but insufficiency of, 58, 88-90, 103-5 sufficiency of, arguments for, 58, 60 Morton, Samuel, 128 Murray, Charles, 128 natural law theory of rights. See rights internalism Nazi Germany, 12, 42 negative and positive senses of freedom, 136

Index

negative rights in classical liberalism, 29 positive rights as interfering with, 136 Nelson, William, 63, 67 new liberalism, 28, 29-37 noncognitivism, 91 noncritical and critical rights assertions, distinguishing, 94-5 nonmoral recognition respect, 71 normative rights theory. See rights internalism Nozick, Robert, 17, 18 Obama, Barack, 171 objectivism, 91 ontological account of rights, 39, 40-5 correct vs. incorrect recognition of rights, problem of distinguishing without, 122-3 critical moral assertions, value in making, 105-6 morally valid claims approach leading back to, 61, 104 necessity but insufficiency of, 124 problems with externalist rejection of, 103-6, 122-3 property endowing rights. See property endowing natural rights racism/slavery, dual use to attack and defend, 8, 21, 22-4, 112-17, 125-6 social recognition not incompatible with, 122-3 People for the Ethical Treatment of Animals (PETA), 43 personhood, as legal status, ix philosophical theory and social practice, collusion between, 109, 132-5 political justification of rights theories, 75-81 political societies Green's conception of common good and fairness, pursuit of, 162-3 defined, 159 failure to recognize prepolitical rights, 159 freedom in, 162 individual rights vs., 155 reasons for recognizing prepolitical rights, 161 social contract theory, 155, 157 Rawls's understanding of, 163-4 positivist conceptions of rights of Bentham. See Bentham, Jeremy, and Benthamites freedom, negative and positive senses of, 136 negative rights, positive rights as interfering with, 136 in new liberalism, 18–19

philosophical nonorthodoxy of, 18

Cambridge University Press 978-0-521-51540-5 - Rights, Race, and Recognition Derrick Darby Index More information

> socioeconomic rights. See socioeconomic rights possession conditions for legal rights, 85-7 rights externalism, existence of institutional respect for, 85-90 for rights internalists. See property endowing natural rights powers or capacities, moral Green on, 160-1 Rawls on, 163-4 prepolitical (vs. presocial) possession of moral rights, 155-63 presocial rights theory. See rights internalism priests, child sexual abuse by, 12 proliferation problem for rights externalists, 98-103 for rights internalists, 4-7, 15, 42-3, 52-5, 176 property endowing natural rights consensus regarding, lack of, 41-5 function of rights as determinant of, 43, 49-52 humanity standard for, 42-5 interest theory of. See interest theory of rights nonrelational vs. relational properties, 41 pretheoretical moral beliefs, selection process determined by, 45-9 proliferation problem and determination of, 53-5 racial oppression, argument against, 118 reflective equilibrium regarding, 46 single property vs. multiple properties, 41 social capacities or powers in Green's externalist theory, moral significance of, 160-1 suffering, capacity for, 43, 103 will (agency) theory of, 50 race and rights, 1, 2-3, 109-12, 138, 170-2 acknowledgment of role of black people in facing, 171-2 "American dilemma" of, 112–17 biological racism and appeals to science, 126, 128-9 black inferiority thesis argument from humanity, as answer to, 115-17 continuing reference to, 126-32 potential future use of, 126-8 socioeconomic rights, skepticism about, 130-1, 133 concept of race, 25 conceptual vs. practical solutions to, 140 in contemporary American race relations, 126-32 contemporary political philosophy, methodological orientation of, 24-5

Index

191

environmental racism, 132 externalist position on admission of social constraint on rightholding by, 120-1 advantages in contemporary racial climate, 126-32, 138 alternative basis for determining correct vs. incorrect recognition, 120-1 dilemma of, 121-6 dual use of ontology thwarted by, 125-6 internalist arguments contrasted, 117-21 necessity but insufficiency of ontology, 124 no mutual exclusivity of social recognition and ontology, 122-3 seeming inability to reject ontology, 122-3 fact of black oppression, internalist vs. externalist arguments against, 117-21 historical and social realities, need to properly deal with, 18-19, 21-6 internalist position on disadvantages in contemporary racial climate, 126-32 dual use of natural rights theory to defend and support black subordination, 8, 21, 22-4, 112-17, 125-6 fact of black oppression, internalist vs. externalist arguments against, 117-21 humanity, argument from. See under humanity positive socioeconomic rights, skepticism about existence of, 132-5 property-based argument against black oppression, 118 seeming inability to reject ontology, 122-3 social recognition and ontology not mutually exclusive, 122-3 social recognition, partial acceptance of, 122–3 liberalism's potential for alleviating black oppression, 110-12 lynchings, 12 moral justification argument, internalist, 119-20 moral or character defect, race as indicative of, 129 normative and metaethical aspects of, 9 ontological ground for rights, race used as, 42 philosophical theory and social practice, collusion between, 109, 132-5 positive socioeconomic rights. See socioeconomic rights sense of group position model, 130-1 slavery. See slavery in South Africa, 5, 135-8 symbolic racism model, 129–30

Cambridge University Press 978-0-521-51540-5 - Rights, Race, and Recognition Derrick Darby Index More information

192

rationality animal rights arguments on grounds of, 54 as defining characteristic of humanity, 45 respect assigned on basis of, 70 Rawls, John, 19, 46, 142, 160, 163-9 reason. See rationality recognition element in Green's account of moral rights, 151, 153 recognition respect, 68-72 recognition theory of rights. See rights externalism reflective equilibrium, 46 reification critique of rights, 77-8 respect, concept of, 68-72 rightholders, identifying. See identifying rightholders rights, 1–10 choosing between externalist vs. internalist view of, 173-8 Hohfeld's legal classification of, 49, 56-7, 83 legal vs. nonlegal, 5-7, 16 legitimation critique of ideological nature of, 75–9 moral. See moral rights negative rights in classical liberalism, 29 positive rights as interfering with, 136 normative natural law theory of. See rights internalism normative weight placed on having, 1, 3-8 origins of concept, 7 political justification of theories of, 75-81 positive rights. See positivist conceptions of rights proliferation or rights inflation problem for rights externalists, 98-103 for rights internalists, 4-7, 15, 42-3, 52-5, 176 race and. See race and rights recognition theory of. See rights externalism reification critique of, 77-8 self-referential/self-correcting nature of, 140 socioeconomic. See socioeconomic rights use of terms, 39 rights externalism (recognition theory of rights), 1, 9–10, 74–5, 106–8, 172 acknowledgment of black political struggle by, 171–2 Bentham's positivism distinguished from, 20, 83 choosing between internalism and, 173-8 critical rights assertions change in social conditions, allowing struggle for, 79, 80, 85, 106-8 semantic interpretation of ("there ought to be a right"), 92-8

Index

distinction between nominal and real rights, 176-7 identifying rightholders, 98-103 informal, nonlegal forms of recognition, 85, 167 institutional respect as means of identifying rightholders, 98-103 as possession condition for, 85-90 liberal tradition and, 25-37, 172-3. See liberal tradition, recognition theory of rights maintenance/enforcement requirement, 87, 101 moral justification as means of identifying rightholders, 98-103 necessity but insufficiency of, 58, 88-90, 103-5 need for, 18–21 normative and metaethical aspects of, 8-9 ontology, problems with rejecting, 103-6, 122-3 political justification for, 75-81 pragmatic value of, 84, 87–8, 106–8 prepolitical social communities as source of moral rights, 155-63 proliferation problem for, 98-103 on racial issues. See race and rights Rawls's social death theory of slavery, response to, 167-8 recognition requirement, 86 rights internalism, social recognition of rightholders not required under, 16 slavery under. See slavery substantive moral theory behind, 89-90, 147-8 on truth conditions for moral rights assertions, 90-2 weak vs. strong interpretations of, 19 rights inflation or proliferation for rights externalists, 98-103 for rights internalists, 4-7, 15, 42-3, 52-5, 176 rights internalism (natural law theory of rights), 15-17 acquisition of rights under attention paid to, 8, 15-16 as main problem of theory, 40 Bentham's rejection of, 18, 32, 83 as best means of justifying moral beliefs, 148-9 choosing between externalism and, 173-8 distinction between presocially and postsocially exercisable rights, 174-6 in liberal tradition, 27-36 moral atrocities appealed under, 11-15 overvaluation of, 1, 17-21 political justification of, 75

positive socioeconomic rights, skepticism about existence of, 132-5 possession conditions for. See property endowing natural rights as presocial possession of rights independent of law and authority, 38 problems associated with, 38-40, 170 divine agency, 38-9 historical as well as contemporary, 40 interest theory. See interest theory of rights means of acquiring rights as chief difficulty, 40 morally valid claims approach. See morally valid claims approach ontological account. See ontological account of rights proliferation of rightholders, 4-7, 15, 42-3, 52-5, 176 rights-endowing property, determining. See property endowing natural rights social conditions, struggle to change, 79 will (agency) theory, 50 proliferation problem, 4–7, 15, 42–3, 52–5, 176 on race issues. See under race and rights Rawl's social death theory of slavery, response to, 166-7 reification critique of, 77 slavery under. See slavery social recognition not required under, 16 supposed security of rights founded on, 168-9 on truth conditions for moral rights assertions, 90-2 in US Declaration of Independence, 22-3, 38 US political structure founded on, 2 utilitarian argument for, 147 Ritchie, David George, 26, 29, 32, 36, 142 Roman Catholic priests, child sexual abuse by, 12 Ross, W. D., 142, 145, 152 Rousseau, Jean-Jacques, 162 Rwanda, 12 science, biological racism's appeals to, 126, 128-9 self-imposed or internalized coercion or oppression, 76 self-referential/self-correcting nature of rights, 140 self-respect, 72 Sen, Amartya, 134 sense of group position model, 130-1 sentience, animal rights arguments on grounds of, 54 Serbian atrocities in Bosnia, 11, 14 sexual abuse of children by priests, 12 skepticism about existence of socioeconomic rights, 132-5 about moral norms or rights, 150

Index

193

slavery, 142-5, 172 choosing externalist view of rights, as reason for, 174 Douglass's account of moral atrocities under, 11, 12, 14 dual use of natural rights theory to attack and defend, 8, 21, 22-4, 112-17, 125-6 fact of black oppression, internalist vs. externalist arguments against, 117-21 Green's externalist argument against. See under Green, Thomas Hill humanity, argument from. See under humanity legal rights under agreement of natural and recognition rights theories regarding, 82-3 nonlegal (moral) rights vs., 5 legitimation of oppression more effectively combated by rights externalism, 85 moral account of, natural law vs. recognition theory explication of, 81-5 moral arguments from externalist position against, possibility of, 145-51 pragmatic account more accurately provided by rights externalism, 84 Rawls's social death thesis, internalist vs. externalist responses to, 163-9 social and communitarian values of new liberalism, 28, 29-37 social capacities or powers in Green's externalist theory, moral significance of, 160-1 social communities (prepolitical) as source of moral rights, 155-63 social conditions, struggle to change. See critical rights assertions social contract theory, 155, 157 social death, Rawls on slavery as, 163-9 social practice and philosophical theory, collusion between, 109, 132-5 social recognition of rightholders. See rights externalism socioeconomic rights consequentialist critique, 131 feasibility critique, 134 normative reasons for embracing concept of, 137-8 sense of group position model for opposition to, 130-1 skepticism about existence of, 132-5 in South Africa, 135-8 South Africa, race and rights in, 5, 135-8 Spanish Inquisition, 12 Spencer, Herbert, 27, 31, 35 the state. See political societies substantive moral theory behind rights externalism, 89-90, 147-8

Cambridge University Press 978-0-521-51540-5 - Rights, Race, and Recognition Derrick Darby Index More information

194

suffering capacity as property endowing natural rights, 43, 103 Sumner, L. Wayne, 81, 89 Supreme Being, rights acquired from, 38–9, 147–8, 149, 150, 171 symbolic racism model, 129–30

Taney, Roger, 23 truth conditions, rights externalists vs. internalists on, 90–2 Tutsis, 12

United States "American Dilemma" of racial subordination and championing of rights internalism, 112–17 chattel slavery in. *See* slavery Constitution, 136, 138 Declaration of Independence. *See* Declaration of Independence, US natural law foundation of US political structure, 2

Index

race in. *See* race and rights world interest in rights policy of, 4 utilitarian argument for rights internalism, 147 utilitarianism, 28, 36, 103, 148

valid claims approach. *See* morally valid claims approach virtue ethics, 148

Wallace, George, 139
Washington, Booker T., 24
welfare liberalism, 28, 31
well-being or interests benefiting from possession of rights. *See* interest theory of rights
Wellman, Carl, 57, 100–1
West, Cornel, 25, 112
White, Charles, 128
will (agency) theory of property endowing natural rights, 50