In recent years, political philosophers have debated whether human rights are a special class of moral rights we all possess simply by virtue of our common humanity and which are universal in time and space, or whether they are essentially modern political constructs defined by the role they play in an international legal-political practice that regulates the relationship between the governments of sovereign states and their citizens. This edited volume sets out to further this debate and move it ahead by rethinking some of its fundamental premises and by applying it to new and challenging domains, such as socio-economic rights, indigenous rights, the rights of immigrants, and the human rights responsibilities of corporations. Beyond the philosophy of human rights, the book has a broader relevance by contributing to key themes in the methodology of political philosophy and by addressing urgent issues in contemporary global policy making.

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Moral and Political Conceptions of Human Rights

IMPLICATIONS FOR THEORY AND PRACTICE

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Foreword

The essays in this interesting and useful collection are all concerned with the philosophical dispute between “moral” and “political” conceptions of human rights. John Rawls gets the credit (or blame) for setting off this philosophical debate with his brief discussion of human rights in *The Law of Peoples*. Rawls suggested that the main roles of human rights at the international level are (1) helping define the normative structure of the global system by giving content to normative concepts such as legitimacy, sovereignty, permissible intervention, and membership in good standing in the society of peoples, and (2) helping to provide criteria for when and how countries may be sanctioned for serious human rights violations. Since *The Law of Peoples* is a normative reconstruction of international law and politics within today’s global system, and since Rawls started his characterization with “Human rights in the Law of Peoples are . . .” it is far from clear that he intended to say anything about human rights in domestic politics and interpersonal relations. He may just have been setting out the functions relevant to his internationally oriented project.

“Moral” conceptions of human rights conceptions hold that the justification of at least some political and legal rights is based on analogous moral rights and reject limiting the roles of human rights to the political realm. Further, they tend to take a long historical perspective on human rights ideas and practice – viewing them as appearing long before the Universal Declaration of Human Rights (1948) and as playing a role in the nineteenth-century struggle against slavery.

One reason for the popularity and persistence of this debate is that it incorporates an important dispute that moral and political philosophers had already been discussing for much longer, namely whether the rights that we

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find in national and international bills of rights presuppose and correspond to natural or moral rights. Utilitarians and other consequentialists deny this, as do other normative theories that start with very abstract values or norms and avoid emphasizing rights. And even theorists who allow that there are some natural or moral rights may follow Allen Buchanan in denying that there is a close correspondence between those rights and all or most of the rights found in contemporary bills of rights and human rights treaties.²

Theorists working in different areas of philosophy are likely to have different conceptions of human rights and of human rights practice. Moral philosophers may be most interested in whether and how moral theories can justify human rights and with the operation of rights in both the interpersonal and political realms. Political philosophers and philosophers of law may be most interested in the political dimensions, national and international, of human rights practice. The different functions that the two sides assign to human rights probably reflect their preoccupation with different questions and different normative spheres.

James W. Nickel

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