

A Philosophical Introduction to Human Rights

While almost everyone has heard of human rights, few will have reflected in depth on what human rights are, where they originate from and what they mean. *A Philosophical Introduction to Human Rights* – accessibly written without being superficial – addresses these questions and provides a multi-faceted introduction to legal philosophy.

The point of departure is the famous 1948 Universal Declaration of Human Rights, which provides a frame for engagement with western legal philosophy. Thomas Mertens sketches the philosophical and historical background of the Declaration, discusses the ten most important human rights with the help of key philosophers, and ends by reflecting on the relationship between rights and duties. The *basso continuo* of the book is a particular worldview derived from Immanuel Kant. ‘Unsocial sociability’ is what characterizes humans: the tension between the individual and social nature. Some human rights emphasize the first, others the second aspect. The tension between these two aspects plays a fundamental role in how human rights are interpreted and applied.

Thomas Mertens is a specialist on the relationship between law and morality. He has published extensively on human rights, Kant’s moral and legal philosophy, the just war tradition and law and morality in Nazi-Germany. He teaches at Radboud University Nijmegen and has also held adjacent positions at Leiden University and Catholic University Leuven.

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Preface

Readers of recent literature on human rights could easily come to the conclusion that we are approaching what one commentator has called ‘the end of human rights’, and another, ‘the endtimes of human rights’. The heyday of human rights seem to be over and courts, such as the European Court of Human Rights, now attract fierce criticism from across the political spectrum when they find that acts of national governments violate human rights. Contrary to this trend, this book argues that the age of human rights need not be over, certainly not when they are understood in line with the Universal Declaration of Human Rights.

This very important 1948 document does not, as critics of human rights often argue, focus exclusively on civil and political rights. It does not deny the importance of human duties. Neither does it invoke an implausible view of the human being as primarily an egoistic being, nor, as Marx once formulated it, as an individual separated from the community and solely concerned with self-interest. Moreover, the Universal Declaration includes no role for activist courts.

In addition to enriching our understanding of the human rights debate, the Universal Declaration encapsulates an attractive philosophy of law. Not all aspects of the long and rich tradition of legal philosophy can be discussed when analysing the text of this Declaration, but much of this tradition can be accessed through it and thereby given context: the validity of positive law, the role of individual rights, the just claims by communities and states, and the place of morality within the life of the law. An earlier, Dutch edition of this book, *Mens & Mensenrechten* (beautifully published in 2012 by Boom Publishers Amsterdam) has introduced large numbers of students to the ancient and modern worlds of legal philosophy. While this book is designed as an introductory text for all readers, it has been created for teaching purposes and has served this goal well over the last several years. For this English edition, all chapters of the book have been thoroughly revised and updated. Yet the hope remains the same: that it will serve the same goal of introducing an audience of students of law and philosophy, in an accessible yet not superficial manner, to the fascinating and important world of legal philosophy by means of reflecting on human rights.

I am grateful not only to the generations of students that I have had the privilege to teach, but also for the support given to me by Boom Publishers in Amsterdam and by Cambridge University Press. I have been helped in preparing this book by Jill Bradley and Steven van Gool. Over the years, I have received excellent feedback on the thinking that forms the basis of this book, and on the texts themselves, by many colleagues. Here I single out Morag Goodwin, Corjo Jansen, Stanley Paulson and Ronald Tinnevelt for particular thanks.