Natural Rights to Welfare

Siegfried Van Duffel, National University of Singapore

Available at: https://works.bepress.com/siegfried/8/
Natural Rights to Welfare*

Siegfried Van Duffel

It has become trite to lament the proliferation of human rights claims.¹ Worse still, it has become trite to observe that many authors today lament the proliferation of human rights claims. This proliferation causes anxiety because it is feared that the practice of voicing otherwise legitimate concerns in the language of human rights may cause these rights to fall victim to their own popularity. While it may be a rewarding strategy to appropriate the force of human rights language in the pursuit of any particular cause, this approach may in the longer run undermine that force. If every good that is desired by one or another group of people is cloaked in the venerable garbs of a human right, and there is no way to tell ‘real’ from ‘supposed’ human rights, this may eventually generate skepticisms towards the concept of human rights in general.

However deplorable this situation may be, for moral philosophers it may be thought to involve an opportunity to reaffirm the importance of their discipline. After all, how else could we distinguish genuine from imaginary human rights than by building a theory about the subject? Such a theory might succeed in eliciting agreement between people of different persuasion, for example if it could ground the demarcation between real and supposed human rights in some of the suppositions underlying human rights discourse. The idea behind such attempts is that the proliferation of rights claims has resulted from a lack of understanding of what human rights really are, and that it is the task of philosophers to provide the insight necessary to remedy this lack. A theory of human rights may then show us that some of the goods that are claimed under the heading of human rights are not human rights at all, even if they may be worthwhile things for people to have and perhaps even if they are things that governments generally should strive to provide for their citizens.

The aim of this paper is to show that this idea is exactly wrong — that the proliferation of human rights claims cannot be stopped even in theory. It is a mistake to think that the proliferation of rights claims results from a lack of awareness of the proper theoretical foundation of human rights. On the contrary, I will argue that the proliferation of rights mirrors a deep problem in the theory of human rights itself. The problem is that the theory does not have the conceptual resources to limit ever larger rights claims. This may seem incredibly implausible at first glance. After all, the best philosophical accounts of natural rights to welfare have all made a case for limits to the resources and support to which people are entitled on account of their human rights. I will argue, however, that – certain assumptions shared by these authors granted – these limits are necessarily ad hoc.

¹ This is a draft. I would highly appreciate receiving your comments and critical remarks.

How to account for this bizarre situation? Since deeply held intuitions are at stake, we can only hope to solve these problems by way of an inquiry into the historical development of these theories. I will suggest that to understand the present situation, we need to look into the religious presuppositions of the culture in which natural rights to subsistence were first proclaimed. Specifically, I will argue that contemporary theories of human rights are secularized versions of a religious precursor. Secularization, however, comes at a price. In the case of human rights theories the price is such it makes these theories completely implausible as theories of what is owed to human beings.

Two qualifications are needed. First, in the Western tradition, rights have always been conceptualized in two different ways, either as protecting interests, or as the normative control of a sovereign. Accordingly there are also two traditions of natural rights theories—of passive and active rights, in Tuck’s terminology. Here I will be talking only about one of these traditions, namely the tradition that grants human beings rights to subsistence or, in the secularized version of the theory, welfare rights. The other tradition is a tradition of fundamental property rights. If it were sound, this theory might be able to restrict rights claims and would therefore be able to pose an alternative to the problems that haunt the other theory. But, as I have argued elsewhere, it is not.

Second, I certainly do not wish to deny that most of the legal protections that we commonly identify as human rights can be firmly grounded in a moral theory. If it is to be plausible, however, such a theory will diverge from certain intuitions that are fundamental to human rights language today and in this sense it would not be a theory of human rights. Contemporary theories of human rights, like their predecessors in the natural rights tradition, typically ground these rights in a distinctly human capacity. This approach naturally carries certain assumptions, which are so deeply held that theorists have rarely, and only reluctantly, discarded them despite the fact that they make their theories deeply problematic. It is these intuitions that this paper seeks to identify. To the extent that they channel the ethical concerns which motivate human rights politics, they may actually be harmful in so far as they redirect those concerns on the basis of ideas that are in the end confused. None of this entails that we should abandon the idea of human rights in a more mundane sense.

The importance of this exercise, as I see it, lies in what it can teach us about the culture in which theories of human rights developed. If contemporary theories of human rights are indeed non-trivially dependent upon the theological framework that supported their predecessors, this might explain some of the resistance and indifference regarding the idea of human rights outside the West. After all, it would indicate that human rights theories rely for their intelligibility on ideas that may be commonplace in a culture that was for almost two thousand years influenced by Christianity culture, but that are probably not so in other cultures.

---

2 See my “The Nature of Rights.” (Forthcoming)
4 Hence, I shall use the phrases ‘human rights’ and ‘natural rights’ interchangeably.
though the larger part of this paper is concerned with questioning the viability of these ideas in a secular framework, its ultimate aim is to clear the ground for a better understanding of the relationship between theories of human rights and the culture in which they grew. The last section will put forward a hypothesis about this relationship.

I will start with a brief outline of the tradition of rights to subsistence, and attempt to isolate the religious assumptions that structured these theories and provided plausibility to the claim that human beings have such rights. Next I will introduce what I take to be the most promising versions of the secular theory of human rights to welfare and show how the shift in the underlying assumptions has generated unsolvable problems. This comparison will focus on three crucial (clusters of) questions that any theory of rights has to answer: First, who has these rights, and in virtue of which property do they have these rights? Second, against whom are these rights held, or who has the correlative obligations? And third, to what exactly do people have rights? It will become clear that the problems of secular versions of the theory are due precisely to the change in the background beliefs that supported the religious version of the theory.

The Religious Theory: Natural Rights of Subsistence

In the twelfth century theologians and canonists began to discuss a case they had found in Cicero’s *De Officiis*. Suppose a man would find himself in extreme necessity such that he could only save his life by taking something that belonged to another without the consent of the latter—would it be permissible for him to do so? At first theologians answered in the negative: since the wellbeing of the soul is immeasurably more important than the wellbeing of the body, it was better to starve than to sin. After all, Augustine had held that no good intention, no seemingly good end could justify doing something that is in itself evil, such as stealing from the rich to give to the poor (Augustine, *Against Lying* 18). But the canonists, partly because they had different sources before them, came up with another answer. In the *Decretum Gratiani*, a collection of authoritative statements from the Bible, the church fathers and decisions of church councils, they had found contradicting statements on the nature of property. On the one hand, it said that by natural law all things are common to all and it stipulated that no human law could be valid if it contradicted natural law, but on the other hand it stated that property was established by human law (Gratian 1993). The canonists believed that the law as they found it preserved in these documents had to be consistent and they set themselves the task of interpreting these statements so as to harmonize seeming contradictions (Berman 1983: 120-164). They did so by distinguishing different meanings of ‘natural law’, which sometimes seemed to demand or prohibit certain things, but in other cases merely defined something as good, as was the case with common property. Canon lawyers had no doubt that the institution of private property was in fact legitimate, but they were also convinced that the earth was given for the sustenance of all human beings. One of the authoritative texts which underlined this belief came from Basil the Great:
You are like one occupying a place in a theatre, who should prohibit others from entering, treating that as one's own which was designed for the common use of all. Such are the rich. Because they were first to occupy common goods, they take these goods as their own. If each one would take that which is sufficient for one's needs, leaving what is in excess to those in distress, no one would be rich, no one poor. ... That bread which you keep belongs to the hungry; that coat which you preserve in your wardrobe, to the naked ...as often as you were able to help others, and refused, so often did you do them wrong. (Avila 1983: 50-1)

Commenting on this text the most influential of the early canonists, Huguccio, forged a principle that was to guide almost all canon law reflection on the subject: “by natural law all things are common, which means that in times of necessity they must be shared with those who need them.” (Couvreur 1961: 99) Ricardus Anglicus was the first to apply the idea to the case of someone taking something that belonged to someone else: the starving man who took something from the superfluities of the rich in order to survive was not a thief, because in times of necessity all things were common according to natural law. Although some canonists resisted the idea of a person taking matters into his own hands, the right of extreme necessity soon became standard doctrine in canon law (Couvreur 1961: 91-106). In the thirteenth century the canonistic teaching was transferred to theology by Guillaume of Auxerre, and after having been endorsed by Bonaventure and Aquinas, it was accepted by all schools of theology (Couvreur 1961: 208-53). During the famous poverty debate until the beginning of the fourteenth century, it figured in the arguments of both sides (see especially the writings of Mäkinen). Similarly, the principle was transposed to civil law when it appeared in Accursius's *Glosa Ordinaria*, after which it became generally accepted by subsequent generations of civil lawyers (Couvreur 1961: 151-2; Swanson 1997: 407-8). It was, in the words of Swanson, “a truth so compelling to churchmen in the later middle ages that political and legal and philosophical systems of whatever nature somehow had to find ways of tucking it in and accommodating it.” (1997: 413)

After its general acceptance early in the thirteenth century, the right of extreme necessity was there to stay for a long time. It was endorsed by all major sixteenth century theologians and by early modern civil lawyers like Grotius, Pufendorf, Barbeyrac and Vattel. It appeared in different forms in the writings of such diverse political philosophers as Hobbes, Locke, Hutcheson, Carmichael, Kant, Fichte, Hegel and arguably even Hume and Smith. One of the remarkable things about the history of the principle is that the almost unanimous acceptance was not matched by a similar agreement on its justification. Some theologians thought that the consent of owner could be assumed, since not giving from one’s superfluities to someone in grave necessity would involve mortal sin. Others relied on the idea that the presence of a starving man caused the wealthy to lose his dominion over his surplus, since—as the dictum went—“in times of necessity all things become common.” This uncertainty on the precise

---


4
foundation of the right generated other disagreements. Would the person who had taken food be obliged to return it later, if he were in a position to do so? If the owner had in fact lost his dominion over the food, then it seemed that there was no debt (Salter 2005). Despite these differences, the underlying consensus was overwhelming. From the fathers of the church till Locke and beyond, keeping anything over and above one’s basic needs was considered unjust if it could be distributed to someone in extreme necessity. The decretum, for example, quoted Ambrose saying that if you do not feed someone who is dying of hunger, you have killed him. (dist. 86 c. 21, see Ruston 2004: 42) This ‘inclusive’ right to the things necessary for survival was based on an original right of use, which could be limited by the institution of property but could never “be emptied totally” (Ockham 2000: 443). No one in writing in Europe in these times could have denied that God’s grant to humanity implied that every human being should have access to the goods necessary to sustain his or her life.

We will better understand the root of this remarkable consensus on the right of necessity if we see the parallels with the equally stable consensus on the issue of suicide. Since Augustine denounced suicide as a transgression of the commandment not to kill, Christians have been nearly unanimous in their condemnation of it. Being placed on this earth by God, it is not up to us to decide how or when we shall leave this world. Killing oneself is considered the usurpation of a power that belongs to God only. God has given life to human beings, therefore only He has the right to take it away. Christians should endure whatever hardship God has intended for them, and not, to use Locke’s wordings, to quit their station willfully.6 Failure to do so is to be disobedient to His will.7 Throughout the history of natural rights theories, the command not to kill oneself was routinely connected with the availability of basic necessities. In the course of the medieval poverty debate the Franciscans claimed that no religious order could renounce the (restricted) use of goods since the life of mortals is not possible without it (see e.g. Bonaventure 1966: 241). One of the arguments of their opponents was that it was not possible to (licitly) renounce ownership of goods, precisely because it is not licit to renounce the use of goods that are consumed in the use, and licit consumption is not possible unless one is the owner of the thing consumed (e.g. pope John XXII, 1996, §3).

Both the obligation of each human being to preserve his or her life and the strict obligation to preserve the lives of other human beings were grounded not just in a general duty to sustain life, but more specifically in a sense of the purpose of each individual life. God, after all, had created the universe and each and every human being for a specific reason. Humans are thought to be unique among created beings for three reasons: first because they have a specific role to play in God’s plans, second because they are able to discern God’s intentions with their lives, and, third, because they are able to act upon those. To do so is our principal duty, and it is this duty that grounds our rights to the things that we need to survive and that were created

---

6 See Locke 1988: II, 6. Korkman (2006: 259-66) shows that Pufendorf, Barbeyrac and Burlamaqui all derive the right to life from the duty of self-preservation, which for them implied a right of violent self-defence, if necessary. For Grotius, see The Rights of War and Peace (I, ii, 1; II, i, 3); For Hobbes, see Leviathan (I, 14).

7 See e.g. City of God I, 24. For the limits of the duty of self-preservation, see Tierney (2006).
for our sustenance. The idea that our duty to fulfill our role in God’s plan with his creation ground the rights we have to the necessities of life is also central to many contemporary Christian defenses of human rights. Jürgen Moltmann, a protestant theologian, puts it thus:

Human beings … are destined to live “before the face of God,” to respond to the Word of God, and responsibly to carry out their task in the world implied in their being created in the image of God. They are persons before God and as such capable of acting on God’s behalf and responsible to him. As a consequence of this, a person’s rights and duties as a human being are inalienable and indivisible.8

Our responsibility, according to these theologians, is to carry out our part in the divine plan, and to ensure that other people are able to carry out their part. One important assumption in this line of reasoning towards human rights is that God has created the world such that in principle it should be possible for each human being to fulfill her duty. He did not create human beings just to let them perish from starvation, but he gave the earth and its produce to provide for the basic needs of each and every one of us. From this it follows that some human being must be responsible when another fails to have access to the basic necessities.

These are, I believe, the main ideas that went into the religious theory of natural right to subsistence. While this theory requires some rather strong assumptions, none of these are particularly problematic for Christians (or Jews, or Muslims). My thesis is that some of these assumptions become utterly problematic when they are transmitted into a secular framework. The problem with contemporary theories of human rights, then, is that these assumptions seem so central to the idea of human rights that they cannot be abandoned. As a result the theories fail to satisfactorily answer the most basic questions that any human rights theory must answer: Who has these rights? Who are the relevant duty-bearers? And; what is the extent of these rights (what are they rights to)? In outlining the answers given to these questions, I will rely principally on the two authors who have offered the most sustained attempts to ground human rights to welfare, Alan Gewirth and James Griffin. As far as I can see, however, my thesis applies to any plausible account of natural rights to welfare.

Whose Rights?

If someone were to ask “Who has human rights?” the natural answer would be “All human beings!” This is not merely a matter of it being the opinion of the overwhelming majority of people writing about subject. The answer seems implied in the very concept of human rights: they are by definition held by all and only by human beings. Definitions, however, do not justify practices. If we want to know what justifies granting these rights to all and only to human beings, we need a theory of human rights.

---

Reference to the fact that we are all members of the same species will not do the job either. On the best account, species are groups of interbreeding natural populations that are reproductively isolated from other such groups (Mayr 1996: 265). Accepting species membership as a moral basis of human rights leads to counter-intuitive consequences. The species ‘Homo Sapiens’ may well have come into existence by bifurcation from another species. Should this be the case, would the species from which ours has evolved not already have had the same rights? Similarly, our species might in the future give birth to new species. Would we deny the members of these new species rights, merely because they cannot interbreed with us? These and similar problems (Graft 1997: 14-6) show that species membership in itself could not possibly provide a morally relevant criterion for assigning a certain status to beings.

Contemporary theories of human rights have acknowledged that species membership is not a morally relevant criterion. Instead, they have justified possession of rights in a particularly human trait. Many candidates for such a characteristic have been proposed: from the indistinct appeal to ‘human dignity,’ over the tendency to be sociable, to the ability to acquire language. The clearest and most promising one is a conception of agency. We can form pictures of what a good life is like and act to try to realize these pictures. We are able to control our behavior by our unforced choice with a view to attaining our goals. The problem is that a theory that grounds rights in the characteristics of ‘persons’ or ‘agents’ is not a theory of human rights, because not every human being is a person or agent.

Most philosophers have of course realized this difficulty but only one, to my knowledge, has bitten the bullet and maintained that—properly speaking—only persons or agents have human rights. Others have come up with ad hoc arguments to explain why, despite the fact that their case for human rights suggests the opposite conclusion, children nevertheless have rights. Consider, for example, Gewirth’s case for children’s rights. Gewirth grounds human rights in the fact that, according to him, every moral agent must claim for himself rights to those things that he needs to be an agent. Any agent must also admit that being a prospective purposive agent is a sufficient reason for having these generic rights. However, since children are not (yet) prospective purposive agents it would seem that children do not have these rights. Yet Gewirth claims that “since all humans are such agents having such needs, the generic moral rights to freedom and well-being are human rights” (1982: 51). Like mentally deficient persons and people with brain damage, however, children only have generic rights proportional to the degree to which they have the abilities of agency. Gewirth himself admits both that some animals also have some of these abilities (but he never mentions animal rights in this context) and that having the abilities of agency in certain degrees is not the same as being a prospective purposive agent to a certain degree—since agency does not come in degrees. It remains

---

10 Griffin (2008: 34, 83-95), Nino (1991: 35-7) refrains from saying that non-agents do not have human rights, but he holds only that agents can enjoy and exercise them.
mysterious, then, why having certain abilities to a degree insufficient of being an agent would, in the case of children, suffice to ground generic rights. Gewirth further claims that children have preparatory rights, for example to be given a kind of upbringing that will enable them to become prospective agents whose generic rights must be respected by agents (ibid.: 141), but he simply fails to provide an argument for these rights.12

Could these arguments be made to work? Since infants are not agents on any plausible conception of agency, the only route to defend children’s rights on the basis of a theory that connects rights with agency would be to emphasize their potential to become agents. However, the argument from potentiality is notoriously problematic.13 Two objections have traditionally been raised against it. The first, the scope objection, complains that an argument on the basis of potential proves too much. If children are potential agents, so are fetuses, and so too are (pairs of) egg-cells and sperm-cells. So if children have rights because they are potential agents, fetuses and egg- and sperm-cells supposedly have them too. But that is absurd. Friends of the argument from potential have insisted that the threat of regression can be stopped by distinguishing identity-preserving from non-identity preserving potentiality. So a human fetus might have rights because it is the same being as the person that will develop from it, while a sperm-cell isn’t. But even if the distinction succeeds in eliminating the problem of scope, it leaves the second objection unanswered. This objection denies that the potential to become something is relevant to the possession of rights or privileges that are due to the actual being. Just as a potential president does not have any claim to the prerogatives of the office, the fact that someone is a potential person only indicates that she might in the future have the rights of personhood.

Even if it would succeed, however, the argument from potential would be impotent to transform theories of rights of persons into theories of human rights. There are two reasons for this. Firstly, the inclusion of potential persons in the category of rights subjects would still leave out several categories. Apart from those human beings (infants) who are not yet agents, there are some (e.g. elderly people suffering from dementia) that are not agents any more. Moreover, some human beings never have been and never will be agents in the relevant sense. If we accept personhood as the ground of rights, we will have to admit that some elderly people and certain categories of disabled people do not have rights. The second reason is that there may well be other non-human persons. According to Peter Singer (1994: 182), the evidence is at present most conclusive for the great apes, but several other species may in the near future also be shown to have the capacities that we associate with personhood. Several non-human species have been shown to create complex social systems, have self-awareness, exhibit altruistic behavior, and use language. So if young children are considered to have rights on account of their potential for personhood, how much more are these animals entitled to the

---


13 For an excellent account, see Perret 2000.
rights connected with their actual personhood? But if they are, then these rights are not human rights.

The problem with a secular grounding of human rights is that there doesn’t seem to be a property that is both morally relevant and specific to all human beings. In the absence of such a property it seems arbitrary to assign rights to all and only to human beings. This means that we have no plausible secular human rights theory.

Christians, on the other hand, have no problem in finding a property that is both morally relevant and common to all human beings. The common ground in the Christian notion of human dignity is that it does not depend on any natural capacity that a particular human being might or might not possess. Christians share a basic belief in the uniqueness of humanity among God’s creatures. All human beings, including infants, mentally disabled and people suffering from dementia, have a soul. The distinction between human beings and persons is so foreign to a Christian understanding of humanity that the Congregation for the Doctrine of the Faith, in its 1987 declaration *Donum Vitae*, simply answered the question of personhood with a rhetorical question: “How could a human individual not be a human person?” (Williams 2005: 132)

Another way of putting this, which avoids talk of a soul, is to say that human dignity is not an inherent but a bestowed dignity. “If it were an inherent dignity you could look around and find examples of people in infancy or people in the aged who hardly seem to manifest any of these characteristics of inherent dignity as an empirical matter.” Christians are confident that any human being, whether still a fetus or mentally handicapped or comatose, has a special role in God’s plan with His creation. The incomparable value of each human being is thus not dependent on an ability of human beings to generate plans for their lives, but on God’s intentions. In short, the question of children’s rights and the rights of other people who do not have the capacities of agency causes no embarrassment to the religious theory.

**Whose Duties?**

Human rights to adequate nutrition, housing, health care, etcetera, are first and foremost claims to have, use, or enjoy these things. To get a full grasp of these rights, we need to know who has the duty to provide the relevant goods in case people fail to acquire them on their own. The natural answer is “Everyone!” Just as rights of people not to be tortured entail duties on everyone not to torture, so rights to the means of subsistence entail duties on

---

14 The suggestion that non-human persons may have the rights of human persons is rejected, without argument, even by Griffin (2008: 34).
15 Stackhouse (2003).
17 See O’Neill (2005: 427-30) for a clear pronouncement that these rights are only real if it can at least in principle be shown that someone has a duty to provide the thing to which someone has a right. Most authors have agreed. Tasioulas (2007: 91) and Ashford (2006: 233-5) are exceptions. According to Pogge’s ‘institutional understanding’ human rights entail only negative duties (2002: 66), but this is a consciously set against “the ways in which human rights are currently understood” (ibid.: 46).
everyone to provide them when necessary. We do, of course, assign a special role to governments in providing for schooling and adequate health care, etc... 18 but it is no conceptual mistake to think that non-state actors like militia can violate the human rights. Similarly there is no conceptual error in holding that the human rights of the victims of a famine may entail duties on the part of individuals in other countries to provide aid.

This has been the basis of an enduring and vigorous attack on the idea of natural rights to welfare. The criticism typically starts from the distinction between ‘positive’ and ‘negative’ rights. My right not to be tortured is a negative right: it only requires other people to abstain from torturing me. Because it does not require anyone to do anything, it is always possible for others not to violate my negative right. Positive rights, on the other hand, may require people to aid the right holder. The problem with, say, a natural right to adequate health care is that others may not always be able to provide it. Since “ought implies can” it follows that they can have no such duties. And if these duties don’t exist, neither do the correlative rights. 19 This criticism becomes especially harmful if one keeps in mind, first, that individual human beings bear the duties correlative to human rights, and, second, that these rights are temporally as well as spatially universal. If people living now have a right to basic necessities, people living fifteen centuries ago had these rights as well.

Friends of human rights to welfare have raised three responses to this criticism. The first questions the relevance of the distinction between negative and positive rights. Guaranteeing the non-violation of rights, negative as well as positive, requires the establishment of a system that punishes offenders. Protecting rights thus involves positive efforts even with respect to so-called negative rights. 20 Yet the critic may insist that we are only required to abstain from violating human rights, not to ensure their non-violation. Hence the disparity remains. Duties correlative to the negative rights can always be fulfilled, whereas duties correlative to positive rights often cannot.

The second response trades on the distinction between negative and positive rights. It says that positive human rights need not be held against everyone in the same way as negative rights. My right not to be tortured is only fulfilled if everyone abstains from torturing me. In contrast, my right to adequate healthcare is fulfilled if at least someone provides it. Positive rights thus can be matched by universal duties to see to it that someone fulfils them, for example by supporting institutions that carry out this task. 21 However, it is a mistake to think that this effectively

---

18 See e.g. Pogge (2000).
19 The classical formulation is Cranston (1962: 36-38) and (1967: 52). Waldron (1993: 207-8) has questioned the validity of one version of this argument, but his line of reasoning strikes me as unsound. Wellman, who has given this issue its most systematic treatment (1982, 35-9 & 159-163), thinks there is also a problem of duplication. If everyone were to perform his or her duty, there would be a vast duplication of effort (ibid: 160). Buchanan (2004: 181-6) discusses another problem: protection of rights can be more or less robust, and it is not even in principle possible to determine how much we are required to sacrifice.
21 An early example is Narveson (1967: 235-6). Of course I am not denying that even moral responsibilities can be sensibly distributed. See Miller (2001) for a set of possible criteria.
eliminates the problem of an excess of duties. It may often be possible to distribute the duties to provide the things to which people have rights in such a way that each appointed executive is able to carry them out. Yet our ability to meet our duty to set up these institutions would still be contingent on many factors beyond our control. So if ought really implies can, it remains true that we cannot have moral duties even to see to it that every human being has access to basic healthcare.

Again, a natural response to this is to say that even if people could not have moral duties to see to it that all human beings have access to the means of subsistence they may still have a duty to do what is in their power to meet the needs of other people. While this proposal is utterly sensible, it also implies that statements positing a human right to adequate healthcare are, strictly speaking, only shorthand for statements positing duties of other people to do their best to provide adequate healthcare. But that is just another way of acknowledging what I take to be the basic insight in those many dismissals of human rights to welfare as “mere ideals.”

Perhaps, then, we should talk of human rights only in terms of the rights that are created by institutional arrangements. Taking a lead from Onora O’Neill’s famous critique of “manifesto rights” as bitter mockery to those who most need them, some authors have suggested that – properly speaking – rights only exist when they are legally enforceable. Susan James has argued that the conception of rights as imposing (merely) moral obligations on other people should be abandoned since it directs attention away from the need to create claims that are effectively enforceable. The difficulty with this proposal is that it disallows some essential features of the language of moral rights. It only solves the problem of an excess of duties by denying that human rights are violated when other people fail to establish these enforceable claims, and so the proposal would requires us to abandon some of the intuitions underlying human rights language.

To see why these intuitions were unproblematic in the religious framework in which they grew, we need to remember that the right of necessity was not necessarily (not even primarily) construed as a positive right. It was an ‘inclusive’ right, to be sure, but it did not necessarily entail duties to provide the things to which people had rights. This was possible because the right was quite limited, and because of the teaching, common among church fathers and scholastics that nature provides enough goods if no-one takes more than she needs. Being both omnipotent and good, God would have created enough for anyone to fulfil his or her

---

22 See, for example, Ashford (2007: 217).
23 Sen (2004: 339) claims that human rights correlate with imperfect obligations “to give reasonable consideration to a possible action,” and so they do not have to be realizable to exist.
24 The writings of Michel Villey have been especially influential; see his 1983 for a summary statement.
25 O’Neill (2000:15). See e.g. Geus (2001:146). Although her writings sometimes seem to imply this much (e.g. 1996: 134) O’Neill has not gone as far as to deny that rights may exist even if they are not ‘realized’ or ‘matched’ by a set of distributed obligations.
26 James (2003). In terms of the vocabulary introduced by Dowding & van Hees (2003 & 2004), James doubts the appropriateness of speaking about rights when they exist only “formally” (as against “materially”).
role in His plan with this world. Our rights to the things we need can thus be understood as correlative to negative duties of others not to take more than their share. Hence it is in principle always possible to identify those who are violating their duties in any situation in which someone fails to have access to basic necessities.

Christians may for a variety of reasons be unwilling to accept the assumption that God has simply provided all the goods to which people have rights, for example because it invokes an austere view of what people can claim as their due, or an inadequate account of people’s responsibilities. Scarcity may be seen as an evil not only when it is caused by human beings, but also when it could have been avoided. God is sometimes seen as working not just directly in the creation of the earth and its produce, but also through human beings as second order causes. Such assumptions allow for a much more copious set of the duties correlative to human rights. Could this not create the same problem for the religious theory? The answer is negative. Since the religious theory lays the origin of these duties in God’s command, they cannot possibly go beyond our abilities. God, one can assume, would not impose duties on us that we could not possibly fulfil. Hence this view does not give rise to the problem of an excess of duties.

This is not to say that the religious theory does not generate problems of any kind. The most obvious problem is related to our inadequate knowledge of God’s will. Hence it may often be hard or even impossible to know who bears responsibility in those instances where some people fail to have enough to subsist. Yet these problems do not call into question the possibility of us having the duties correlative to human rights.

**Which Rights?**

The best philosophical accounts of human rights ground these rights in a notion of agency or personhood. Human beings, it is said, are capable of autonomy: they can direct their behaviour according to their own conception of the good. To lead a truly human life is to develop such a conception and act upon it. It is natural, then, to suppose that human rights protect this ability to lead a specifically human life. The theorists that have developed this idea agree that we need three things to be able to live according to our autonomously chosen conception of the good. First, we need to be able to develop such a conception. Second, we need a certain level of welfare. And, third, we need some amount of freedom. But how much of each do we need?

Since the notion of autonomy plays a double role in these theories, I shall henceforth reserve the terms ‘agency’ and ‘agent’ to refer to the prerequisite of being a right holder and ‘autonomy’ for what is protected and furthered by rights. One crucial difference between the two is that autonomy comes in degrees, whereas agency doesn’t. The latter, so our authors agree, is a threshold concept. Everyone who has developed a certain degree of autonomy is equally a

---

29 Barrera (2005).
member of the class of agents. Differences in the level of autonomy above the threshold are not relevant to being a bearer of human rights. Indeed, the main function of the threshold notion seems to be to avert the conclusion that a higher level of autonomy entitles one to more rights. The threshold notion does not, however, function as an indicator of the level of autonomy to which we are entitled. (One would think that it could not even do that, since only those that have reached the threshold level have human rights. But then our authors also agree that we have rights to those things that allow us to reach the threshold level.)

Even without a formal education, the vast majority of adult human beings will normally reach the level of autonomy necessary to be an agent. Nevertheless our authors agree that education is an essential human right, because it enhances our autonomy. It is essential to nourish the abilities to rationally plan our actions, to distinguish different options that we face at different points of our life, and to assess the probable consequences of the choices that we make. So we have rights to the increase of our autonomy far beyond the threshold level. But how far exactly? Here the theorists remain necessarily silent. They agree that somewhere a line must be drawn, but it is also clear that the theory does not have the resources to draw it.

How much welfare do we need to live a specifically human life? Not so much, or so it would seem. Human rights “are rights not to anything that promotes human good or flourishing, but merely to what is needed for human status.” They are rights (only) to the necessary conditions of action. Since they are grounded in and presumably protect human agency, they must be rights only to what is necessary to be an agent. Taking these statements at face value, one would think that the rights supported by these theories are very limited. Even people living in a destitute condition usually have human status, and are able to function as agents. But despite these warnings, the theories promote a very extensive range of rights. After noticing that someone can be severely persecuted and still remain an agent, and that persecution may even enhance agency, Griffin continues that his account of rights has an “ampler” conception of agency at its heart. It includes both having certain capacities and exercising them. And ‘exercising’ them must also include succeeding, within limits, in realizing the aim of the exercise. Similarly, Gewirth sees well-being as consisting of three kinds of goods: basic, nonsubtractive, and additive. Apart from rights to the basic goods (to the essential preconditions of action), we also have rights to the abilities and conditions required for maintaining and increasing our level of purpose-fulfillment and capabilities for particular actions. So even if we cannot claim our

31 Gewirth (1987: 244-5); Plant (1988: 66). Griffin is an exception in that he denies that we have a human right to education (and autonomy) beyond “a fairly low threshold” (2008: 156). He does, however, think that rationality enters importantly into the identification of interests and ends. (2008: 154), but does nothing to indicate what amount of education is needed be able to develop a conception of a worthwhile life, or to “recognize good-making features of human life.”
32 Notwithstanding his announcement that “difficulties of specification will require serious attention” (1996: 105) Gewirth never comes close to specifying the level of education required by human rights.
34 Griffin (2008: 46-8). Gewirth’s (1987: 63) describes generic rights as rights to the necessary condition of successful action. These goods are described in Gewirth (1978: 53-8).
flourishing as a matter of right, we do have a right to the support that will enable us to realize at least some of our purposes. But how many? Griffin concedes that the personhood account yields only highly indeterminate norms. In order to make them more specific, we need to take consider `practicalities'. That, of course, is just another way of saying that the theory fails to set non-arbitrary limits to our rights. Gewirth, on the other hand, only mentions that we have rights to equal opportunity to develop and maximize our capacities. Additive rights, for example, require that the means of acquiring wealth and income be distributed equally so far as possible. That is another way of saying that there is no limit to our rights, apart from the practical constraint of what can possibly be provided equally to everyone.35

With regard to freedom, the picture is once again very similar. We are told time and again that freedom is essential to agency.36 Yet people obviously can have their rights to freedom violated while remaining agents. Here the ampler conception of agency has to come to rescue as well. According to this ampler conception, it is not enough that one is able to form one’s own conception of a good life. Human rights, it is said, also protect the ability of agents to exercise their agency. Yet this addition doesn’t solve the problem: it generates more problems instead. Someone who is bereft of his freedom – say, a prisoner – is not necessarily rendered unable even to exercise agency.37 The options open to the prisoner are limited, to be sure. But reduction of options neither eradicates the ability to exercise agency, nor is it always a violation of human rights. We often accept people’s options being limited, for example when we allow criminals to be imprisoned, or when we allow states to restrict entrance to a territory, or even when we accept the imposition of traffic regulations. Another difficulty is that freedom in these theories is not conceived merely as absence of interference, but also as grounding duties to goods necessary to exercise it. We are only ‘truly’ free when we are able to act successfully in the pursuit of our goals. Hence the theory should also be able to spell out which abilities people need for successful exercise agency.38 Martha Nussbaum is one of few people who have attempted to draw up a list of “especially important functions in human life.”39 But since the notion of agency itself is too barren to constrain such a list in any detail, the list can only be added to the theory by dint of a philosopher’s fiat.40

The main problem facing these theories can be brought sharply into focus if we consider an alternative position which seems to avoid most of these difficulties. Imagine an account that

---

35 Griffin (2008: 37-9). Gewirth (1978: 246-7). Regan (1999) has shown that it is essential to Gewirth’s case that it takes agents agents who want to be free to pursue their future projects whatever they turn out to be. Similarly agents must also value the ability to pursue their future projects whatever they turn out to be.


37 Griffin (2008: 46-7). Gewirth doesn’t see the problem. See Danto (1984: 29) and Gewirth’s reply in the same volume. See also Raz (2009).

38 Gewirth’s insistence that they are the generic abilities (i.e. the abilities needed by any agent to do anything at all) cannot be correct, since this would not generate anything close to the list of rights he endorses.

39 Nussbaum (1992). Nussbaum herself claims that the list “is, and should be, open-ended” (ibid.: 216). It is always possible, then, for a group to suggest that new items should be added to the list. Sen, on the other hand, prefers to keep the list outside the theory of human rights. (Sen 2005)

40 It is difficult to see, for example, how “having opportunities for sexual satisfaction” is a necessary condition for agency, even if it is an important element of a satisfactory life for most of us.
grants potential agents rights to the things necessary to become and remain agents—that is, to have the capacities to develop a conception of a good life—and only a negative right not to be hindered in the exercise of their agency. The account would interpret the right to freedom only as a right to non-interference, and it would not grant rights to education or any other welfare rights beyond what is strictly necessary to sustain agency. If we disregard, for the sake of the argument, the problem of identifying a threshold level for the abilities necessary for agency, this account could set a clear limit to our human rights. To avoid some of the other problems that I have pointed at, one could add that human rights are not absolute and that the requirement not to interfere with the exercise of agency may sometimes be overridden by considerations of justice or morality. The problem with this account comes to light if we ask why freedom from interference should be part of the set of rights grounded in agency. Why should we not be content to defend negative freedom on other grounds (say, justice, or utility)? What, in other words, makes freedom a human right?

The answer must be that freedom enables agents to exercise their agency. It is important to see that it is the notion of ability which does the justificatory work here. Negative freedom is valued because it enables us to act upon (some of) our intentions. Once we realize that it is the ability to act that grounds the human right to freedom in this type of theory, we can also see why freedom is conceived positively in these theories and why it would be arbitrary to stipulate that people’s ability of exercising their agency should only be protected by negative duties. Abilities can be hampered by lack of support just as much as by lack of negative freedom. If rights are grounded in the idea that agents need to be able to exercise their agency, there is no basis for privileging duties of non-interference over positive duties to create the conditions necessary for exercising it. The theory therefore has to conceive the right to freedom positively. And if it is agreed that imprisonment violates this right to freedom, it cannot be circumscribed too narrowly. Our right of exercising agency cannot be a right merely to be able to “pursue” happiness.

Consequently, theories that ground human rights in human agency face a dilemma. If the rights are construed as protecting agency in a narrow sense—as being able to set goals for oneself—then the resulting list would not even be recognizable as a list of human rights. There are many horrible things that one can do to human beings while still leaving their agency unimpaired. If, on the other hand, one interprets the notion of “being able to exercise agency” or “being able to pursue one’s conception of a good life” more ambitiously, then the theory has no conceptual resource to non-arbitrarily stop the proliferation of rights short of the conclusion that agents should be able to do what they intend to do. The latter is, of course, an absurd requirement.

---

41 See Griffin (1984: 140) for a strong formulation. The theory of natural property rights that I mentioned earlier is built on an entirely different notion of freedom. See my “Libertarian Natural Rights.”
How, then, was the religious theory able to restrict the range of natural rights? Whatever
canonists, theologians and lawyers from the twelfth century till the eighteenth century dis-
agreed about, there was never any doubt regarding the extremely limited range of application
of the principle of necessity: only in cases where people were lacking (or were in danger of
being without) the barest necessities of life was it permissible to have recourse to the property
of others. The motivation behind the principle, together with a few additional assumptions,
makes it clear what made this consensus possible. The basic idea was that earthly goods were
given by God for everyone’s sustenance, so that we may carry out our role in God’s plan with
his creation. Our skills and industry may at times allow us to acquire more than we strictly
need, but such abundant acquisition nevertheless remains unjust if it frustrates the principal
aim for which these goods were created, which is to provide for the basic needs of all human
beings. If God had provided human beings with the goods necessary to sustain their lives,
blocking someone’s access to those necessities would be equivalent to murder. The right of
necessity was thus a negative right not to be hindered in one’s access to the basic necessities.

Since the ground of our rights in this theory is God’s plan, instead of a plan that human beings
develop for themselves, there is no need to posit rights beyond the necessities of life and
negative freedom. It may well be thought that each of us has been given the talents that will
allow us to carry out our role in this plan (although this is certainly not an assumption that
Christians need to agree on). If that is accepted, it is reasonable to presume that as long as we
have access to the necessities of life, we will be able to carry out our duty to God, unless
someone prevents us from doing so.

Many Christians, to be sure, believe that our duties extend far beyond what was acknowledged
in the tradition of the right of necessity. Sometimes these duties are seen as duties of charity
and hence not correlative to rights. But this is not necessarily the case. One could take God to
be working through human beings as secondary causes, so that at least some of us have
positive duties to help others in fulfilling their role in God’s plan. Evidently, the resulting
theory would grant a more sumptuous set of rights. A major difficulty facing such a theory, if
it is seen as grounding enforceable rights, is that of determining exactly how far our duties
extend. For this reason such a theory will probably prove to be hopelessly unworkable. For
our purpose, however, it is important to see that this problem is of an entirely different order
than the problem of an excess of duties. The possibility that we may be unable to determine
people’s duties with any tolerable degree of certainty generates questions regarding the justifi-
ability of enforcement, etc. It does not, however, case into doubt the possibility that these
rights and their correlative duties really exist. Given the properties that are ascribed to God, it
is reasonable to assume that He would not impose more duties on us than we are able to fulfill.
The secular theory provides no such certainty. The fact that it is unable to stop the prolifera-
tion of rights only aggravates this. The resulting problem is not one of uncertainty or impractic-
cableness, but of theoretical incoherence.
Human Rights and Cultural Differences: A Hypothesis

We may conclude that contemporary theories of human rights have failed to provide satisfactory answers even to the most fundamental questions that we expect a theory of human rights to answer. They have not explained why all and only human beings have these rights. They have not given a plausible account of the duties to provide the things that people have a right to. And, most importantly, they have failed to set non-arbitrary limits to the rights we have. This means that we have no viable secular theory of human rights. If my argument in the last three sections is sound, any secular theory of human rights faces the dilemma of either giving up some widely shared convictions about human rights or filling in the ‘gaps’ with unjustified stipulations. The first is a way of changing the subject, whereas the second would significantly reduce the credentials of the theory. Conversely, the religious theory has no trouble answering these questions. These findings are as good a reason as one could possibly get to think that the problems of the contemporary theories are due to the fact that they are secularized versions of their religious predecessor.

I suggested that this thesis can be carried further in a way that will allow us to develop a better understanding of the relation between theories of human rights and the culture in which they emerged. To conclude, I wish to briefly outline how we may theorize this relation. But since such an attempt is easily misunderstood, it is useful to indicate at the outset that I do not want to characterize a culture as a set of beliefs and/or values held by its members. There is no doubt that the influence of Christianity explains how people in the West came to hold some of the central values that we now associate with human rights. However, if our goal is to capture cultural differences, a mere description of values and beliefs and their genesis is ultimately unsatisfactory. Even if it would be possible to point to a distinct set of values shared in a culture (and disregarding the problem of how we could identify its boundaries), the question remains whether these are in fact cultural values. I doubt that such a relation – between a culture and a set of values – can be substantiated.

My description of the continuity in the natural rights tradition – from the religious ancestor to the best contemporary secular theories – suggests another course. The religious and the secular theory of human rights share a focus on human agency. Both theories grant us rights to the things we need to act as a human being. They also share a conception of what it is to act as a human being. Christianity distinguishes moral from immoral action on the basis of its agreement with God’s will. It holds that human beings (most of them, at least) have the ability to discern God’s commandments and to direct their actions according to them. To live a distinctly human life, in a culture dominated by Christianity, is to live one’s life according to a

---


43 Sen (1997: 15), for example, questions the intelligibility of a relation between values and culture by emphasizing that freedom was not always valued in the West. But the change in values could be the result of a cultural change. We can only know if have a theory of culture. I owe the realization of the importance of this question to S.N. Balagangadhara.
plan. The secular theory has retained this intuition: it only adds that the plan is one that we
design ourselves, and it elevates this ability to act according to one’s own plan to the distin-
guishing feature of human beings and hence the ground of our rights. Now imagine that
Christianity has in fact been instrumental in disseminating this conception of human agency,
and that the spread of this conception was part of a process that generated a distinct culture.
This could mean that conception is culturally specific. My hypothesis is that this is indeed the
case, and that theories of human rights are linked to the culture that generated them because
they are dependent upon this conception of human action.

The conception of action which forms the basis of contemporary theories of human rights
starts from an intuitive distinction between human action and things that are also done by
human beings, but that constitute, say, mere behavior. Genuine human action is intentional,
and is done for a reason. The dominant view of reasons is that they are items in the mind, or
combinations of them. Typically, something is considered an action if it is appropriately caused
(minimally) by a combination of a desire (or a pro-attitude) and a belief.\(^4^4\) However, some
philosophers have complained that this picture must be incomplete. What is missing in the
standard account is the active involvement of an agent who forms an intention, and resolves to
act upon it.\(^4^5\) We form intentions by deciding which of our desires to take as reason-giving. In
other words, the standard account lacks the active involvement of a human will that identifies
itself with certain desires. In human rights theories this notion of freewill functions as the
ground for rights.\(^4^6\) It is assumed that we have rights because we are free to set our own goals
and adopt our own conception of the good. This view of human agency is not just central to
contemporary theories of human rights; it is also an essential feature of “our” folk moral
psychology.

Not all cultures have felt the need to posit such a notion of freewill. Even in the (geographical)
West, it grew only after the introduction of Christianity. Most authors credit Augustine with
the development of the concept.\(^4^7\) Dihle has suggested that, unlike the classical philosophers,
Christians needed to posit a power of freewill in human beings to conceptualize the appropri-
ate response to God’s commands. The idea of a requirement to obey the will of your creator
for no reason other than that it is His will could only be made sense of if it was assumed that
human beings have freewill as well. To be sure, even if this is accepted it only shows that
theories of human rights are dependent on a conception of human agency that originates in
Christian theological reflection. It is still a long way, to establish that the conception is in fact
culturally specific. Yet if this conception of agency is absent in other cultures, this raises the
question how it was sustained for such a long time. One possible answer is that Christianity

---
\(^4^4\) The standard account is usually credited to Davidson (1980). Recently the related view of reasons has been
forcefully criticized by Bittner (2001).


\(^4^6\) The indispensability of freewill for Gewirth’s theory becomes very clear in his discussion with E. J. Bond (1980)

\(^4^7\) The literature is immense. See Dihle (1982) for a classical account. Not everyone agrees: see Sorabji (2004) for
references to alternative views.
not merely introduced a certain way of thinking about agency, but that it has also generated behavioral patterns which supports this way of thinking. Something along this line has been suggested by Balagangadhar. He thinks that cultures may be differentiated by the configurations of learning that constitute them. Human beings in all cultures transmit many different learning processes—like the kind required to master a language or the kind required to sustain social relationships. A distinct culture comes into being when one kind of learning becomes dominant and structures the other kinds. Christianity may have generated the specific configuration of learning present in the West. It structures the way believers experience the world. The bible maintains that everything that exists embodies the purposes of God—that His will is the ordering force behind the phenomena. It also maintains that human beings are distinct from animals in that they have a will and it makes moral conduct crucially dependent on acts of will. I suggest, then, that this conception of agency is culturally specific in that it has been instrumental in generating the configuration of learning that makes the West into a particular culture.

Much more needs to be said to render this thesis plausible, let alone to answer the questions that it raises, but that is beyond the scope of this paper. The main purpose of raising it here was to indicate how my claim regarding the relation between religion and human rights theories may help us understand the relation between these human rights theories and the culture in which they developed. In at least two important respects, this approach makes the existence of a link between human rights and a culture far less troublesome than it is usually taken to be.

Firstly, my focus has been on theories of human rights. This is only proper, since we need a theory to identify genuine human rights. I hope to have convinced you that these theories are in fact much less plausible than they initially appear. This is even true with regard to the normative implications of the theories. Most people see human rights as protections of wellbeing—more specifically, as protections of the wellbeing of all human beings as individuals, not just as members of their communities. (Cruft 2005) The theories I have considered, however, value human wellbeing only instrumentally, insofar as it contributes to the ability of persons to pursue the goals they set for themselves. It entails that the protection of an individual’s abilities in this respect may sometimes outweigh the protection of her overall wellbeing. Yet if we value these abilities merely instrumentally as means to the pursuit and achievement of our objectives, as I think we do, it is hard to see how this could be the case. It should be obvious by now that rejecting these theories does not in any sense entail that we should be less concerned about world poverty or that we should refrain from attempts to free people from oppression regimes.

48 Balagangadhar (1994, Chapter #11). It is perhaps useful to point out that the description at this level applies to Islam and Judaism as well.
Secondly, while the hypothesis links human rights in a non-trivial sense to culture, it does not entail moral or cultural relativism. The link is non-trivial because the plausibility of the conception of agency at the basis of these theories is due to the form that ethical life has taken in the West. But if we ask ourselves honestly, we shall find that we have no clear idea of the substance of the conception, and hence that we have no clear idea what it is that other cultures are supposed to lack in its absence. So even if this conception of agency is an essential part of a full account of ethical life in the West, but not of other cultures, it does not mean that the conception is true in one culture and false in another. I believe that we shall also find that the notion of decision on which it supposedly rests is much less central to our lives than these theories take it to be. And to the extent that it does rely on something real, it could not possibly do the work in an ethical theory that it is often supposed to do.

John Searle wrote that we do not have a clear theory of human rights—that the necessary work is only beginning. This remains true enough if we consider contemporary secular attempts at formulating such a theory. My aim has been to show that these attempts may be misguided in the first place, because the idea of human rights is inherently religious. That is not a disastrous conclusion. We do not need a human rights theory to morally justify legal protections against hunger, cruelty, injustice, and so forth. Instead I suggest that we may build a different kind of theory of human rights: not a normative theory, but an account of a part of the culture that generated human rights theories.

---

49 To paraphrase Bernard Williams (1993: 4). The relation between the conception of agency and the experience on which it feeds and that it shapes is exceedingly complex.
REFERENCES

ASHFORD, Elizabeth
2006 “The Inadequacy of Our Traditional Conception of the Duties Imposed by Human Rights.”
2007 “The Duties Imposed by the Human Right to Basic Necessities.” In Thomas Pogge (ed.),

AVILLA, Charles

BALAGANGADHARA, S.N.
(Second and revised edition by Manohar, New Delhi, 2005.)

BARRERA, Albino, O.P.

BEITZ, Charles R.

BERMAN, Harold J.

BEYLEVELD, Deryck

BITTNER, Rüdiger

BONAVENTURA, S.

BOND, E.J.

BRACKNEY, William H.

BRATMAN, Michael E.

BRUNNER, Emil
1945 Justice and Social Order. (Translated by Mary Hottinger) Cambridge: The Lutterworth Press.

BUCKLE, Stephen

COUVREUR, Gilles

CRANSTON, Maurice

CRONIN, Kieran

CRUFT, Rowan

DANTO, Arthur C.

D’ARCY, Eric

DAVIDSON, Donald

DIHLE, Albrecht

DOWDING, Keith & Martin VAN HEES

EZRA, Ovidia

FLEISCHACKER, Samuel

FRANKFURT, Harry G.
1988 The Importance of What We Care About. Cambridge: Cambridge University Press.

GARDNER, E. Clinton

GEUS, Raymond
2001 History and Illusion in Politics. Cambridge: Cambridge University Press.  (p. 146)

GEWIRTH, Alan

GRAFT, Donald

GRATIANUS

GRIFFIN, James

GUTIÉRREZ, Gustavo

HALTEMAN, Jim

HARRIES, Richard

HILL, James F.

HOLLENBACH, David

HOLMES, Stephen & Cass R. SUNSTEIN

HONT, Istvan & Michael IGNATIEFF

HORNE, Thomas A.

HUSAK, DOUGLAS

JAMES, Susan

JOHN XXII, Pope

KASPER, Jasper

KILCULLEN, John

KOCH, Andrew

KORKMAN, Petter

KORSGAARD, Christine

LOSURDO, Domenico
MÄKINEN, Virpi
2003 “The Franciscan Background of Early Modern Rights Discussion: Rights of Property and Subsistence.” In Jill Kraye and Risto Saarinen (eds.), Late Medieval and Early Modern Ethics and Politics. (Synthese Historical Library) Kluwer Academic Publisher.

MARITAIN, Jacques
1943 The Rights of Man and Natural Law. Translated by Doris C. Anson. New York: Charles Scribner's Sons.

MAYR, Ernst

MECKLED-GARCIA, Saladin

MEEKS, M. Douglas

MELDEN, A. I.

MEYERS, DIANA T.

MILLER, Christian

MILLER, David

MOLTMANN, Jürgen

NARVESON, Jan

NINO, Carlos Santiago

NUSSBAUM, Martha

OCKHAM, William of

OKIN, Susan
O’NEILL, Onora

PASCOE, Louis B., S.J.

PERRETT, Ron W.

PERRY, Michael J.

PLANT, Raymond

POGGE, Thomas

RAZ, Joseph

REGAN, Donald

RUSTON, Roger

SALTER, John

SEN, Amartya

SHEARMUR, Jeremy
SHUE, Henry

SINGER, Peter

SORABJI, Richard

STACKHOUSE, Max L.
http://pewforum.org/events/?EventID=38

STEINER, Hillel

SWANSON, Scott G.

TASIOLAS, John

TIERNEY, Brian

TRIMIEW, Darryl M.

TULLY, James

VAN DUFFEL, Siegfried
“The Nature of Rights.” (Forthcoming)

VELLEMAN, J. David

VILLEY, Michel

WALDRON, Jeremy

WELLMAN, Carl

WILLIAMS, Bernard
WILLIAMS, Thomas D.

WITZTUM, Amos

WOLTERSTORFF, Nicholas