

Allan Buchanan

The Heart of Human Rights, (Oxford: Oxford University Press, 2013), 336 pages.

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In *The Heart of Human Rights*, Buchanan critically evaluates and elucidates the practice of international human rights as grounded in the international legal human rights system. This book elaborates the view of human rights alluded to and relied upon in earlier works, especially Buchanan's *Justice, Legitimacy and Self-Determination: Moral Foundations for International Law* (New York: Oxford University Press, 2004). The book is written in Buchanan's dense but precise writing style, and rewards careful reading with a significant contribution to the emerging literature on practice-based accounts of human rights.

A practice-based account is contrasted with a purely moral or natural law theory of human rights according to which human rights are pre-legal moral entities. In the practice-based account developed here, human rights remain "a global moral lingua franca" (p. 7), but Buchanan strongly denies that human rights in international practice are primarily rhetorical. Buchanan's account denies that the normative dimensions of human rights practice is necessarily or exclusively moral, and spends much of the critical energy of the book combatting this premise in many of his rival theories of human rights.

In contrast with many primarily moral theories of human rights and some practice-based theories of human rights, Buchanan argues that international human rights law is an essential part of modern human rights practice. This claim distinguishes Buchanan from Beitz in particular, who advocates a practice-based account not based in the international legal human rights system (See Charles Beitz, *The Idea of Human Rights*, (New York, NY: Oxford University Press, 2009)). However, it aligns him with Tesón and Donnelly (See especially Fernando R. Tesón, *A Philosophy of International Law*, (Boulder, CO: Westview Press, 1998), p. 116; and Jack Donnelly *Universal Human Rights in Theory & Practice*, Second Edition, (Ithaca, NY: Cornell University Press, 2003), pp. 7–53). I would have liked to have seen more engagement with these theories in particular, in addition to the "mainstream Anglo-American philosophical theorists of human rights" whom Buchanan takes to be his interlocutors (note 8, p. 10).

The international practice of human rights examined by Buchanan includes, amongst other international functions: a variety of international human rights treaties, a variety of constitutional legislation for multilateral organizations such as the UN and the EU, systems of human rights monitoring by NGOs, multilateral institutions, and treaty organizations, and appeals to human rights in the justification of humanitarian military interventions by multilateral organizations. These and other 'functions' of international human

rights law constitute a sophisticated practice that effectively enforces human rights compliance and monitoring, and employs diplomatic channels, NGOs, international treaties, and foreign policy to do so (pp. 5–6).

International human rights law and practice serves three central purposes, according to Buchanan. First, human rights practice constrains state sovereignty, including internal sovereignty, and it does so for the protection of individuals (p. 23). Secondly, human rights practice serves what Buchanan calls the “status egalitarian function” of human rights when it affirms and protects the equal basic status of all human beings (p. 28). Third and finally, human rights practice serves a familiar well-being function (p. 32). The well-being function is often emphasized in other theories of human rights. However, Buchanan argues that in virtue of its status egalitarian function, the existing international human rights practice is far more robust than one that merely protects the well-being of individuals. The result of Buchanan’s investigation is a clear and comprehensive argument for a practical conception of human rights, and a conception of human rights that avoids several familiar but devastating objections.

One familiar objection to human rights has been the lack of enforcement for human rights in the absence of a global state. The practice-based account that Buchanan advocates avoids this objection from the outset, given that the international human rights practice includes multiple levels of coercion: unilateral and multilateral sanctions such as social, economic and diplomatic sanctions for low-level offenders, and an escalating scale of economic and military interventions for egregious offenders. In this sense, there is a coercive backbone to international human rights practice, and the lack of enforcement objection does not connect with modern international human rights practice.

Buchanan makes a significant contribution to the dispute between natural law accounts of human rights and practice-based accounts of human rights when he responds to the ‘Mirroring View’. The ‘Mirroring View’ is the assumption that for every valid international human right, “there must be a corresponding, antecedently existing moral human right” (p. 14). Buchanan argues that corresponding moral rights are not necessary to the practice of international human rights, because independent non-moral justification is possible for many rights. For significant portions of the human rights content embodied in international law, prudential, social cohesion, or instrumental justifications are available. Hence, to the extent that human rights content corresponds to antecedent values, the content is not necessarily moral. Further, Buchanan argues that corresponding moral rights are not possible in many cases, but that the relevant human rights content is nonetheless justified. Legal rights to education, democratic governance, or due process realize prudential and social