
*Rights and Reason*, not to be confused with the recent *festschrift* for Carl Wellman with the same title, aims to provide a philosophical introduction to rights, with a heavy emphasis on human rights. The book’s structure is centred on examining three basic questions concerning whether (human) rights exist independently of particular social or national institutions, are eternal or universal across time and persons, and are consistent with our other philosophical commitments (e.g. the metaphysical, epistemological, and associated theory of human nature we accept).

The book also seeks to examine the putative metaphysical basis of rights and the social practices that attempt to map on to this basis. At the core of all these questions is whether reason is a fundamental standard that gives intelligibility to the rights and duties that apply to us in virtue of the human condition.

The first half of the book begins with a basic historical examination of the philosophical systems of Plato, Hobbes, and Locke. Gorman seeks to emphasize the importance of how the metaphysical and epistemological commitments of these thinkers inform their views concerning the justification and understanding of rights. The Platonic philosophical system provides an account of the independence and universality of rights on the basis of reason’s ability to provide us knowledge of the Good within the independent and unchanging reality of the realm of forms. The Hobbesian account of human nature establishes reason as an unchanging, common standard by which we are able to determine the best instrumental means of achieving our desires. On the Lockean view, reason provides a mutually-shared and unchanging moral standard that can secure the basis of natural rights. The upshot of these three chapters is to elucidate the common view held among these three thinkers that reason provides an external authority for us with respect to justifying and understanding rights. By examining how each philosopher accounts for the existence conditions of rights, the prospect of using reason as the standard for guaranteeing the independence, eternality and consistency of rights is examined.

Gorman proceeds, in his chapter on human motivation, to provide a short synopsis of Hume’s theory of motivation. He presents it entirely uncritically and states that if Hume is correct that it is only desire, and not reason, that motivates us, Plato and Locke’s theory of rights may be in jeopardy. It is the tension between the conception of human nature found in particular theoretical conceptions of rights and purportedly incompatible motivational conditions that leads Gorman to assert that a choice must be made between rationalism and empiricism to obtain a coherent and accurate concept of rights. Gorman then proceeds, in his chapter on human value, to present, again uncritically, Kant’s moral theory as an attempt to resolve the conflict between rationalism and empiricism. He argues Kant’s system allows us to see that ‘reason both provides the ultimate justification for our fundamental moral standards and frames our understanding of them. The reasoned detail of Kant’s moral philosophy requires that we act from duty, and the rights of others are to be understood in terms of whatever correlates to those duties’ (p. 83). To be fair, Gorman subsequently does point out in later chapters some problems with applying Kant’s moral theory to an analysis of rights; specifically, he criticizes Kant’s
philosophy of history (as inconsistent with his moral theory) and the question of whether human nature changes over time.

In the second half of the book, Gorman goes on to focus on rights issues found within contemporary discussions of analytic and normative jurisprudence and political theory. In particular, he seeks to examine substantive criteria for the application of the concept of rights (and problems standing in the way of such an application). He begins by devoting two chapters to Hohfeld’s theoretical analysis of rights. Gorman’s synopsis (and critique) of Hohfeld, in addition to being quite clear and instructive, begins to frame the argument for understanding how refined notions of ‘rights’ and ‘duty’ help to call into question (with the help of Hume and Kant) the presuppositions of independence, eternality and consistency earlier stipulated. On this basis, Gorman maintains, ‘human rights have no independent metaphysical existence, are not plausibly universal, may with reason change over time, and may be intelligibly inconsistent with each other’ (p. 183).

The last few chapters are devoted to examining three approaches in rights theory on the connection between rights and duties: rights being prior to duties, duties being prior to rights, or rights and duties being mutually supportive. Gorman argues for the plausibility of views propounded by theorists, such as Aquinas and Rawls, that rights and duties are grounded in justice, i.e. grounded in arguments about what justice requires with respect to determining what rights or duties particular agents ought to have in particular circumstances. He argues that a pluralist account of inconsistent rights and rights theories, holding that rights and duties are in some way mutually supporting features of a just situation, is the most plausible view. I found these chapters to be Gorman’s most useful, and his incorporation (albeit brief, but important) of the debate between interest and will theories of rights to be valuable. One does not frequently encounter these issues in an introductory text and they nicely rounded off the subject as presented.

I found Gorman’s tendency throughout the entire book to slip between speaking of ‘rights’ and ‘human rights’ imprecise and troubling. Although he acknowledges, in both his examination of historical figures and contemporary analytical jurisprudence, that we distinguish between different kinds of rights—moral and legal rights, natural and social constructed rights, etc.—Gorman often does not clearly explain or justify why a slippage in terminology or concepts between ‘rights’ and ‘human rights’ is warranted. While an introductory text must, necessarily, leave out many nuances and controversies in the literature, the disagreements concerning the justification and existence conditions of human rights does not make equating rights in general and human rights in particular advantageous in a philosophical introduction to rights. There are a number of important differences (and similarities) to be explicitly drawn and explored between legal rights, moral rights and human rights—glossing over them only contributed to further confusing the issues at hand.

While there is much that is decent in Gorman’s book, the detractions I have alluded to reveal some underlying deficiencies that stand as roadblocks to the author’s attempt to provide readers with a clear sense of what rights are and their place within the moral and legal realm. Nevertheless, accompanied by the already acknowledged caveats, I would suspect that, with his treatment of rights aiming to be historically informed, theoretically sensitive, and covering a wide range of issues that would provide a number of opportunities for discussion surrounding (human)