

Week 2

Reading: *First Steps in an Account of Human Rights*, James Griffin, 2008

- **Two general ways for philosophy to supply a more substantive account of human rights:**
 1. Top down approach: one starts with an overarching principle or an authoritative decision, from which human rights are then derived.
 2. Bottom up approach: one starts with human rights as used in our actual social life by politicians, lawyers, social campaigners etc and then sees what higher principles one must resort to in order to explain their moral weight.
- A term with our modern sense of a 'right' emerged in late middle ages, in Bologna in the work of canonists.
- In the 12th and 13th centuries, use of Latin Word 'ius' expanded from meaning what is fair to include our sense of a right, meaning an entitlement that a person possesses control or claims something.
- **Okham's argument:** regarding the poverty debates of the Franciscans, he said they have not renounced property. Each of us has an unalienable natural right to goods when in extreme need.
- There followed a certain view of property. God gave the riches of the world to us all in common but unless particular persons have responsibility for particular goods, they will not be preserved or usefully exploited. So, humans, not God, introduce schemes of property.
- In these debates, we can see the evolution from the form of words that it is a natural law that all things are held in common and a person in mortal who steals from a person in surplus, does not steal. That is, a person in need has the right to take from a person in surplus.
- William of Ockham, following a tradition of going back to the early canonists saw reason as giving us freedom and freedom as giving us dignity.
- **Pico della Mirandola:** an early renaissance philosopher, 1477, made a link between our freedom and the dignity of our status. God fixed the nature of all other things, but left humankind free to determine their own nature. In that way, he is God like because man is a creator.

- Best substantive account is in the mind of Griffin → that human life is different from the lives of other animals due to our ability to form a conception of ourselves and our past and future. We are able to reflect and reassess. We are able to determine what a good life for us is.
- But there might be intelligent creatures elsewhere in the universe, and if so, we should have to consider how human rights would be adapted to fit them.
- This framework of looking at human rights centres around humans being agents, deliberating, assessing, choosing and acting to make what we see a good life. Human rights can then be seen as protections of our human standing or personhood.
- **Personhood:** is what allows us to exercise our normative agency. Can be broken down by breaking down the notion of agency.
 1. To be an agent, one must choose their own path through life (autonomy).
 2. one's choice must be real and have a certain minimum education and information grounding it.
 3. Once chosen, one must be able to act, meaning having the resources and provisions that this path requires (minimum provision).
 4. And others must not forcibly stop one from pursuing what one sees as a worthwhile life (liberty).
- **Liberty:** is the freedom to continuously live this ever evolving life.
- **Agency:** is not just about having certain capabilities, but about exercising them.
- Out of notion of personhood, we can generate the conventional list of rights [e.g. right to life, bodily security, free expression, to worship etc.](#)
- Grounding human rights on personhood imposes an obvious constraint on their content. They are rights not to anything that promotes human good or flourishing, but merely are tools for what is needed to maintain a human status.
- Kant thought that one would be autonomous if one's actions came from a purely rational place, undetermined by any other factors including the biology of one's society.
- As such, nature excludes values. The conception of humans that Griffin proposes is not natural. Aliens can be human agents. Griffin chooses autonomy and liberty because they are essential interests and so, rights can be derived from them.
- **Practicalities:** how to determine what is and isn't a right. are universal. Will be empirical info about human nature and societies, the limits of human understanding, society's resources. Tries to understand human motivation.

- **Socrates:** don't get a worthwhile life mixed up with an examined life. He regarded virtue as a matter of knowledge and vice as a matter of ignorance. It is not the exercise of rationality that is the peak of human excellence, rather it is what the use of reason might lead us to.
- Anyone who has the capacity to identify the good has what Griffin refers to as 'a conception of a worthwhile life'. They have ideas about what makes life better or worse. And it is the mere possession of this capacity to identify the good that guarantees persons the protection of human rights.
- Human rights protect the exercise of one self e.g. education is a human right because it is necessary for the exercise of this sort of agency.
- **Welfare right:** claim of the needy to be helped, does not indicate who of all those able to help have a duty to do so.
- Griffin's personhood account can be seen as trinitist. Bc human rights have their value in 3 values of personhood: autonomy, liberty and minimum provision.
- Human rights requires more than international institutions. Int law being positive law, can create positive rights, but int law of human rights should aim to incorporate certain extra legal ethical standards. This means we must consider ethical schools of thought.
- **Joseph Raz:** had a highly influential explanation of human rights. A human right arises when there are universal; human interests sufficient to justify imposing the correlative duty on others. Definition has the advantage of allowing more human interests to serve as grounds for human rights than just the 3 values mentioned before.
- Griffin believes that Raz's account however does not supply a sufficient condition for the existence of a right, and therefore, there will be many cases in which the interests at stake are sufficient to justify imposing on others whatever the appropriate sort of duty is, yet they are not matters of human rights.
- Griffin and Wurth are compatible in ways.

Lecture: Defences of Human Rights, the Natural Agreement

- **Beitz:** central idea of international human rights is that states are responsible for satisfying certain conditions in their treatment of their own people, and that failures or prospective failure to do so may justify some sort of remedial or preventative action by the world community.
- **Are human rights the contemporary international 'moral language' of our age?**
- **How to justify human rights and international intervention:**
 1. James Griffin: Tradition of natural lawyers from the enlightenment period.
Concerned to combat skepticism about human rights by identifying their moral foundations. Aims to provide a philosophical account of the origins, nature and relevance of contemporary human rights, so that they may be sensibly justified.
- **Griffin:**
 1. 'there are strong inflationary pressures on the term that have brought about its debasement'.
 2. The belief is widespread that human rights mark what is most important in morality: so whatever the group in society regards as most important, it will be strongly tempting to call it a human right.
 3. It is now also a common, and not unjustified belief that getting something widely accepted as a human right is a good first step to getting it made a legal right, so there is a great temptation to assert that anything to which one wants to have a legal guarantee is a human right.
 4. One is transformed from a beggar (you ought to help me) to chooser (it is mine by right).
- **Natural law:**
 1. Social contract theorists of the enlightenment following John Locke and Immanuel Kant, writing in times of french revolution
 2. inherently moral questions of behaviour and limits of government on our behaviour
 3. Men are free and equal, not subject to God's divine monarch. By virtue of this natural state, we all have natural rights, such as right to life, liberty and property that have a foundation independent of the laws of any particular society.
 4. Role of legitimate republican governments is both to place limits on our natural rights and to provide for them.

5. Grounded on a concept called state of nature, where humans exist more as anarchists, no political//social system. Issues resolved animalistically. Philosophers were believing we came from this tradition.
6. Locke: there is a law of nature which is universal; unalienable natural rights flow from this.