

**Rowan Cruft, S. Matthew Liao, and Massimo Renzo, eds.** *Philosophical Foundations of Human Rights*. Oxford University Press 2015. 720 pp. \$150.00 USD (Hardcover ISBN 9780199688623); \$55.00 USD (Paperback ISBN 9780199688630).

Following a dialogical structure, all but two of the thirty-eight essays in this book are paired, with the second of each being a reply to the first. While some of the replies amount to little more than critical reviews, many others take the opportunity to advance their own arguments or theories. As those paired essays also range over many distinct themes, the book has the appearance of being the proceedings of a major conference. However, unlike those from many conference proceedings, these articles are expectedly more polished.

As the title suggests, *Philosophical Foundations of Human Rights* is directly concerned with philosophical attempts to justify the very concept of human rights. But articles on those questions only comprise Part I of the book's four parts, with Part II focusing on legal and political conceptions, Part III on 'Canonical and Contested Human Rights', with Part IV raising skeptical concerns about the main foundational theories, while also proposing less familiar alternatives. With such a wide-ranging thematic scope, this book covers an area of contemporary philosophical research that has been much neglected.

Human rights are now most commonly understood in terms of the principles and ideals expressed in the Universal Declaration of Human Rights (UDHR). Therefore, in considering the philosophical foundations of human rights, many of the articles have proceeded by analyzing and evaluating the moral concepts that are often invoked in the most essential Articles of the UDHR. As Jeremy Waldron observes in his essay, the 'inherent dignity of the human person' (118) is frequently emphasized in several UDHR Articles, as well as other subsequent covenants. While the meaning of 'dignity' in these contexts has been somewhat opaque, its centrality to the defense of human rights claims suggests its deep foundations. However, even if it is accepted that dignity is an inherent feature of the human person, the particular qualities that determine such dignity are often vaguely defined, or raise serious questions about the extent to which it can plausibly serve to warrant certain human rights protections.

Dignity has often been understood as inherent in the basis of innate human capacities for rationality and autonomy. But if the possession of such capacities were a necessary condition for being afforded basic human rights protections, then children and those with impaired mental capacities would fail to qualify. Such a restricted conception of human dignity is not only at odds with normative understanding of its moral significance, but evidently also conflicts with Articles in the International Covenant on Civil and Political Rights and the Convention of the Rights of the Child. This is further emphasized in Paolo Gilabert's essay where he refers to the UN Millennium Declaration's concern with protecting the vulnerable (199).

Gilabert's comprehensive analysis of human dignity in the contexts of the main human rights documents, shows that those rights cannot simply aim to protect the capacity for rational agency. As the capacity to experience pain and suffering can prevent persons from obtaining the essential goods needed to live a 'decent life', this provides a firm foundational justification for the right not be subject to 'cruel, inhuman or degrading treatment'. Similarly, in the preceding article Carol C. Gould criticizes Alan Gewirth's argument that all 'prospective purposive agents' must have rights to the freedom and well-being that are essential to pursue their goals. While a certain degree of freedom

and well-being are undoubtedly necessary conditions for human agency, Gewirth's argument neglects to consider how the social environment itself imposes conditions on the extent to which an individual can justifiably claim general rights to freedom and well-being.

However, rather than dismissing Gewirth's argument, as many other critics have done all too hastily, Gould recognizes its importance in focusing on the necessary conditions of agency. But in noting that those conditions are themselves conditioned by social relations and institutions, Gould's argument also reflects much of the reasoning in the human rights conventions. Both Gould and Gilibert show how the neo-Aristotelian capabilities approach provides the best justification and most promising avenue for resolving disagreements about domestic interpretations of human rights conventions and international law.

Despite the longstanding and widespread political endorsement of the UDHR Articles and other major conventions of similar content, even some of the most basic human rights have often been faulted for idealizing a Western set of values and norms, and therefore have no legitimate moral or political authority over societies which adhere to quite different standards. However, such criticisms are usually based on a question-begging assumption of cultural or moral relativism that is greatly exaggerated. While there may be considerable disagreement about the moral or political value of particular cultural practices, James Griffin's article highlights the many commonalities among Eastern and Western cultures in their recognition of certain basic norms which function to protect the interests of individual persons. Nevertheless, as Massimo Renzo argues in his responding article, Griffin's focus on fundamental human interests is overly narrow in its concern with securing the biological and psychological well-being of individuals.

Renzo's own theory proposes a conception of basic human needs as a universally acceptable foundation for human rights. So it might seem equally open to the criticism of being too basic to warrant individual rights to anything more than mere subsistence goods. However, just as Gould and Gilibert observed that essential human capabilities cannot function adequately without certain enabling material and social conditions, Renzo too argues that a basic conception of a 'minimally decent life' must include the need for 'a minimal degree of social interaction and for a minimal level of recognition' (577). Renzo notes that this conception of basic social needs allows for considerable diversity in the cultural practices it permits. But his account of social interaction and recognition is too vague to provide much guidance on what would constitute a violation of rights to those needs. He does, however, refer to the issue of female genital mutilation as an example of a religious or cultural right that is clearly in conflict with the basic right to physical integrity. As such a practice cannot be defended as meeting any basic needs, this clearly implies that it cannot be claimed as a cultural right. And even in cases where basic needs come into conflict, some needs are still more vital than others, and accordingly Renzo's discussion suggests that such conflicts can be resolved by governmental and cultural authorities acknowledging these different priorities of urgency.

Even accepting that essential agency conditions, functional capabilities, or some range of basic needs can provide philosophically sound foundations for many human rights, the practicalities of their international enforcement are more problematic. While cases of genocide or widespread slavery may be so transparent as to warrant urgent humanitarian intervention, the appropriate responses to more common human rights abuses are much more open to question. Furthermore, whether individual citizens, national governments, or international institutions should be permitted or obligated to take action to protect or advance human rights highlights both the moral and political dimensions of human rights responsibilities. On this theme, some articles debate the merits of

adhering to a strictly political conception of human rights. But even those who argue that the international conventions are most acceptable and effective when judged for their political value, cannot deny their inherently moral content.

Political conceptions attempt to discount the moral basis of the obligations articulated in international human rights conventions and laws. As a result, they implausibly assign states as primarily responsible for acting to uphold those standards. As Victor Tadros argues, not only is it conceptually untenable to regard states as bearing duties as if they were responsible agents, but it also has the ‘absurd implication’ that within a state ‘the human rights of citizens who are subject to serious wrongdoing are not being violated’ (453). Tadros makes this point in showing that security rights do not simply entail the negative duties of avoiding harm to others, but impose positive obligations on citizens and state authorities. This tendency to strengthen and extend the moral urgency and scope of human rights has led to criticisms of human rights proliferation, or ‘inflation’ that only threatens to erode their widespread acceptance. A frequently cited example is the UDHR’s Article 24 which includes the right to ‘periodic holidays with pay’ (24).

Aside from that controversial example, however, many positive welfare rights such as those requiring access to a sufficient standard of health care and education need hardly be considered contentious. Much more challenging are those social circumstances where positive enforcement of one such right can threaten an even more basic right. For example, as Elizabeth Ashford notes, banning child labor without first ensuring alternative sources of income, has often resulted in a much worse fate, with children starving or being forced into prostitution. It is these questions of priorities and practicalities that are most problematic for the acceptability of human rights justifications. So the book would have benefited if more articles had directly addressed such issues. Nevertheless, while their philosophical foundations remain debatable, many of the commonly accepted human rights can be quite strongly defended from many different theoretical perspectives. And there is considerable and well-argued agreement among many of the contributors that as human rights aim to protect the quality of life for all persons, they should be regarded as ideals that cannot be feasibly or fully implemented in the same manner in different social contexts.

**Thomas Johnson**, University of Melbourne