

On Human Rights

JAMES GRIFFIN

OXFORD
UNIVERSITY PRESS

Contents

Introduction	1
PART I: AN ACCOUNT OF HUMAN RIGHTS	
1. Human Rights: The Incomplete Idea	9
1.1 The Enlightenment project on human rights	9
1.2 The indeterminateness of the term 'human right'	14
1.3 Remedies for the indeterminateness	18
1.4 Different approaches to explaining rights: substantive and structural accounts	20
1.5 A different kind of substantive account	22
1.6 How should we go about completing the idea?	27
2. First Steps in an Account of Human Rights	29
2.1 Top-down and bottom-up accounts	29
2.2 The human rights tradition	30
2.3 A proposal of a substantive account	32
2.4 One ground for human rights: personhood	33
2.5 A second ground: practicalities	37
2.6 Is there a third ground?: equality	39
2.7 How we should understand 'agency'?	44
2.8 In what sense are human rights 'universal'?	48
2.9 Do we need a more pluralist account?	51
3. When Human Rights Conflict	57
3.1 One of the central questions of ethics	57
3.2 Conflicts between human rights themselves	58
3.3 Are human rights co-possible?	60

3.4	Conflicts between a human right and other kinds of moral consideration	63
3.5	A proposal and a qualification	66
3.6	A step beyond intuition	76
3.7	Some ways in which human rights resist trade-offs	79
3.8	Reprise	81
4.	Whose Rights?	83
4.1	The scope of the question	83
4.2	Potential agents	83
4.3	The inference from moral weight to human rights	86
4.4	Need accounts of human rights	88
4.5	A class of rights on their own?	90
4.6	A role for stipulation	91
4.7	Coming into rights in stages	94
5.	My Rights: But Whose Duties?	96
5.1	Introduction	96
5.2	What duties?	97
5.3	Whose duties?	101
5.4	Primary and secondary duties	104
5.5	AIDS in Africa	105
5.6	Can there be rights without indentifiable duty-bearers?	107
6.	The Metaphysics of Human Rights	111
6.1	Two models of value judgement	111
6.2	Human interests and the natural world	116
6.3	The test of the best explanation	121
6.4	The metaphysics of human rights	124
7.	The Relativity and Ethnocentricity of Human Rights	129
7.1	Ethical relativity	129
7.2	The relativity of human rights	133
7.3	What is the problem of ethnocentricity?	137
7.4	Tolerance	142

PART II: HIGHEST-LEVEL HUMAN RIGHTS

8. Autonomy	149
8.1 The three highest-level human rights	149
8.2 The distinction between autonomy and liberty	149
8.3 The value of autonomy	151
8.4 The content of the right to autonomy	152
8.5 Autonomy and free will: what if we are not autonomous?	157
9. Liberty	159
9.1 Highest-level rights	159
9.2 Broad and narrow interpretations of liberty	159
9.3 'Pursuit'	160
9.4 Negative and positive sides of liberty	166
9.5 How demanding is the right?	167
9.6 Mill's 'one very simple principle' of liberty	169
9.7 Generalizing the results	174
10. Welfare	176
10.1 The historical growth of rights	176
10.2 Welfare: a civil, not a human, right?	177
10.3 A case for a human right to welfare	179
10.4 Is the proposed right too demanding?	182
10.5 The undeserving poor	184
10.6 Human rights, legal rights, and rights in the United Nations	186

PART III: APPLICATIONS

11. Human Rights: Discrepancies Between Philosophy and International Law	191
11.1 Applications of the personhood account	191
11.2 Bringing philosophical theory and legal practice together	191

11.3	The list of human rights that emerges from the personhood account	192
11.4	Current legal lists: civil and political rights	193
11.5	Interlude on the aims and status of international law	202
11.6	Current legal lists: economic, social, and cultural rights	206
11.7	The future of international lists of human rights	209
12.	A Right to Life, a Right to Death	212
12.1	The scope of the right to life	212
12.2	Locke on the scope of the right	213
12.3	Personhood as the ground of the right	215
12.4	From a right to life to a right to death	216
12.5	Is there a right to death?	221
12.6	Is it a positive or a negative right?	223
13.	Privacy	225
13.1	Personhood and the content of a human right to privacy	225
13.2	Legal approaches to the right to privacy	227
13.3	How broad is the right? : (/) privacy of information, (<i>it</i>) privacy of space and life, and (⟨/) the privacy of liberty	234
13.4	A proposal about the right to privacy	238
13.5	Privacy versus freedom of expression and the right to information	239
14.	Do Human Rights Require Democracy?	242
14.1	Two plausible lines of thought	242
14.2	Autonomy and liberty	243
14.3	Democracy	243
14.4	Do human rights require democracy?	247
14.5	In modern conditions?	251
15.	Group Rights	256
15.1	Three generations of rights	256
15.2	No quick way of dismissing group rights	256
15.3	A case for group rights: the good-based argument	258

Contents

xiii

15.4 Another case for group rights: the justice-based argument	265
15-5 Exclusion	271
15.6 Reduction	273
15.7 What is left?	275

<i>Notes</i>	277
--------------	-----

<i>Index</i>	331
--------------	-----