

Conklin, William E. *In Defence of Fundamental Rights*.
The Hague, Netherlands: Nijhoff & Noordhoff, 1979. Pp. xix + 307. \$57.50.

The first of the two major arguments is that the "inner sphere of life" of a person, that sphere which generally affects only the individual himself, must be adequately protected by the law. Traditional juridical arguments and modes of analysis, including Benthamite and rule utilitarianism, cannot accomplish this end. Therefore, these approaches must be rejected. The second argument is that, since the "inner sphere of life" can be adequately protected only by the principle of respect for persons, a principle that chiefly and often "merely requires an attitude of noninterference" (p. 204), and since fundamental rights are indispensably entangled with respect for persons and represent "minimum floors," then the law must correctly understand and apply these rights.

Conklin assumes that the "inner life of man" can be much more adequately (or fully) protected, that this can be done without sacrificing the protection of man's outer life, and that his theory can accomplish these ends largely because it has the virtue of not being open to the shortcomings of the theories that he criticizes. Although it is a favorite polemical device to criticize other positions and claim that one's own position is therefore better, this does not, in itself, follow. For it may prove to be the case that certain forms of utilitarianism or other theories provide the most adequate, though imperfect, protection of both ends. Moreover, to claim that the respect-for-life principle and fundamental rights are basic notions and then to leave them in the state of being notoriously too vague to be understood merely in terms of noninterference seems to generate formidable difficulties. A final point. Nominally, we have a respect-for-persons theory. But I suspect that, because the theory is so amorphous and loose, it can be consistently interpreted by altruists to be a form of altruism and by egoists to be a form of egoism. In short, we have a chameleon-like theory.

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