

RIGHTS, edited by **David Lyons**. (Belmont, Calif.: Wadsworth, 1979), 188 pp.; paperback, \$6.95. *

David Lyons's book provides us with an able statement of his own views and a collection of many of the best essays published during the past twenty-five years. *Rights* is heartily recommended to all who are interested in the grounds and nature of moral rights and the philosophical controversies of present-day liberal thought.

According to Lyons, rights exist in the same way obligations exist. The implicit argument, then, seems to be that if rationality warrants the existence of moral obligations, one does not have sufficient grounds for denying the existence of moral rights. In the introduction and two essays, Lyons also maintains that rights are essentially concerned with what others are required to do; that the stringency of justice and respect might explain the importance attached to these entities; and that neither enforcement nor its authorization is an essential feature of all rights. The remaining eight essays, presented in chronological order, include: H.L.A. Hart, "Are There Any Natural Rights?"; John Rawls, "Constitutional Liberty and the Concept of Justice"; Richard Wasserstrom, "Rights, Human Rights, and Racial

Discrimination"; Joel Feinberg, "The Nature and Value of Rights"; Ronald Dworkin, "Taking Rights Seriously"; Thomas Hill, Jr., "Servility and Self-Respect"; H.L.A. Hart, "Bentham on Legal Rights"; and part of the chapter from Robert Nozick's *Anarchy, State, and Utopia* on "The Entitlement Theory."

Among the contributors who focus on central issues, Hart maintains that, in order for a legal right to exist, it is necessary and sufficient that the possessor of that right should have at least some measure of control over the correlative obligation, and that to have or assert a moral right is to have or assert a moral justification for limiting or interfering with the freedom of another. Rawls argues that the concept of justice provides the most rational grounds for accepting the fundamental constitutional liberties; an institution is just or fair when it satisfies the principle which those who participate in it could propose to one another for mutual acceptance in an original position of equal liberty. Feinberg suggests that it is not sufficient to equate rights with entitlements; that having a right has something to do with the activity of claiming, and that to have a right is to have a claim against someone, a claim whose recognition as valid is called for by some set of governing rules or moral principles. Nozick, by way of describing some of the merits of a moderate libertarianism, rejects patterned conceptions of justice (such as formula-like conceptions of distribution). He suggests that no act can be morally justified if it infringes on a limited set of rights, rights which he believes can be established by a correct historical conception of justice.

The general bailiwick of the philosopher is that of rational reconstruction or thorough argumentation. This book captures both aspects. It brilliantly reflects the intellectual richness of contemporary liberal philosophical thought and is, to date, the best of its kind.

To praise the collection is not, however, to wholly agree with the volume's approach or with Lyons's particular theory,

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much of which can be easily challenged. No doubt many readers will feel that the book represents a bourgeois outlook. Some will charge—and not completely without grounds—that the volume lacks balance and reflects, both in its methodology and outlook, a conservatism which those who abhor unjust suffering may indeed find painful. Even the conservative may agree that it hardly seems fair to entitle the book *Rights* when the book actually is preoccupied with notions of liberty and has so little to say about other entitlements, especially subsistence and welfare rights.

It is perplexing that Lyons should assume, without benefit of argument, that rights—ranging from the right to life to the right to paid vacations—all have roughly the same composite essential nature. One might be tempted to excuse this approach on the grounds that it is the besetting sin of most philosophers prior to this century. But given the general attack on essentialism, the rise of linguistic analysis, and the recent literature which suggests that we may be dealing with a term that refers to a family of roughly similar entities (or that there is, at the very least, a fundamental difference between welfare and non-welfare rights), it is difficult to understand why Lyons persists in believing that the word *right* must refer to some essential nature.

The question of enforcement is, indeed, a notoriously ambiguous one. The body of moral rules called rights, at least since the days of the French Revolution, has had two divergent aspects. On the one hand, it has developed into a social institution roughly analogous to law, where rights may be said to be a form of noncoercive power which primarily serves to protect certain moral standards, thereby paralleling the way in which the law serves the coercive power of the state. On the other hand, the rights movement has been a force for social reform and has often taken on a revolutionary nature. Rights, from this point of view, are moral thresholds which, when they are violated, justify reasonable interference with the liberty of

others, usually the violator. The permissible degree of interference is, as a rule, roughly proportionate to the importance of the good the right serves to protect. This is why the multitude of men and women hold in fact, if not in words, that when liberty and meaningful life are seriously and unjustly threatened, it is permissible to use force, even deadly force if necessary. The point of having rights of this kind is that, because they contain an independent and progressively strong enforcement feature, they allow the poor or needy to have claims independent of the harangue of most moral theories and, where it is just and necessary, to be able to use naked power. This conception may have intellectual shortcomings and dangers, but ultimately it may prove to be the most effective weapon in the fight to achieve and protect the good life for the greatest number.

—Marvin Kohl
State University College
of New York at Fredonia