

Critical Texts on Justice and the Basis of Human Dignity

Amy Gilbert

Justice is one of our most ancient ideas, one of our first ideals. It lies at the center of how we understand our relations with one another. Our ability to live in community, it seems, rests largely on the shoulders of justice and depends on the accuracy of her scales. Indeed, of the four classical virtues—prudence, justice, temperance, and courage—justice is the only one that requires us to carefully consider others in their full capacity as fellow human beings. This brings us to the idea of dignity. What is it about the fact that someone is our fellow human being that gives her dignity? And why does this dignity demand a certain kind of response from us? What is the scope of the response it demands?

The lists below attempt to trace key aspects of our thinking about what it is to have inherent dignity and what implications this has for how we are to give each his due, to cite one classic formulation of what it is to be just. The terrain of this question has obviously changed over time, perhaps most notably by the fact that what we now call “human dignity” was, for a large part of our history, based on the notion of the sacredness of human life. Whether our notions of dignity can withstand the secularization of our worldviews—and what impact this will have on what constitutes a coherent theory of justice—is one of the central questions of our times.

In addition, the atrocities of the twentieth century, along with the increasing globalization of our societies, have had a profound impact on our considerations of dignity and justice. This is evidenced by the advent and sweeping scale of the human rights movement, which has in many ways become the *lingua franca* of justice, and especially of international justice, of our day. But can human rights talk effect justice on the ground if it is not rooted in agreement, or at least substantive dialogue, about the basis of these

Amy Gilbert is a doctoral candidate in the Department of Philosophy at the University of Virginia.

rights and of the dignity they are meant to protect? Will human rights discourse eventually crumble if we fail to ground it in coherent theories of human worth?

Justice in the History of Philosophy

The books listed in this section include the most pivotal accounts of justice in the historical literature. Each of these works has had a lasting impact on our views about morality in general and justice in particular. Plato's exploration of justice and the structure of the just society has proved pivotal throughout the history of philosophy. In Aristotle and Aquinas, we find detailed accounts of the human good and of how justice operates as a virtue in each individual and in the public sphere. Turning to the modern authors, the contrast between Kant's and Mill's accounts of the nature of and relation between the right and the good has shaped most of contemporary ethical theory. In addition, it is important to note that in Kant we find perhaps the best-known explanation of human beings as possessors of inherent dignity, a status they merit by being autonomous legislators of the moral law. Finally, Marx's innovative conceptions of the good society and of the human as worker have been influential both as source and as foil to many contemporary treatments of justice.

- Aristotle. *Nicomachean Ethics*. Indianapolis: Hackett, 1999.
- Kant, Immanuel. *Groundwork of the Metaphysics of Morals*. 1785. Cambridge: Cambridge University Press, 1997.
- Marx, Karl. "Critique of the Gotha Program." 1875. In R. C. Tucker, *The Marx-Engels Reader*. New York: Norton, 1978. 525–41.
- Mill, John Stuart. *Utilitarianism*. 1861. Indianapolis: Hackett, 2001.
- Plato. *Republic*. Indianapolis: Hackett, 2004.
- Thomas Aquinas. *Summa Theologica*. Westminster: Christian Classics, 1981.

Contemporary Theories of Justice

There are several distinct and common approaches to articulating a comprehensive theory of justice in contemporary scholarship. The works listed here are each considered pivotal contributions to the extensive literature on each approach.

Communitarianism

Communitarian approaches to justice arose in reaction to the flowing tide of liberal egalitarianism in the academy (see below). Instead of locating the bases of justice in the properties and rights of the individual, communitarian theories focus on the social, grounding morality in the complex traditions of communities. These theories, drawing largely on Aristotelian foundations, tend to be less systematic than those they are designed to critique, offering an alternative vision of justice rather than an alternative *system* for reaching specific conclusions.

- MacIntyre, Alasdair. *Whose Justice? Which Rationality?* Notre Dame: University of Notre Dame Press, 1988.
- Sandel, Michael. *Liberalism and the Limits of Justice*. 2nd ed. Cambridge: Cambridge University Press, 1998.
- Walzer, Michael. *Spheres of Justice: A Defense of Pluralism and Equality*. New York: Basic, 1983.

Liberal Egalitarianism

Drawing on Kantian notions of autonomy as the essential (and sometimes threatened) characteristic of the human person, liberal egalitarian theories claim that the practical dictates of justice must center around preserving individual autonomy, including the economic resources needed to secure it. Rawls's seminal work gave shape to this view, transferring discussions of justice away from ontological foundations in theories of the good and focusing instead on the agreement of rational persons on questions regarding the fair distribution of resources.

- Rawls, John. *A Theory of Justice*. Revised ed. 1971. Cambridge, MA: Belknap, 1999.

Libertarianism

Grounded in Lockean ideals of self-ownership, libertarian theories hold that the goal of justice is to protect the property of each individual, including his or her life and goods. To this end, libertarians maintain that the dictates of justice are almost wholly negative, proscribing certain types of behavior that would thwart others in the pursuit of their own freely chosen goals. Thus, libertarians argue for a “night watchman state,” which seeks to protect its citizens from theft and violence perpetrated by their fellow citizens or by hostile nations.

- Hayek, F. A. *The Constitution of Liberty*. 1960. Chicago: University of Chicago Press, 1978.
- Nozick, Robert. *Anarchy, State, and Utopia*. 1974. Oxford: Blackwell, 2001.

Natural Law

Natural law theories argue that proper norms for human behavior, including the dictates of justice, are built into the structure of the universe and can be discerned by human beings through reason. Often such theories argue that the divine, as the author of nature, is the source of the natural law.

- Finnis, John. *Natural Law and Natural Rights*. Oxford: Oxford University Press, 1980.
- Maritain, Jacques. *The Rights of Man and Natural Law*. New York: Gordian, 1971.
- Porter, Jean. *Nature as Reason: A Thomistic Theory of the Natural Law*. Grand Rapids: Eerdmans, 2005.

Utilitarianism

Developing the influential ideas of Bentham and Mill, contemporary utilitarians continue to hold that the goal of morality is to maximize the good. Thus, in stark contrast to liberal egalitarian, libertarian, and natural law theories, utilitarian theories hold that, in principle at least, there are no universal rules. Utilitarian approaches to justice are thus derivative, giving priority to so-called rights only when they can be shown to serve the overall good.

- Murphy, Liam. *Moral Demands in Nonideal Theory*. Oxford: Oxford University Press, 2000.
- Singer, Peter. *Practical Ethics*. Cambridge: Cambridge University Press, 1993.

The Basis of Human Value

What features of human beings make them deserving recipients of justice? The contemporary literature offers several different approaches to this question. These include foundationalist approaches of neo-Kantian (Nagel and Korsgaard) and neo-Aristotelian (Foot) stripes, as well as various less traditional methods. Monroe's book on altruism combines philosophical and psychological considerations in order to explore what altruistic behavior indicates about human nature and morality. Kraynak and Tinder's collection of essays on dignity has a somewhat broader scope, highlighting varying perspectives on the basis of human value—from Kantian to Christian to liberal egalitarian. It provides a good place to start for exploring large swathes of this terrain without committing to entire books on each standpoint.

- Darwall, Stephen. *The Second-Person Standpoint: Morality, Respect, and Accountability*. Cambridge, MA: Harvard University Press, 2006.
- Foot, Philippa. *Natural Goodness*. Oxford: Oxford University Press, 2001.
- Gaita, Raimond. *A Common Humanity: Thinking about Love and Truth and Justice*. London: Routledge, 2000.
- Korsgaard, Christine. *The Sources of Normativity*. Cambridge: Cambridge University Press, 1996.
- Kraynak, Robert, and Glenn Tinder, eds. *In Defense of Human Dignity: Essays for Our Times*. Notre Dame: University of Notre Dame Press, 2003.
- Monroe, Kristen. *The Heart of Altruism: Perceptions of a Common Humanity*. Princeton: Princeton University Press, 1996.
- Nagel, Thomas. *The View from Nowhere*. Oxford: Oxford University Press, 1986.
- Scanlon, T. M. *What We Owe Each Other*. Cambridge, MA: Belknap, 1998.

Human Rights: Secular Approaches

The United Nations' Universal Declaration of Human Rights (1948) and the extensive literature on human rights since that time have profoundly impacted our discussions of justice. When we start with rights instead of with duties, the focus shifts from a third-person to a first-person perspective, allowing each individual to speak on her own behalf and demand certain things from her fellows. Though the ability to speak in one's own defense is a key precept in Western jurisprudence, it was not until the human rights movement that individual rights became the prevalent mode of discourse about justice.

The basis for ascribing rights to each and every human person, however, remains controversial. Indeed some authors throughout the history of philosophy have explicitly denied that we have individual rights (see Waldron's collection). The Universal Declaration self-consciously avoids this issue of grounding, but many of the authors listed here take it up. In general (with article-length exceptions in the *Oxford Amnesty Lectures* anthology), these authors attempt to defend their theses from a secular perspective, denying that religious moorings are necessary for a coherent theory of rights. For an extremely influential postmodern approach to human rights, which argues that human rights neither have nor need ontological foundations, see Richard Rorty's essay in Shute and Hurley's collection.

For a history of the Universal Declaration itself as well as early versions of the document, see Glendon. The most influential international documents on human rights can be found at the end of Nickel's book.

- Buchanan, Allen. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*. Oxford: Oxford University Press, 2007.
- Dershowitz, Alan. *Rights from Wrongs: A Secular Theory of the Origins of Rights*. New York: Basic, 2004.
- Donnelly, Jack. *Universal Human Rights in Theory and Practice*. Ithaca: Cornell University Press, 2003.
- Gewirth, Alan. *The Community of Rights*. Chicago: University of Chicago Press, 1998.
- Glendon, Mary Ann. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House, 2001.
- Kretzmer, David, and Eckart Klein. *The Concept of Human Dignity in Human Rights Discourse*. The Hague: Kluwer Law International, 2002.
- Lomasky, Loren. *Persons, Rights, and the Moral Community*. New York: Oxford University Press, 1990.
- Nickel, James. *Making Sense of Human Rights*. Oxford: Blackwell, 2007.
- Shute, Stephen, and Susan Hurley, eds. *On Human Rights: The Oxford Amnesty Lectures 1993*. New York: Basic, 1993.

- Waldron, Jeremy. *Nonsense upon Stilts: Bentham, Burke, and Marx on the Rights of Man*. 1987. London: Routledge, 2007.

Religious Foundations for Justice, Human Rights, and Human Dignity

From many religious perspectives, human value is rooted in the divine. Indeed, some claim that one cannot properly understand human dignity, and therefore human rights, without a rich religious picture grounding this notion. Others, however, might agree that we cannot understand human worth without a proper religious picture, but claim that this picture ultimately proves incompatible with the language of human rights. The authors in this section take up this debate. The first two books listed contain articles examining issues of human rights from the perspectives of various major world religions. The other works give more comprehensive arguments based in specific traditions.

- An-Na’Im, Abdullahi A., Jerald D. Gort, Henry Jansen, and Hendrik Vroom, eds. *Human Rights and Religious Values: An Uneasy Relationship?* Grand Rapids: Eerdmans, 1995.
- Bucar, Elizabeth, and Barbra Barnett. *Does Human Rights Need God?* Grand Rapids: Eerdmans, 2005.
- Perry, Michael. *Toward a Theory of Human Rights: Religion, Law, Courts*. Cambridge: Cambridge University Press, 2007.
- Sacks, Jonathan. *The Dignity of Difference: How to Avoid the Clash of Civilizations*. London: Continuum, 2002.
- Williams, Thomas. *Who Is My Neighbor?: Personalism and the Foundations of Human Rights*. Washington, DC: Catholic University of America Press, 2005.

Responses to Human Rights Crises

In light of the conceptual terrain outlined in the previous sections, how are we to deal with extreme injustice on the ground? What ought we to do about extreme poverty, about genocide? What do we owe to those who are victims of such atrocities, and how can we go about giving them their due? The works listed here address these questions from varying perspectives in philosophy, political theory, and international law. Robertson’s book is perhaps the most comprehensive, covering the history and philosophical background of “crimes against humanity,” as well as dealing with contemporary issues up to and including 9/11 and the War on Terror.

- Aiken, William, and Hugh LaFollette. *World Hunger and Morality*. Upper Saddle River: Prentice Hall, 1996.
- May, Larry. *Crimes Against Humanity: A Normative Account*. Cambridge: Cambridge University Press, 2005.

- Pogge, Thomas, ed. *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor?* Oxford: Oxford University Press, 2007.
- ———. *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms.* Cambridge: Polity, 2002.
- Robertson, Geoffrey. *Crimes Against Humanity: The Struggle for Global Justice.* 3rd ed. New York: New, 2007.
- Roth, John, ed. *Genocide and Human Rights: A Philosophical Guide.* New York: Palgrave Macmillan, 2005.