

Literatur zu moralischen Rechten**Bibliography on moral rights**

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- 1950 [1] Acton, H. B. (1950): Rights, *Proceedings of the Aristotelian Society*, Suppl. 24, S. 95–110.
- 1985 [2] Alexy, Robert (1985): *Theorie der Grundrechte*, Frankfurt a. M. 1986, Kap. 4, 7–9.
- 1991 [3] Almond, Brenda (1991): Rights, in *A Companion to Ethics*, hrsg. von Peter Singer, Oxford, S. 259–69.
- 1998 [4] Applbaum, Arthur Isak (1998): Are Violations of Rights Ever Right?, *Ethics* 108, S. 340–366.
- 2001 [5] Arneson, Richard J. (2001): Against Rights, in *Philosophical Issues 11: Social, Political, and Legal Philosophy*, hrsg. von Ernest Sosa und Enrique Villanueva, Oxford, S. 172–201.
- 1978 [6] Arnold, Christopher (1978): Analyses of Human Rights, in *Human Rights*, hrsg. von E. Kamenka und A. E. S. Tay, London, S. 74–86.
- 2005 [7] Audi, Robert (2005): Wrongs Within Rights, *Philosophical Issues* 15, S. 121–39.
- 1993 [8] Baier, Annette (1993): Claims, Rights, Responsibilities, in dies., *Moral Prejudices. Essays on Ethics*, Cambridge, Mass. 1995, S. 224–46.
- 1994 [9] Baker, Judith (1994): *Group Rights*, Toronto.
- 2001 [10] Bamforth, Nicholas (2001): Hohfeldian Rights and Public Law, in *Rights, Wrongs and Responsibilities*, hrsg. von Matthew H. Kramer, Houndmills, S. 1–27.
- 1986 [11] Barnett, Randy E. (1986): Contract Remedies and Inalienable Rights, *Social Philosophy and Policy* 4, S. 179–202.
- 1991 [12] Beauchamp, Tom L. (1991): *Philosophical Ethics. An Introduction to Moral Philosophy*, Second Edition, New York, S. 303–39 (“Rights”).
- 1994 [13] Beauchamp, Tom L./Childress, James F. (1994): *Principles of Biomedical Ethics*, New York, Oxford, 4. Aufl., S. 71–77.
- 1982 [14] Becker, Lawrence C. (1982): Individual Rights, in *And Justice for All*, hrsg. von Tom Regan und Donald VanDeVeer, Totowa, NJ., S. 197–216.
- 1984 [15] Bedau, Hugo Adam (1984): Why Do We Have the Rights We Do?, *Social Philosophy and Policy* 1, Nr. 2, S. 56–72.
- 1967 [16] Benn, Stanley I. (1967): Rights, in *Encyclopedia of Philosophy*, hrsg. von Paul Edwards, New York, Vol. 7, S. 191–95.
- 1988 [17] Benn, Stanley I. (1988): *A Theory of Freedom*, Cambridge, S. 236–63 (“Human Rights and Moral Responsibility”).
- 1998 [18] Bielefeldt, Heiner (1998): *Philosophie der Menschenrechte. Grundlagen eines weltweiten Freiheitsethos*, Darmstadt.
- 1876 [19] Bradley, F. H. (1876): *Ethical Studies*, Second Edition Revised with Additional Notes by the

Author, Oxford 1927, S. 207–13 (“Rights and Duties”).

- 1959 [20] Brandt, Richard B. (1959): *Ethical Theory. The Problems of Normative and Critical Ethics*, Englewood Cliffs, N. J., S. 433–54 (“Human Rights”).
- 1983 [21] Brandt, Richard B. (1983): The Concept of a Moral Right and Its Function, *Journal of Philosophy* 80, S. 29–45. Wiederabgedruckt in Brandt, *Morality, Utilitarianism, and Rights*, Cambridge 1992, S. 179–95.
- 1984 [22] Brandt, Richard B. (1984): Utilitarianism and Moral Rights, in ders., *Morality, Utilitarianism, and Rights*, Cambridge 1992, S. 196–212.
- 1972 [23] Braybrooke, David (1972): The Firm But Untidy Correlativity of Rights and Obligations, *Canadian Journal of Philosophy* 1, S. 351–63.
- 1995 [24] Brennan, Samantha (1995): Thresholds for Rights, *Southern Journal of Philosophy* 33, S. 143–68.
- 2002 [25] Brennan, Samantha (2002): Relational Selves and Thresholds for Rights, *Archiv für Rechts- und Sozialphilosophie* 88, S. 74–85.
- 1955 [26] Brown, Stuart M. (1955): Inalienable Rights, *Philosophical Review* 64, S. 192–211.
- 1999 [27] Brunkhorst, Hauke/Köhler, Wolfgang R./Lutz-Bachmann, Matthias (Hrsg.) (1999): *Recht auf Menschenrechte. Menschenrechte, Demokratie und internationale Politik*, Frankfurt a. M.
- 1985 [28] Buchanan, Allen (1984): What’s so Special about Rights?, in *Liberty and Equality*, hrsg. von Ellen Frankel Paul, Fred D. Miller, Jr. und Jeffrey Paul, Oxford, S. 61–83.
- 2006 [29] Campbell, Tom (2006): *Rights. A Critical Introduction*, London.¹ (Reviewed by William Edmundson in: *Notre Dame Philosophical Reviews* 07.12.2006 <http://ndpr.nd.edu/review.cfm?id=8225>).
- 1947 [30] Carritt, E. F. (1947): *Ethical and Political Thinking*, Oxford, S. 77–82 (“Natural Rights”), 154–71 (“The Rights of Man”).
- 1998 [31] Cooney, William (1998): Rights Theory, in *Encyclopedia of Applied Ethics*, hrsg. von Ruth Chadwick, San Diego, Vol. 3, S. 875–884.
- 2004 [32] Cruft, Rowan (2004): Rights: Beyond Interest Theory and Will Theory?, *Law and Philosophy* 23, S. 347–97.
- 2006 [33] Cruft, Rowan (2006): Why Aren’t Duties Rights?, *Philosophical Quarterly* 56, S. 175–92.²

¹ “We take rights to be fundamental to everyday life. Rights are also controversial and hotly debated both in theory and practice. Where do rights come from? Are they invented or discovered? What sort of rights are there and who is entitled to them? In this comprehensive introduction, Tom Campbell introduces and critically examines the key philosophical debates about rights.

The first part of the book covers historical and contemporary theories of rights, including the origin and variety of rights and standard justifications of them. He considers challenges to rights from philosophers such as Bentham, Burke and Marx. He also examines different theories of rights, such as natural law, social contract, utilitarian and communitarian theories of rights and the philosophers and political theorists associated with them, such as John Stuart Mill, John Rawls, Robert Nozick and Michael Sandel. The second part of the book explores the role of rights-promoting institutions and critically assesses legal rights and international human rights, including the United Nations. The final part of the book examines how philosophies of rights can be applied to freedom of speech, issues of social welfare and the question of self-determination for certain groups or peoples.”

- 2003 [34] Darby, Derrick (2003): Grounding Rights in Social Practices: A Defence, *Res Publica* 9, S. 1–18.³
- 1985 [35] Davis, Nancy (1985): Rights, Permission, and Compensation, *Philosophy and Public Affairs* 14, S. 374–384. – Zu [178]. Vgl. dazu [179].
- 1988 [36] DeCew, Judith Wagner (1988): Moral Rights: Conflicts and Valid Claims, *Philosophical Studies* 54, S. 63–86.
- 1995 [37] Den Uyl, Douglas J./Rasmussen, Douglas B. (1995): ‘Rights’ as MetaNormative Principles, in *Liberty for the 21st Century*, hrsg. von Tibor R. Machan und Douglas B. Rasmussen, Lanham, S. 59–75.
- 2005 [38] Dershowitz, Alan (2005): *Rights from Wrongs. A Secular Theory of the Origins of Rights*, New York.
- 1982 [39] Donnelly, Jack (1982): Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights, *American Political Science Review* 76, S. 303–16.
- 1984 [40] Donnelly, Jack (1984): Cultural Relativism and Universal Human Rights, *Human Rights Quarterly* 6, S. 400–19.
- 1977 [41] Dworkin, Ronald (1977): *Taking Rights Seriously*, Cambridge, Mass. – *Bürgerrechte ernstgenommen*, Frankfurt a. M. 1984.
- 1984 [42] Dworkin, Ronald (1984): Rights as Trumps, in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford 1984, S. 153–67.
- 2004 [43] Edmundson, William A. (2004): *An Introduction to Rights*, Cambridge.⁴

² “The best analyses of the concept ‘rights’ maintain that Hohfeldian claims, privileges, powers, immunities, liabilities, and clusters of these positions, all qualify as rights when they satisfy some further condition, such as serving their holder’s interests, or fulfilling some alternative function. But duties, disabilities and no-rights can also satisfy this further condition. For example, many duties, disabilities and no-rights serve their holder’s interests, and fulfil ‘right-like’ functions. Why, then, do we disallow such duties, disabilities and no-rights from qualifying as rights?”

³ “This paper defends a social practice conception of moral rights possession against what many of its critics take to be a decisive objection, namely that such a conception prevents us from using moral rights for critical purposes.”

⁴ “Rights come in various types – human, moral, civil, political and legal – and claims about who has a right, and to what, are often contested. What are rights? Are they timeless and universal, or merely conventional? How are they related to other morally significant values, such as well-being, autonomy, and community? Can animals have rights? Or fetuses? Do we have a right to do as we please so long as we do not harm others? This is the only accessible and readable introduction to the history, logic, moral implications, and political tendencies of the idea of rights. It is organized chronologically and discusses important events, such as the French Revolution. As an undergraduate text it is well-suited to introductions to political philosophy, moral philosophy, and ethics. It could also be used in courses on political theory in departments of political science and government, and in courses on legal theory in law schools

Contents: Part I. The First Expansionary Era: 1. The prehistory of rights. 2. The rights of man: The Enlightenment. 3. ‘Mischievous nonsense’? 4. The nineteenth century: Consolidation and retrenchment. 5. The conceptual neighborhood of rights: Wesley Newcomb Hohfeld. Part II. The Second Expansionary Era: 6. The universal declaration and a revolt against utilitarianism. 7. The nature of rights: ‘choice’ theory and ‘interest’ theory. 8. A right to do wrong? Two conceptions of moral rights. 9. The pressure of consequentialism. 10. What is interference? 11. The future of rights. 12. Conclusion.”

- 2006 [44] Edwards, John (2006): Rights: Foundations, Contents, Hierarchy, *Res Publica* 12, S. 277–93.⁵
- 2002 [45] Ezra, Ovadia (2002): *The Withdrawal of Rights. Rights from a Different Perspective*, Dordrecht.⁶
- 1964 [46] Feinberg, Joel (1964): Wasserstrom on Human Rights: Comments, *Journal of Philosophy* 61, S. 641–45. – Zu [283].
- 1966 [47] Feinberg, Joel (1966): Duties, Rights, and Claims, *American Philosophical Quarterly* 3, S. 1–8. Wiederabgedruckt in Feinberg, *Rights, Justice, and the Bounds of Liberty. Essays in Social Philosophy*, Princeton, N. J. 1980, S. 130–42.
- 1970 [48] Feinberg, Joel (1970): The Nature and Value of Rights, *Journal of Value Inquiry* 4, S. 243–57. Wiederabgedruckt in Feinberg, *Rights, Justice, and the Bounds of Liberty. Essays in Social Philosophy*, Princeton, N. J. 1980, S. 143–55 (S. 156–58: A Postscript to the Nature and Value of Rights).
- 1973 [49] Feinberg, Joel (1973): *Social Philosophy*, Englewood Cliffs, N.J., S. 55–97 (“Legal Rights”, “Conflicts of Legal Rights”, “Human Rights”).

⁵ “It would seem that we in the West are suffering from an increasing glut of rights. To the sixty-odd human rights that the Universal Declaration and its Covenants have long given us, must now be added the particular rights claims of an increasing number of ‘oppressed’ minorities, claims to compensation rights for just about every conceivable harm done and claims to ever more trivial things. This tendency is harmful insofar as it trivialises rights and devalues the coverage of rights. Human rights are fundamental and ought to be protected from these tendencies. Using an analysis of the foundations of human rights, and their function in maintaining autonomy in particular, this article analyses the content of rights – what must be fulfilled in order for a right to be protected – as a means of demonstrating the possibility of reducing the volume of rights without reducing rights coverage and of creating a defensible hierarchy.”

⁶ “Like most discussions within the tradition of rights-talk, this study is motivated by the desire to promote the idea that rights are moral assets that people should acquire in the course of their membership within social and political frameworks. However, while most participants in rights-talk concentrate on the safety and protection constraints required for a successful exercising of rights, the present study inquires into the circumstances under which people’s rights lose their validity. The author believes that if we want to prevent the erosion of the role of rights within society and to encourage their obligatory status, we should prevent their misuse, or their unjustified or excessive use. Those who have interests in rights, and are concerned about their withdrawal or denial, will find a unique and inventive way of dealing both with the use, as well as the abuse of rights.

Contents: Acknowledgements. Introduction. 1: The Concept of Rights. 1.1. Some agreements about rights. 1.2. The moral status of rights. 1.3. The meaning of having rights. 1.4. Conditions of absence of rights. 1.5. Summary. 2: The Identity of Right-Holders. 2.1. Some acknowledged characteristics of right-holders. 2.2. A few remarks on the concepts of possible right-holders. 2.3. Alan Gewirth’s theory of rights. 2.4. The priority of a system of rules. 2.5. Melden’s theory of rights. 2.6. The integrated conception of a moral agent. 2.7. Summary. 3: The Withdrawal of Rights. 3.1. Some related positions regarding the withdrawal of rights. 3.2. Towards a new conception of the withdrawal of rights. 3.3. Who has the authority to withdraw rights. 3.4. The justifying ground for the withdrawal of rights. 3.5. Some clarifying remarks. 3.6. Summary. 4: Punishment. 4.1. General introduction and preliminary remarks. 4.2. The forward-looking approach to punishment. 4.3. The backward-looking approach to punishment. 4.4. An integrated justification for punishment. 4.5. The “fair-play retributivist” or “rights-retributivist” approach toward punishment. 4.6. Capital punishment. 4.7. Summary. 4.8. Appendix: Non-legal withdrawal of rights. 5: Rights of Partial Members of the Moral Community. 5.1. Children’s rights. 5.2. Fetuses’ rights: the morality of abortion. 5.3. Abortion as a conflict between rights. 5.4. Does abortion strike at the sanctity or value of life? 5.5. Rights of mentally retarded persons. 5.6. Summary. Conclusions. References. Index. Notes.”

- 1992 [50] Feinberg, Joel (1992): In Defense of Moral Rights: Their Bare Existence, in Feinberg, *Freedom and Fulfillment. Philosophical Essays*, Princeton, N.J., S. 197–219.
- 1992 [51] Feinberg, Joel (1992): In Defense of Moral Rights: Their Social Importance, in Feinberg, *Freedom and Fulfillment. Philosophical Essays*, Princeton, N.J. 1992, S. 220–44, sowie unter dem Titel “The Social Importance of Moral Rights”, in *Philosophical Perspectives*, 6, *Ethics*, 1992, hrsg. von James E. Tomberlin, Atascadero, Cal. 1992, S. 175–98.
- 1992 [52] Feinberg, Joel (1992): In Defense of Moral Rights: Their Constitutional Relevance, in Feinberg, *Freedom and Fulfillment. Philosophical Essays*, Princeton, N.J., S. 245–59.
- 1980 [53] Finnis, John (1980): *Natural Law and Natural Rights*, Oxford, S. 198–230 (“Rights”).
- 1984 [54] Flatham, Richard E. (1984): Moderating Rights, *Social Philosophy and Policy* 1, Nr. 2, S. 149–71. – Dazu S. 172–75: Charles R. Beitz: Comment on Flathman. Difficulties with Flathman's Moderation Thesis.
- 1999 [55] Forst, Rainer (1999): Das grundlegende Recht auf Rechtfertigung. Zu einer konstruktivistischen Konzeption von Menschenrechten, in *Recht auf Menschenrechte. Menschenrechte, Demokratie und internationale Politik*, hrsg. von Hauke Brunkhorst, Wolfgang R. Köhler und Matthias Lutz-Bachmann, Frankfurt a. M., S. 66–105.
- 1955 [56] Frankena, William K. (1955): Natural and Inalienable Rights, *Philosophical Review* 64, S. 212–32.
- 1990 [57] Freedon, Michael (1990): Human Rights and Welfare: A Communitarian View, *Ethics* 100, S. 489–502.
- 1991 [58] Freedon, Michael (1991): *Rights*, Buckingham.
- 1980 [59] Frey, R. G. (1980): *Interests and Rights. The Case Against Animals*, Oxford.
- 1983 [60] Frey, R. G. (1983): *Rights, Killing, and Suffering. Moral Vegetarianism and Applied Ethics*, Oxford, S. 43–95 (“The Appeal to Moral Rights”, “Rights, their Grounds, and the Problem of Argument”, “Rights, their Nature, and the Problem of Strength”, “Rights, Consequentialism, and Act-Utilitarianism”).
- 1985 [61] Frey, R. G. (1985): Act-Utilitarianism, Consequentialism, and Moral Rights, in *Utility and Rights*, hrsg. von R. G. Frey, Oxford, S. 61–85.
- 1985 [62] Frey, R. G. (Hrsg.) (1985): *Utility and Rights*, Oxford.
- 1978 [63] Fried, Charles (1978): *Right and Wrong*, Cambridge, Mass.
- 1960 [64] Gale, Richard M. (1960): Natural Law and Human Rights, *Philosophy and Phenomenological Research* 20, S. 521–531.
- 1981 [65] Gaus, Gerald F. (1981): The Convergence of Rights and Utility: The Case of Rawls and Mill, *Ethics* 92, S. 57–72.
- 2000 [66] Gaus, Gerald F. (2000): *Political Concepts and Political Theories*, Boulder, S. 185–88 (“What Is a Right? Hohfeld's Classical Analysis”).
- 1990 [67] Gert, Heather J. (1990): Rights and Rights Violators: A New Approach to the Nature of Rights, *Journal of Philosophy* 87, S. 688–694.
- 1981 [68] Gewirth, Alan (1981): The Basis and Content of Human Rights, in ders., *Human Rights. Essays on Justification and Applications*, Chicago 1982, S. 41–67. (S. 67–78: “Addendum: Replies to Some Criticisms”).

- 1981 [69] Gewirth, Alan (1981): Are There Any Absolute Rights?, *Philosophical Quarterly* 31, S. 1–16. Wiederabgedruckt in Gewirth, *Human Rights. Essays on Justification and Applications*, Chicago 1982, S. 218–33 sowie in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford 1984, S. 91–109. – Vgl. dazu [136].
- 1982 [70] Gewirth, Alan (1982): There are Absolute Rights, *Philosophical Quarterly* 32, S. 348–353. – Zu [136].
- 1982 [71] Gewirth, Alan (1982): Can Utilitarianism Justify Any Moral Rights?, in ders., *Human Rights. Essays on Justification and Applications*, Chicago 1982, S. 143–62. – Zu [145].
- 1982 [72] Gewirth, Alan (1982): Introduction, in ders., *Human Rights. Essays on Justification and Applications*, Chicago, S. 1–38.
- 1982 [73] Gewirth, Alan (1982): *Human Rights. Essays on Justification and Applications*, Chicago.
- 1984 [74] Gewirth, Alan (1984): The Epistemology of Human Rights, *Social Philosophy and Policy* 1, Nr. 2, S. 1–24. – Dazu S. 25–30: Arthur C. Danto: Comment on Gewirth. Constructing an Epistemology of Human Rights: A Pseudo Problem?, S. 31–34: Alan Gewirth: Reply to Danto.
- 1985 [75] Gewirth, Alan (1985): Rights and Virtues, *Review of Metaphysics* 38, S. 739–62.
- 1986 [76] Gewirth, Alan (1986): Why Rights are Indispensable, *Mind* 95, S. 329–44. – Vgl. dazu [267].
- 1988 [77] Gewirth, Alan (1988): Rights and Duties, *Mind* 97, S. 441–45. – Zu [267].
- 1992 [78] Gewirth, Alan (1992): Rights, in *Encyclopedia of Ethics*, hrsg. von Lawrence C. Becker und Charlotte B. Becker, New York, London, Vol. II, S. 1103–1109.
- 1993 [79] Gewirth, Alan (1993): Common Morality and the Community of Rights, in *Prospects for a Common Morality*, hrsg. von Gene Outka und John P. Reeder, Jr., Princeton, S. 29–52.
- 1996 [80] Gewirth, Alan (1996): *The Community of Rights*, Chicago.
- 1997 [81] Gewirth, Alan (1997): Rights, in *The Blackwell Encyclopedic Dictionary of Business Ethics*, hrsg. von Patricia H. Werhane und R. Edward Freeman, Oxford, S. 564–70.
- 1994 [82] Gibbard, Allan (1984): Utilitarianism and Human Rights, *Social Philosophy and Policy* 1, Nr. 2, S. 92–102. – Dazu S. 103–7: James Fishkin: Comment on Gibbard. Utilitarianism versus Human Rights.
- 1978 [83] Golding, Martin P. (1978): The Concept of Rights: A Historical Sketch, in *Bioethics and Human Rights*, hrsg. von E. und B. Bandman, Boston, S. 44–50.
- 1984 [84] Golding, Martin P. (1984): The Primacy of Welfare Rights, *Social Philosophy and Policy* 1, Nr. 2, S. 119–36.
- 2003 [85] Gorman, Jonathan (2003): *Rights and Reason. An Introduction to the Philosophy of Rights*, Chesham.
- 1998 [86] Gosepath, Stefan (1998): Zu Begründungen sozialer Menschenrechte, in *Philosophie der Menschenrechte*, hrsg. von Stefan Gosepath und Georg Lohmann, Frankfurt a. M., S. 146–87.
- 1998 [87] Gosepath, Stefan/Lohmann, Georg (Hrsg.) (1998): *Philosophie der Menschenrechte*, Frankfurt a. M.
- 1984 [88] Gray, John (1984): Indirect Utility and Fundamental Rights, *Social Philosophy and Policy* 1, Nr. 2, S. 73–91.
- 1985 [89] Griffin, James (1985): Towards a Substantive Theory of Rights, in *Utility and Rights*, hrsg. von R.

G. Frey Oxford, S. 137–60.

- 2000 [90] Griffin, James (2000): Welfare Rights, *Journal of Ethics* 4, S. 27–43.
- 2000 [91] Griffin, James (2000): Rights in Conflict, in *Rights and Reason. Essays in Honor of Carl Wellman*, hrsg. von Marilyn Friedman, Larry May, Kate Parsons und Jennifer Stiff, Dordrecht, S. 105–19.
- 2001 [92] Griffin, James (2001): First Steps in an Account of Human Rights, *European Journal of Philosophy* 9, S. 306–27.
- 2001 [93] Griffin, James (2001): Discrepancies between the Best Philosophical Account of Human Rights and the International Law of Human Rights, *Proceedings of the Aristotelian Society* 101, S. 1–28.
- 1997 [94] Halpin, Andrew (1997): *Rights and Law, Analysis and Theory*, Oxford.
- 1989 [95] Hamlin, Alan (1989): Rights, Indirect Utilitarianism, and Contractarianism, *Economics and Philosophy* 5, S. 167–88.
- 1986 [96] Hardin, Russell (1986): The Utilitarian Logic of Liberalism, *Ethics* 97, S. 47–74. – Vgl. dazu [132].
- 1988 [97] Hardin, Russell (1988): *Morality within the Limits of Reason*, Chicago, Kap. 3 und 4 (S. 75–165).
- 1981 [98] Hare, R. M. (1981): *Moral Thinking: Its Levels, Method and Point*, Oxford, S. 147–56. – *Moralisches Denken: Seine Ebenen, seine Methode, sein Witz*, Frankfurt a. M. 1992, S. 210–21.
- 1997 [99] Harel, Alon (1997): What Demands are Rights? An Investigation into the Relations between Rights and Reasons, *Oxford Journal of Legal Studies* 17, S. 101–14.
- 2005 [100] Harel, Alon (2005): Theories of Rights, in *The Blackwell Guide to Philosophy of Law and Legal Theory*, hrsg. von Martin P. Golding und William A. Edmundson, Oxford, S. 191–206.
- 1995 [101] Harré, Tom/Robinson, Daniel N. (1995): On the Primacy of Duties, *Philosophy* 70, S. 513–32.
- 1955 [102] Hart, H. L. A. (1955): Are There Any Natural Rights?, *Philosophical Review* 64, S. 175–91. Wiederabgedruckt in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford 1984, S. 77–90.
- 1979 [103] Hart, H. L. A. (1979): Between Utility and Rights, in *The Idea of Freedom. Essays in Honour of Isaiah Berlin*, hrsg. von Alan Ryan, Oxford, S. 77–98. Wiederabgedruckt in Hart, *Essays in Jurisprudence and Philosophy*, Oxford 1983, S. 198–222.
- 1982 [104] Hart, H. L. A. (1982): *Essays on Bentham. Studies in Jurisprudence and Political Theory*, Oxford.
- 2000 [105] Held, Virginia (2000): Rights and the Presumption of Care, in *Rights and Reason. Essays in Honor of Carl Wellman*, hrsg. von Marilyn Friedman, Larry May, Kate Parsons und Jennifer Stiff, Dordrecht, S. 65–78.
- 2002 [106] Herbert, Gary B. (2002): *A Philosophical History of Rights*, New Brunswick, NJ.⁷

⁷ “Since the seventeenth century, concern in the Western world for the welfare of the individual has been articulated philosophically most often as a concern for his rights. The modern conception of individual rights resulted from abandonment of ancient, value-laced ideas of nature and their replacement by the modern, mathematically transparent idea of nature that has room only for individuals, often in conflict. In A

- 1998 [107] Hinman, Lawrence M. (1998): *Ethics. A Pluralistic Approach to Moral Theory*, Second Edition, Fort Worth, S. 243–90 (“The Ethics of Rights: Contemporary Theories”).
- 1992 [108] Höffe, Otfried (1992): Ein transzendentaler Tausch: Zur Anthropologie der Menschenrechte, *Philosophisches Jahrbuch* 99, S. 1–28.
- 1998 [109] Höffe, Otfried (1998): Transzendentaler Tausch. Eine Legitimationsfigur für Menschenrechte?, in *Philosophie der Menschenrechte*, hrsg. von Stefan Gosepath und Georg Lohmann, Frankfurt a. M., S. 29–47.
- 1919 [110] Hohfeld, Wesley Newcomb (1919): *Fundamental Legal Conceptions as Applied in Judicial Reasoning*, hrsg. von Walter Wheeler Cook, New Haven.
- 1923 [111] Hohfeld, Wesley Newcomb (1923): *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays*, hrsg. von Walter Wheeler Cook, New Haven.
- 1993 [112] Howard-Snyder, Frances/Norcross, Alastair (1993): A Consequentialist Case for Rejecting the Right, *Journal of Philosophical Research* 18, S. 109–25.
- 1994 [113] Ingram, Attracta (1994): *A Political Theory of Rights*, Oxford.
- 2007 [114] Ivison, Duncan (2007): *Rights*, Chesham.⁸

Philosophical History of Rights, Gary B. Herbert traces the historical evolution of the concept and the transformation of the problems through which the concept is defined.

The volume examines the early history of rights as they existed in ancient Greece, and locates the first philosophical inquiry into the nature of rights in Platonic and Aristotelian accounts. He traces Roman jurisprudence to the advent of Christianity, to the divine right of kings. Herbert follows the historical evolution of modern subjective rights, the attempts by Locke, Rousseau, Kant, Fichte, and Hegel to mediate rights, to make them sociable. He then turns to nineteenth-century condemnation of rights in the theories of the historical school of law, Benthamite utilitarianism, and Marxist socialism. Following World War II, a newly revived language of rights had to be constructed, to express universal moral outrage over what came to be called crimes against humanity. The contemporary Western concern for rights is today a concern for the individual and a recognition of the limits beyond which a society must not go in sacrificing the individual’s welfare for its own conception of the common good. In his conclusion, Herbert addresses the postmodern critique of rights as a form of moral imperialism legitimizing relations of dominance and subjection.

In addition to his historical analysis of the evolution of theories of rights, Herbert exposes the philosophical confusions that arise when we exchange one concept of rights for another and continue to cite historical antecedents for contemporary attitudes that are in fact their philosophical antithesis. *A Philosophical History of Rights* will be of interest to philosophers, historians, and political scientists.”

⁸ “Rights are central to modern social and political life, and yet there is deep disagreement amongst citizens and philosophers about just what they mean. They come in many different shapes and sizes: legal, moral, civil, political, social, economic and human. Who has them? Who should have them? Who can claim them? What are the grounds upon which they can be claimed? How are they related to other important moral and political values such as community, virtue, autonomy, democracy and social justice?”

In this book, Duncan Ivison offers a unique and accessible integration of, and introduction to, the history and philosophy of rights. He focuses especially on the politics of rights: the fact that rights have always been, and will remain, deeply contested. He discusses not only the historical contexts in which some of the leading philosophers of rights formed their arguments, but also the moral and logical issues they raise for thinking about the nature of rights more generally. At each step, Ivison also considers various deep criticisms of rights, including those made by communitarian, feminist, Marxist and postmodern critics. The book is aimed at students and readers coming to these issues for the first time, but also at more knowledgeable readers looking for a distinctive integration of history and theory as applied to questions about the nature of rights today.”

- 2003 [115] James, Susan (2003): Rights as Enforceable Claims, *Proceedings of the Aristotelian Society* 103/2, S. 133–147.
- 1991 [116] Jordan, Jeff (1991): Why Negative Rights Only?, *Southern Journal of Philosophy* 29, S. 245–55.
- 1998 [117] Kagan, Shelly (1998): *Normative Ethics*, Boulder, S. 170–77 (“Rights”).
- 1986 [118] Kamm, F. M. (1986): Harming, Not Aiding, and Positive Rights, *Philosophy and Public Affairs* 15, S. 3–32.
- 1996 [119] Kamm, F. M. (1996): Inviolability, in *Midwest Studies in Philosophy* Volume 20: *Moral Concepts*, Notre Dame, S. 165–75.
- 2002 [120] Kamm, F. M. (2002): Rights, in *The Oxford Handbook of Jurisprudence and Philosophy of Law*, hrsg. von Jules Coleman und Scott J. Shapiro, Oxford, S. 476–513.
- 1975 [121] Kearns, Thomas R. (1975): Rights, Benefits and Normative Systems, *Archiv für Rechts- und Sozialphilosophie* 61, S. 465–83.
- 2001 [122] Knowles, Dudley (2001): *Political Philosophy*, London, S. 133–76.
- 1999 [123] Köhler, Wolfgang R. (1999): Das Recht auf Menschenrechte, in *Recht auf Menschenrechte. Menschenrechte, Demokratie und internationale Politik*, hrsg. von Hauke Brunkhorst, Wolfgang R. Köhler und Matthias Lutz-Bachmann, Frankfurt a. M., S. 106–24.
- 1997 [124] Koller, Peter (1997): Die Struktur von Rechten, in *Analyomen 2. Proceedings of the 2nd Conference “Perspectives in Analytical Philosophy”*, hrsg. von Georg Meggle, Berlin, Vol. III, S. 251–62.
- 1998 [125] Koller, Peter (1998): Der Geltungsbereich der Menschenrechte, in *Philosophie der Menschenrechte*, hrsg. von Stefan Gosepath und Georg Lohmann, Frankfurt a. M., S. 96–123.
- 1998 [126] Kramer, Matthew H. (1998): Rights Without Trimmings, in Matthew H. Kramer, Nigel E. Simmonds und Hillel Steiner, *A Debate over Rights. Philosophical Enquiries*, Oxford, S. 7–111.
- 2001 [127] Kramer, Matthew H. (2001): Getting Rights Right, in *Rights, Wrongs and Responsibilities*, hrsg. von Matthew H. Kramer, Houndmills, S. 28–95.
- 2005 [128] Kramer, Matthew H. (2005): Moral Rights and the Limits of the Ought-Implies-Can Principle: Why Impeccable Precautions are No Excuse, *Inquiry* 48, S. 307–55.⁹
- 1998 [129] Kramer, Matthew H./Simmonds, Nigel E./Steiner, Hillel (1998): *A Debate over Rights. Philosophical Enquiries*, Oxford.
- 2007 [130] Kramer, Matthew H./Steiner, Hillel (2007): Theories of Rights: Is There a Third Way?, *Oxford*

⁹ “This essay argues against the commonly held view that “ought” implies “can” in the domain of morality. More specifically, I contest the notion that nobody should ever be held morally responsible for failing to avoid the infliction of any harm that he or she has not been able to avoid through all reasonably feasible precautions in the carrying out of some worthwhile activity. The article explicates the concept of a moral right in order to show why violations of moral rights can occur even when no one has acted wrongfully in any fashion. In so doing, it will effectively be maintaining that strict liability (i.e., liability irrespective of the presence or absence of culpability) exists in morality as well as in law. When we take account of the distinction between exoneration and extenuation, we can see that scrupulously thorough precautions are never sufficient to constitute an excuse in morality. Having made that point with some extended examples, the article goes on to consider a number of possible objections - objections that lead into discussions of some basic distinctions within moral philosophy and some central principles within deontic logic.”

- 2001 [131] Kramer, Matthew H. (Hrsg.) (2001): *Rights, Wrongs and Responsibilities*, Houndmills,
- 1986 [132] Kuflik, Arthur (1986): The Utilitarian Logic of Inalienable Rights, *Ethics* 97, S. 75–87. – Zu [96].
- 1992 [133] Leavitt, Frank J. (1992): Inalienable Rights, *Philosophy* 67, S. 115–18.
- 1990 [134] Leist, Anton (1990): *Eine Frage des Lebens. Ethik der Abtreibung und künstlichen Befruchtung*, Frankfurt, S. 134–41 („Interessen und Lebensrecht“).
- 1986 [135] Lemos, Ramon M. (1986): *Rights, Goods, and Democracy*, Newark.
- 1982 [136] Levinson, Jerrold (1982): Gewirth on Absolute Rights, *Philosophical Quarterly* 32, S. 73–75. – [69]. Vgl. dazu [70].
- 2003 [137] Lewis, David (2003): Rights to Rights, *Theoria* 69, S. 160–65.
- 1993 [138] Little, David (1993): The Nature and Basis of Human Rights, in *Prospects for a Common Morality*, hrsg. von Gene Outka und John P. Reeder, Jr., Princeton, S. 73–92.
- 1984 [139] Lomasky, Loren (1984): Personal Projects as the Foundation for Basic Rights, in *Human Rights*, hrsg. von Ellen Frankel Paul, Jeffrey Paul und Fred D. Miller, Oxford, S. 35–55.
- 1987 [140] Lomasky, Loren (1987): *Persons, Rights, and the Moral Community*, New York.
- 1983 [141] Louden, Robert B. (1983): Rights Infatuation and the Impoverishment of Moral Theory, *Journal of Value Inquiry* 17, S. 87–102.
- 1969 [142] Lyons, David (1969): Rights, Claimants and Beneficiaries, *American Philosophical Quarterly* 6, S. 173–85. Wiederabgedruckt in Lyons, *Rights, Welfare, and Mill's Moral Theory*, Oxford 1994, S. 23–46.
- 1970 [143] Lyons, David (1970): The Correlativity of Rights and Duties, *Nous* 4, S. 45–55.
- 1977 [144] Lyons, David (1977): Human Rights and the General Welfare, *Philosophy and Public Affairs* 6, S. 113–29.
- 1982 [145] Lyons, David (1982): Utility and Rights, *Nomos* 24, S. 107–38. Wiederabgedruckt in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford 1984, S. 110–36 sowie in Lyons, *Rights, Welfare, and Mill's Moral Theory*, Oxford 1994, S. 147–75. – Vgl. dazu [22], S. 201–6, [71].
- 2006 [146] Lyons, David (2006): Rights and Recognition, *Social Theory and Practice* 32, S. 1–16.
- 1979 [147] Lyons, David (Hrsg.) (1979): *Rights*, Belmont.
- 1965 [148] McCloskey, H. J. (1965): Rights, *Philosophical Quarterly* 15, S. 115–27.
- 1976 [149] McCloskey, H. J. (1976): Rights – Some Conceptual Issues, *Australasian Journal of Philosophy* 54, S. 99–115.
- 1976 [150] McCloskey, H. J. (1976): Human Needs, Rights and Political Values, *American Philosophical Quarterly* 13, S. 1–11.

¹⁰ “Some important recent articles, including one in this journal, have sought to devise theories of rights that can transcend the longstanding debate between the Interest Theory and the Will Theory. The present essay argues that those efforts fail and that the Interest Theory and the Will Theory withstand the criticisms that have been levelled against them. To be sure, the criticisms have been valuable in that they have prompted the amplification and clarification of the two dominant theories of rights; but their upshot has been to reveal the need for the improvement, rather than the abandonment, of those theories.”

- 1985 [151] McCloskey, H. J. (1985): Respect for Human Moral Rights versus Maximizing Good, in *Utility and Rights*, hrsg. von R. G. Frey, Oxford, S. 121–36.
- 1984 [152] McConnell, Terrance C. (1984): The Nature and Basis of Inalienable Rights, *Law and Philosophy* 3, S. 25–59.
- 2000 [153] McConnell, Terrance C. (2000): *Inalienable Rights. The Limits of Consent in Medicine and the Law*, Oxford.
- 1976 [154] MacCormick, Neil (1976): Children’s Rights: a Test-Case for Theories of Right, *Archiv für Rechts- und Sozialphilosophie* 62, S. 305–16. Wiederabgedruckt in MacCormick, *Legal Right and Social Democracy. Essays in Legal and Political Philosophy*, Oxford 1982, S. 154–66.
- 1977 [155] MacCormick, Neil (1977): Rights in Legislation, in *Law, Morality, and Society. Essays in Honour of H. L. A. Hart*, hrsg. von P. M. S. Hacker und Joseph Raz, Oxford, S. 189–209.
- 1947 [156] MacDonald, Margaret (1947): Natural Rights, *Proceedings of the Aristotelian Society* 47, S. 224–50. Wiederabgedruckt in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford 1984, S. 21–40.
- 1980 [157] Machan, Tibor R. (1980): Some Recent Work in Human Rights Theory, *American Philosophical Quarterly* 17, S. 103–16.
- 1985 [158] Machan, Tibor R. (1985): Moral Myths and Basic Positive Rights, in *Positive and Negative Duties (Tulane Studies in Philosophy 33)*, hrsg. von Eric Mack, New Orleans, S. 35–41.
- 1989 [159] Machan, Tibor R. (1989): *Individuals and Their Rights*, La Salle.
- 2009 [160] Machan, Tibor R. (2009): What Rights Do We Have?, *Journal of Value Inquiry* 43, S. 469–77.
- 1973 [161] Mack, Eric (1973): Egoism and Rights, *Personalist* 54, S. 5–33.
- 1977 [162] Mack, Eric (1977): Natural and Contractual Rights, *Ethics* 87, S. 145–53.
- 2000 [163] Mack, Eric (2000): In Defense of the Jurisdiction Theory of Rights, *Journal of Ethics* 4, S. 71–98.
- 1978 [164] Mackie, John Leslie (1978): Can There Be a Right-Based Moral Theory?, in Mackie, *Persons and Values. Selected Papers* Vol. II, Oxford 1985, S. 105–19 sowie in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford 1984, S. 168–81.
- 1997 [165] Marmor, Andrei (1997): On the Limits of Rights, *Law and Philosophy* 16, S. 1–18.
- 1993 [166] Martin, Rex (1993): *A System of Rights*, Oxford.
- 1998 [167] Martin, Rex (1998): Rights, in *Routledge Encyclopedia of Philosophy*, hrsg. von Edward Craig, Vol. 8, London, S. 325–31.
- 1978 [168] Martin, Rex/Nickel, James W. (1978): Bibliography on the Nature and Foundations of Rights, 1947–1977, *Political Theory* 6, S. 395–413.
- 1980 [169] Martin, Rex/Nickel, James W. (1980): Recent Work on the Concept of Rights, *American Philosophical Quarterly* 17, S. 165–80.
- 1959 [170] Melden, A. I. (1959): *Rights and Right Conduct*, Oxford.
- 1977 [171] Melden, A. I. (1977): *Rights and Persons*, Berkeley. – Vgl. dazu [182].
- 1988 [172] Melden, A. I. (1988): *Rights in Moral Lives. A Historical-Philosophical Essay*, Berkeley.
- 1989 [173] Meyer, Michael J. (1989): Dignity, Rights, and Self-Control, *Ethics* 99, S. 520–534.
- 1992 [174] Meyer, Michael J. (1992): Rights Between Friends, *Journal of Philosophy* 89, S. 467–83.

- 1997 [175] Meyer, Michael J. (1997): When Not to Claim Your Rights: The Abuse and the Virtuous Use of Rights, *Journal of Political Philosophy* 5, S. 149–62.
- 1985 [176] Meyers, Diana (1985): *Inalienable Rights. A Defense*, New York.
- 1980 [177] Montague, Phillip (1980): Two Concepts of Rights, *Philosophy and Public Affairs* 9, S. 372–384.
- 1984 [178] Montague, Phillip (1984): Rights and Duties of Compensation, *Philosophy and Public Affairs* 13, S. 79–88. – Vgl. dazu [35], [300].
- 1985 [179] Montague, Phillip (1985): Davis and Westen on Rights and Compensation, *Philosophy and Public Affairs* 14, S. 390–396. – Zu [35], [300].
- 1985 [180] Montague, Phillip (1985): The Nature of Rights: Some Logical Considerations, *Noûs* 19, S. 365–377.
- 2002 [181] Morautal, James (2002): Rights and Participatory Goods, *Oxford Journal of Legal Studies* 22, S. 91–113.
- 1981 [182] Morris, Herbert (1981): The Status of Rights, *Ethics* 92, S. 40–51. – Zu [171].
- 1986 [183] Mulholland, Leslie A. (1986): Rights, Utilitarianism, and the Conflation of Persons, *Journal of Philosophy* 83, S. 323–40.
- 1991 [184] Nagel, Thomas (1991): *Equality and Partiality*, New York, S. 139–53 (“Rights”). – *Eine Abhandlung über Gleichheit und Parteilichkeit und andere Schriften zur politischen Philosophie*, Paderborn 1994, S. 194–213 („Rechte“).
- 1995 [185] Nagel, Thomas (1995): Personal Rights and Public Space, *Philosophy and Public Affairs* 24, S. 83–107. Wiederabgedruckt in Nagel, *Concealment and Exposure and Other Essays*, Oxford 2002, S. 31–52.
- 1985 [186] Narveson, Jan (1985): Contractarian Rights, in *Utility and Rights*, hrsg. von R. G. Frey, Oxford, S. 161–74.
- 1988 [187] Narveson, Jan (1988): *The Libertarian Idea*, Philadelphia, S. 41–61 (“Rights”).
- 1989 [188] Nelson, John O. (1989): Are There Inalienable Rights?, *Philosophy* 64, S. 519–24.
- 1976 [189] Nelson, W. (1976): On the Alleged Importance of Moral Rights, *Ratio* 18, S. 145–55.
- 1974 [190] Nelson, William N. (1974): Special Rights, General Rights, and Social Justice, *Philosophy and Public Affairs* 3, S. 410–30.
- 2005 [191] Nelson, William (2005): Varieties of Rights: How They Work, How They Are Justified, *Social Theory and Practice* 31, S. 359–78.
- 1977 [192] Nickel, James W. (1977): Dworkin on the Nature and Consequences of Rights, *Georgia Law Review* 11, S. 115–1142.
- 1982 [193] Nickel, James W. (1982): Are Human Rights Utopian?, *Philosophy and Public Affairs* 11, S. 246–264.
- 1987 [194] Nickel, James W. (1987): *Making Sense of Human Rights. Philosophical Reflections on the Universal Declaration of Human Rights*, Berkeley.
- 2004 [195] Nickel, James W. (2007): *Making Sense of Human Rights*, 2. Auflage, Oxford.¹¹

¹¹ Contents: Introduction. 1. The Contemporary Idea of Human Rights. 2. Human Rights as Rights. 3. Making Sense of Human Rights. 4. Starting Points for Justifying Rights. 5. A Framework for Justifying Specific Rights. 6. The List Question. 7. Due Process Rights and Terrorist Emergencies. 8. Economic Liberties as

- 1993 [196] Nida-Rümelin, Julian (1993): *Kritik des Konsequentialismus*, München, S. 99–110 („Individuelle Rechte als Beschränkungen“).
- 1982 [197] Nielsen, Kai (1982): Grounding Rights and a Method of Reflective Equilibrium, *Inquiry* 25, S. 277–306.
- 1994 [198] Nielsen, Kai (1994): Rights-Based Ethics: A Critique and Replacement, *Windsor Yearbook of Access to Justice* 14, S. 162–94.
- 1996 [199] Nielsen, Kai (1996): *Naturalism Without Foundations*, Amherst, S. 229–59 (“Rights and Consequences: It All Depends”).
- 1981 [200] Nozick, Robert (1981): *Philosophical Explanations*, Oxford, S. 498–504 (“Rights”).
- 2004 [201] Oberdiek, John (2004): Lost in Moral Space: On the Infringing/Violating Distinction and its Place in the Theory of Rights, *Law and Philosophy* 23, S. 325–46.
- 1996 [202] Parent, William A./Prior, William J. (1996): Thomson on the Moral Specification of Rights, *Philosophy and Phenomenological Research* 56, S. 837–845.
- 2008 [203] Pavlakos, George (2008): Non-Individualism, Rights, and Practical Reason, *Ratio Juris* 21, S. 66–93.¹²
- 1994 [204] Persson, Ingmar (1994): The Groundlessness of Natural Rights, *Utilitas* 6, S. 9–24.
- 1977 [205] Perry, Thomas D. (1977): A Paradigm of Philosophy: Hohfeld on Legal Rights, *American Philosophical Quarterly* 14, S. 41–50.
- 1987 [206] Pettit, Philip (1987): Rights, Constraints, and Trumps, *Analysis* 47, S. 8–14.
- 1988 [207] Pettit, Philip (1988): The Consequentialist Can Recognise Rights, *Philosophical Quarterly* 38, S. 42–55.
- 1995 [208] Pogge, Thomas W. (1995): How Should Human Rights Be Conceived?, *Jahrbuch für Recht und Ethik* 3, S. 103–120.
- 1992 [209] Pojman, Louis P. (1992): Are Human Rights Based on Equal Human Worth?, *Philosophy and Phenomenological Research* 52, S. 605–22.
- 1977 [210] Postow, B. C. (1977): Rights and Obligations, *Philosophical Studies* 32, S. 217–32.
- 1993 [211] Rainbolt, George W. (1993): Rights as Normative Constraints on Others, *Philosophy and Phenomenological Research* 53, S. 93–111.
- 2006 [212] Rainbolt, George W. (2006): *The Concept of Rights*, Dordrecht.¹³

Fundamental Freedoms. 9. Social Rights as Human Rights. 10. Minority Rights. 11. Eight Responses to the Relativist. 12. The Good Sense in Human Rights. Bibliography and References. Appendixes: The Universal Declaration of Human Rights. The European Convention on Human Rights. The International Covenant on Civil and Political Rights. The International Covenant on Economic, Social, and Cultural Rights. Index.

¹² “The paper looks at an impasse with respect to the role of rights as reasons for action which afflicts contemporary legal and political debates. Adopting a meta-ethical approach, it moves on to argue that the impasse arises from a philosophical confusion surrounding the role of rights as normative reasons. In dispelling the confusion, an account of reasons is put forward that attempts to capture their normativity by relating them to a reflexive public practice. Two key outcomes are identified as a result of this explication: first, that normative practices are instances of rule-following; and second, that agents partaking of normative practices possess absolute value (i.e., acquire the status of persons). In light of this explication, rights acquire the status of the most general reasons that purport to guarantee the content of personhood by specifying and safeguarding conditions which enable agents to participate in public practices of universalisation.”

- 1984 [213] Raz, Joseph (1984): Legal Rights, in ders., *Ethics in the Public Domain. Essays in the Morality of Law and Politics*, Oxford 1994, S. 254–76.
- 1984 [214] Raz, Joseph (1984): On the Nature of Rights, *Mind* 93, S. 194–214.
- 1984 [215] Raz, Joseph (1984): Right-Based Moralities, in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford 1984, S. 182–200 sowie in *Utility and Rights*, hrsg. von R. G. Frey, Oxford 1985, S. 42–60.
- 1986 [216] Raz, Joseph (1986): *The Morality of Freedom*, Oxford, S. 165–263 (“III. Individualistic Freedom: Liberty and Rights”).
- 1992 [217] Raz, Joseph (1992): Rights and Individual Well-Being, in ders., *Ethics in the Public Domain. Essays in the Morality of Law and Politics*, Oxford 1994, S. 44–59.
- 1978 [218] Regan, Donald (1978): Glosses on Dworkin: Rights, Principles, and Policies, *Michigan Law Review* 76, S. 1213–1264.
- 1983 [219] Regan, Tom (1983): *The Case for Animal Rights*, Berkeley, S. 266–329 (“The Rights View”).

¹³ “What is it to have a right? Previous answers to this question can be divided into two groups. Some (e.g., Joseph Raz) hold interest/benefit theories of rights while others (e.g., H.L.A. Hart and Carl Wellman) hold choice/will theories of rights. *The Concept of Rights* defends an alternative to both of the traditional views, the justified-constraint theory of rights. On this view, a person has a right if and only if a feature of that person is a sound justification for others to have a particular sort of normative constraint.

The justified-constraint theory avoids the problems which have bedeviled the interest/benefit theories and the choice/will theories. It also solves the puzzle of the relational nature of rights. On the justified-constraint view, an obligation correlative to a right is to the right-holder when it is a feature of the right-holder that justifies the obligation. The analysis also shows that, as far as the concept of rights is concerned, any sort of individual or group can have rights. The limits on what sorts of things have rights are substantive, not conceptual. Moreover, the justified-constraint solves the problem of the rights of past and future generations. It is a theory which applies, without modification, to past, present and future beings.”

“Contents: Acknowledgments. Introduction. **1. Rights and Hohfeldian Analysis.** **1.1** A Neo-Hohfeldian Analysis. **1.2** The Nature of Liberties. **1.3** The Structure of Hohfeldian Relations. **1.4** Disagreements with Hohfeld. **1.5** Agreements with Hohfeld. **2. Normative Constraints.** **2.1** Claim and Immunity Rights. **2.2** Liberty and Power Rights. **2.3** Duty, Disability, Liability and No-Claim Rights. **2.4** Some Objections. **2.5** Martin: Rights as Socially Recognized Normative Directions. **3. Deontic and Alethic Concepts.** **3.1** Some Fundamental Normative Concepts. **3.2** Hohfeldian and Normative Analysis. **3.3** Feinberg: Rights as Valid Claims. **3.4** Moral Rights. **4. The Relational Nature of Rights.** **4.1** Relational Obligations. **4.2** Protection and Justification: The Interest and Choice Theories. **4.3** Raz: Rights as Interests That Justify Duties. **4.4** Hart: Rights as Protected Choices. **4.5** Wellman: Rights as Advantaged Wills. **4.6** Sumner’s Theory-Based Argument for the Choice/Will Theory. **5. Rights, Reasons and Persons.** **5.1** Reasons and Relational Obligations. **5.2** Simple and Complex Justification. **5.3** Non-Relational Obligations. **5.4** Consequentialism. **5.5** The Individuation of Rights. **5.6** Some Implications of the Justified-Constraint Theory. **6. Rights Conflict.** **6.1** Permissible and Unavoidable Rights Transgression. **6.2** Prima Facie and Specification. **6.3** The Identity of Prima Facie and Specification. **6.4** Rights Conflict and Arguments. **6.5** Wellman’s Examples. **6.6** Dworkin: Rights as Trumps. **7. Right Holders: Present.** **7.1** Individuals, Groups, and Relevant Features. **7.2** Clearing Some Underbrush. **7.3** Individualism v. Collectivism. **8. Right Holders: Past and Future.** **8.1** The Problem of the Subject. **8.2** Feinberg’s Proposed Solution. **8.3** Wellman’s Proposed Solution. **8.4** Time and Rights. **8.5** Parfit and the Non-Identity Problem. **8.6** Implications. **9. A Final Comparison.** **9.1** Objections to the Justified-Constraint Theory. **9.2** Problems with Other Theories. **9.3** Advantages of the Justified-Constraint Theory.”

- 2003 [220] Regan, Tom (2003): *Animal Rights, Human Wrongs. An Introduction to Moral Philosophy*, Lanham, S. 23–30 (“The Nature and Importance of Rights”).
- 1990 [221] Renteln, Alison Dundes (1990): *International Human Rights: Universalism Versus Relativism*, Sage, London.
- 1969 [222] Richards, B. A. (1969): Inalienable Rights: Recent Criticism and Old Doctrine, *Philosophy and Phenomenological Research* 29, S. 391–404.
- 1981 [223] Richards, David A. J. (1981): Rights and Autonomy, *Ethics* 92, S. 3–20.
- 1983 [224] Robinson, R. E./Coval, S. C./Smith, J. C. (1983): The Logic of Rights, *University of Toronto Law Review* 33, S. 267–78.
- 1930 [225] Ross, W. D. (1930): *The Right and the Good*, Oxford; Reprint: Indianapolis 1988, S. 48–56 (“Appendix I: Rights”)
- 1999 [226] Rowan, John R. (1999): *Conflicts of Rights. Moral Theory and Social Policy Implications*, Boulder.
- 1977 [227] Scanlon, T. M. (1977): Rights, Goals, and Fairness, *Erkenntnis* 11, S. 81–95. Revidierte Version in *Public and Private Morality*, hrsg. von Stuart Hampshire, Cambridge, S. 93–111. Wiederabgedruckt in *Consequentialism and Its Critics*, hrsg. von Samuel Scheffler, Oxford 1988, S. 75–92.
- 1977 [228] Scanlon, T. M. (1977): Nozick on Rights, Liberty, and Property, *Philosophy and Public Affairs* 6, S. 3–25.
- 1981 [229] Schauer, Frederick (1981): Can Rights be Abused?, *Philosophical Quarterly* 31, S. 225–230.
- 1969 [230] Schiller, Marvin (1969): Are There Any Inalienable Rights?, *Ethics* 79, S. 309–315.
- 1985 [231] Sen, Amartya (1985): Rights and Capabilities, in *Morality and Objectivity*, hrsg. von Ted Honderich, London, S. 130–48.
- 1995 [232] Shafer-Landau, Russ (1995): Specifying Absolute Rights, *Arizona Law Review* 37, S. 209–25.
- 1999 [233] Shafer-Landau, Russ (1999): Rights and Liberties, in *The Philosophy of Law. An Encyclopedia*, hrsg. von Christopher Berry Gray, New York, London, S. 753–56.
- 1989 [234] Shapiro, Daniel (1989): Conflicts and Rights, *Philosophical Studies* 55, S. 263–78.
- 1984 [235] Sher, George (1984): Right Violations and Injustices: Can We Always Avoid Trade-Offs?, *Ethics* 94, S. 212–224.
- 2010 [236] Sherman, James (2010): A New Instrumental Theory of Rights, *Ethical Theory and Moral Practice* 13, S. 215–28.¹⁴
- 1998 [237] Shestack, Jerome (1998): The Philosophic Foundations of Human Rights, *Human Rights Quarterly* 20, S. 201–34.

¹⁴ “My goal in this paper is to advance a long-standing debate about the nature of moral rights. The debate focuses on the questions: In virtue of what do persons possess moral rights? What could explain the fact that they possess moral rights? The predominant sides in this debate are the status theory and the instrumental theory. I aim to develop and defend a new instrumental theory. I take as my point of departure the influential view of Joseph Raz, which for all its virtues is unable to meet the challenge to the instrumentalist that I will address: the problem of justifying the enforcement of rights. I then offer a new instrumental theory in which duties are grounded on individuals’ interests, and individuals rights exist in virtue of the duties owed to them. I argue that my theory enables the instrumentalist to give the right sort of justification for enforcing rights.”

- 1998 [238] Simmonds, Nigel E. (1998): Rights at the Cutting Edge, in Matthew H. Kramer, Nigel E. Simmonds und Hillel Steiner, *A Debate over Rights. Philosophical Enquiries*, Oxford, S. 115–232.
- 1972 [239] Singer, Marcus G. (1972): The Basis of Rights and Duties, *Philosophical Studies* 23, S. 48–57.
- 1995 [240] Smith, Tara (1995): Rights Conflicts: The Undoing of Rights, *Journal of Social Philosophy* 26, S. 139–56.
- 1995 [241] Spaak, Torben (1995): Review of Rex Martin, *A System of Rights*, *Theoria* 61, S. 80–94.
- 1993 [242] Sparrow, Edward G. (1993): Rights, Law, and the Right, *Review of Metaphysics* 46, S. 699–716.
- 1992 [243] Spector, Horacio (1992): *Autonomy and Rights*, Oxford.
- 2005 [244] Sreenivasan, Gopal (2005): A Hybrid Theory of Claim-Rights, *Oxford Journal of Legal Studies* 25, S. 257–274.¹⁵
- 1994 [245] Steiner, Hillel (1994): *An Essay on Rights*, Oxford.
- 1998 [246] Steiner, Hillel (1998): Working Rights, in Matthew H. Kramer, Nigel E. Simmonds und Hillel Steiner, *A Debate over Rights. Philosophical Enquiries*, Oxford, S. 235–301.
- 2002 [247] Stemmer, Peter (2002): Moralische Rechte als soziale Artefakte, *Deutsche Zeitschrift für Philosophie* 50, S. 673–91.
- 2007 [248] Stepanians, Markus S. (Hrsg.) (2007): *Individuelle Rechte*, Paderborn.¹⁶
- 1984 [249] Stoljar, Samuel (1984): *An Analysis of Rights*, New York.
- 1985 [250] Sumner, L. W. (1985): Rights Denaturalized, in *Utility and Rights*, hrsg. von R. G. Frey, Oxford, S. 20–41.
- 1987 [251] Sumner, L. W. (1987): *The Moral Foundations of Rights*, Oxford.
- 2000 [252] Sumner, L. W. (2000): Rights, in *The Blackwell Guide to Ethical Theory*, hrsg. von Hugh LaFollette, Oxford, S. 288–305.
- 2000 [253] Sumner, L. W. (2000): Rights, Interests, and Free Speech, in *Rights and Reason. Essays in Honor of Carl Wellman*, hrsg. von Marilyn Friedman, Larry May, Kate Parsons und Jennifer Stiff, Dordrecht, S. 23–43.
- 2002 [254] Tännsjö, Torbjörn (2002): *Understanding Ethics. An Introduction to Moral Theory*, Edinburgh, S.

¹⁵ “In this article, I propose and defend a new analysis of claim-rights. My proposal is a hybrid of the two best known analyses, the Will theory and the Interest theory. For good reason, the debate between these theories is often regarded as a stand-off. That is because the Will theory has had no satisfactory answer to the Interest theory’s best objections (inalienable rights and incompetent right-holders), while the Interest theory has likewise had no satisfactory answer to the Will theory’s best objection (third party beneficiaries). After reviewing these various objections and criticizing some recent attempts to meet them, I introduce my hybrid alternative and explain how it provides a satisfactory solution to all of these objections.”

¹⁶ Inhalt: Markus S. Stepanians: Einleitung: „Rights is a term that drips confusion“ (7). Helmut Coing: Zur Geschichte des Begriffs „subjektives Recht“ (33). Wesley N. Hohfeld: Einige Grundbegriffe des Rechts, wie sie in rechtlichen Überlegungen Anwendung finden (51). Peter Koller: Die Struktur von Rechten (86). Hans Kelsen: Subjektives Recht: Berechtigung und Ermächtigung (96). David Lyons: Rechte, Anspruchsberechtigte und Begünstigte (113). Herbert L. A. Hart: Juridische Rechte (135). D. N. MacCormick: Rechte in der Gesetzgebung (164). Joel Feinberg: Das Wesen und der Wert von Rechten (184). Ronald Dworkin: Bürgerrechte erstnehmen (204). Robert Alexy: Grundrechte als subjektive Rechte und als objektive Normen (227). Quellenangaben (247). Kommentierte Auswahlbibliographie (248). Personenregister (252). Sachregister (253).

74–90 (“Moral Rights”).

- 2002 [255] Tasioulas, John (2002): Human Rights, Universality and the Values of Personhood: Retracing Griffin’s Steps, *European Journal of Philosophy* 10, S. 79–100.
- 2000 [256] Tay, Alice Erh-Soon (2000): Human Rights and Wrongs, in *Rights and Reason. Essays in Honor of Carl Wellman*, hrsg. von Marilyn Friedman, Larry May, Kate Parsons und Jennifer Stiff, Dordrecht, S. 121–38.
- 1999 [257] Taylor, Angus (1999): *Magpies, Monkeys, and Morals. What Philosophers Say about Animal Liberation*, Peterborough, S. 43–66 (“Do Animals Have Moral Rights?”).
- 2006 [258] Ten, C. L. (Hrsg.) (2006): *Theories of Rights*, Aldershot.¹⁷
- 1973 [259] Thomson, Judith Jarvis (1973): Rights and Deaths, in dies., *Rights, Restitution, and Risk. Essays in Moral Theory*, Cambridge, Mass. 1986, S. 20–32.
- 1976 [260] Thomson, Judith Jarvis (1976): Self-Defense and Rights, in dies., *Rights, Restitution, and Risk. Essays in Moral Theory*, Cambridge, Mass. 1986, S. 33–48.
- 1977 [261] Thomson, Judith Jarvis (1977): Some Ruminations on Rights, in dies., *Rights, Restitution, and Risk. Essays in Moral Theory*, Cambridge, Mass. 1986, S. 49–65.
- 1980 [262] Thomson, Judith Jarvis (1980): Rights and Compensation, in dies., *Rights, Restitution, and Risk. Essays in Moral Theory*, Cambridge, Mass. 1986, S. 66–77.
- 1986 [263] Thomson, Judith Jarvis (1986): *Rights, Restitution, and Risk. Essays in Moral Theory*, Cambridge, Mass.
- 1990 [264] Thomson, Judith Jarvis (1990): *The Realm of Rights*, Cambridge, Mass.
- 1991 [265] Tomasi, John (1991): Individual Rights and Community Virtues, *Ethics* 101, S. 521–536.
- 1993 [266] Tugendhat, Ernst (1993): Die Kontroverse um die Menschenrechte, in *Philosophie der Menschenrechte*, hrsg. von Stefan Gosepath und Georg Lohmann, Frankfurt a. M. 1998, S. 48–61.
- 1987 [267] Upton, Hugh (1987): Rights and Duties – A Reply to Gewirth, *Mind* 96, S. 381–85. – Zu [76]. Vgl. dazu [77].
- 2000 [268] Upton, Hugh (2000): Right-Based Morality and Hohfeld’s Relations, *Journal of Ethics* 4, S. 237–56.
- 1980 [269] VanDeVeer, Donald (1980): Are Human Rights Alienable?, *Philosophical Studies* 37, S. 165–76.
- 1986 [270] VanDeVeer, Donald (1986): *Paternalistic Intervention. The Moral Bounds of Benevolence*,

¹⁷ “Contents: Rex Martin and James W. Nickel (1980), Recent work on the concept of rights; Joel Feinberg (1992), In defence of moral rights; J. Raz (1984), On the nature of rights; H.L.A. Hart (1955), Are there natural rights?; David Lyons (1969), Rights, claimants, and beneficiaries; Philip Montague (1980), Two concepts of rights; Jeremy Waldron (1981), A right to do wrong; Jeremy Waldron (1989), Rights in conflict; F.M. Kamm (2001), Conflicts of rights: typology, methodology, and nonconsequentialism; H.L.A. Hart (1982), Natural rights: Bentham and John Stuart Mill; T.M. Scanlon (1978), Rights, goals, and fairness; Ronald Dworkin (1981), Is there a right to pornography; Rodney Peffer (1978), A defense of rights to well-being; H.L.A. Hart (1979), Between utility and rights; Allen Buchanan (1984), What’s so special about rights?; Richard J. Arneson (2001), Against rights; Peter Jones (1999), Group rights and group oppression; Will Kymlicka (1996), The good, the bad, and the intolerable; Seung-hwan Lee (1996), Liberal rights or/and Confucian virtues?; Fred Dallmayr (2002), “Asian Values” and global human rights; Charles Taylor (1996), A world consensus on human rights?; Joshua Cohen (2004), Minimalism about human rights: the most we can hope for?. Index.”

Princeton, N. J., S. 236–48 (“Voluntary Euthanasia and Alienating Rights”).

- 2004 [271] Van Duffel, Siegfried (2004): Libertarian Natural Rights, *Critical Review* 16, S. 353–75.
- 2004 [272] Van Duffel, Siegfried (2004): Natural Rights and Individual Sovereignty, *Journal of Political Philosophy* 12, S. 147–62.
- 1981 [273] Waldron, Jeremy (1981): A Right to Do Wrong, *Ethics* 92, S. 21–39.
- 1984 [274] Waldron, Jeremy (1984): Introduction, in *Theories of Rights*, hrsg. von Jeremy Waldron, Oxford, S. 1–20.
- 1988 [275] Waldron, Jeremy (1988): The Philosophy of Rights, in *An Encyclopaedia of Philosophy*, hrsg. von G. H. R. Parkinson, London, S. 713–37.
- 1989 [276] Waldron, Jeremy (1989): Rights in Conflict, *Ethics* 99, S. 503–19.
- 1993 [277] Waldron, Jeremy (1993): Rights, in *A Companion to Contemporary Political Philosophy*, hrsg. von Robert E. Goodin und Philip Pettit, Oxford, S. 575–85.
- 1993 [278] Waldron, Jeremy (1993): *Liberal Rights. Collected Papers 1981–1991*, Cambridge.
- 1999 [279] Waldron, Jeremy (1999): *Law and Disagreement*, Oxford.
- 2000 [280] Waldron, Jeremy (2000): The Role of Rights in Practical Reasoning: “Rights” versus “Needs”, *Journal of Ethics* 4, S. 115–35.
- 1984 [281] Waldron, Jeremy (Hrsg.) (1984): *Theories of Rights*, Oxford.
- 1997 [282] Warren, Mary Anne (1997): *Moral Status. Obligations to Persons and Other Living Things*, Oxford, S. 156–66.
- 1964 [283] Wasserstrom, Richard (1964): Rights, Human Rights, and Racial Discrimination, *Journal of Philosophy* 61, S. 628–641. – Vgl. dazu [46].
- 1994 [284] Weinreb, Lloyd L. (1994): *Oedipus at Fenway Park. What Rights Are and Why There Are Any*, Cambridge, Mass.
- 1975 [285] Wellman, Carl (1975): Upholding Legal Rights, *Ethics* 86, S. 49–60. Wiederabgedruckt in Wellman, *An Approach to Rights. Studies in the Philosophy of Law and Morals*, Dordrecht 1997, S. 49–62.
- 1978 [286] Wellman, Carl (1978): Legal Rights, in ders., *An Approach to Rights. Studies in the Philosophy of Law and Morals*, Dordrecht 1997, S. 63–73.
- 1978 [287] Wellman, Carl (1978): A New Conception of Human Rights, in *Human Rights*, hrsg. von E. Kamenka und A. E. S. Tay, London, S. 48–58. Wiederabgedruckt in Wellman, *An Approach to Rights. Studies in the Philosophy of Law and Morals*, Dordrecht 1997, S. 74–84.
- 1981 [288] Wellman, Carl (1981): Taking Economic Rights Seriously, in ders., *An Approach to Rights. Studies in the Philosophy of Law and Morals*, Dordrecht 1997, S. 105–16.
- 1981 [289] Wellman, Carl (1981): Moral Rights and Positive Law, in ders., *An Approach to Rights. Studies in the Philosophy of Law and Morals*, Dordrecht 1997, S. 117–26.
- 1982 [290] Wellman, Carl (1982): *Welfare Rights*, Totowa.
- 1985 [291] Wellman, Carl (1985): *A Theory of Rights*, Totowa.
- 1992 [292] Wellman, Carl (1992): Rights, Concepts of, in *Encyclopedia of Ethics*, hrsg. von Lawrence C. Becker und Charlotte B. Becker, New York, London, Vol. II, S. 1100–1103.

- 1995 [293] Wellman, Carl (1995): The Inalienable Right to Life and the Durable Power of Attorney, *Law and Philosophy* 14, S. 245–69. Wiederabgedruckt in Wellman, *An Approach to Rights. Studies in the Philosophy of Law and Morals*, Dordrecht 1997, S. 244–63.
- 1995 [294] Wellman, Carl (1995): *Real Rights*, New York.
- 1997 [295] Wellman, Carl (1997): *An Approach to Rights. Studies in the Philosophy of Law and Morals*, Dordrecht.
- 1999 [296] Wellman, Carl (1999): *The Proliferation of Rights. Moral Progress or Empty Rhetoric?*, Boulder.
- 2002 [297] Wellman, Carl (2002): The Concept of Fetal Rights, *Law and Philosophy* 21, S. 65–93.
- 2005 [298] Wenar, Leif (2005): The Nature of Rights, *Philosophy and Public Affairs* 33, S. 223–52.
- 1986 [299] Werhane, Patricia/Gini, A. R./Ozar, David T. (Hrsg.) (1986): *Philosophical Issues in Human Rights*, New York.
- 1985 [300] Westen, Peter (1985): Comment on Montague’s “Rights and Duties of Compensation”, *Philosophy and Public Affairs* 14, S. 385–389. – Zu [178]. Vgl. dazu [179].
- 1984 [301] White, Alan R. (1984): *Rights*, Oxford.
- 1998 [302] Wildt, Andreas (1998): Menschenrechte und moralische Rechte, in *Philosophie der Menschenrechte*, hrsg. von Stefan Gosepath und Georg Lohmann, Frankfurt a. M., S. 124–45.
- 1978 [303] Young, Robert (1978): Dispensing with Moral Rights, *Political Theory* 6, S. 63–74.