
Rights, Race, and Recognition

Derrick Darby

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Despite what the cover illustration, and indeed the title, may suggest, this book is not an account of the American Civil Rights struggle, but rather an important and novel contribution to the study of the nature of human rights. In this book, Darby offers a strong argument against the prevailing view, both in the practice of politics, and in political theory, that human rights are pre-social, and are held by human beings *qua* human beings. Instead, for Darby, ‘there are no rights that exist prior to and independent of social recognition of ways of acting and being treated’ (p. 1). Rather, Darby offers a new argument in favour of the rights recognition thesis, notably advanced by T.H. Green. This argument is centred largely, given Darby’s self-declared ‘methodological orientation to taking race and racism seriously’ (p. 74), around the debates surrounding human rights and American *ante-bellum* chattel slavery.

Darby labels his social theory of rights ‘rights externalism’, and before setting it out in detail and defending it against some possible criticisms, he first aims to dispatch the prevailing, pre-social, view of human rights, which he labels ‘rights internalism’. He successfully casts doubt on two claims made by rights internalists: first, that without their account of rights, humans have no basis upon which to complain when wronged, and second, that without internalist rights there can be no respect for fellow humans. Darby himself admits that he does not cover all such arguments made by rights internalists, and there is room further to pursue this debate. However, in what is a relatively short book, Darby’s main concern is to cast serious doubt on what he labels the ‘moral impoverishment thesis’ that seeks to defend natural rights and he is successful in this respect (p. 73).

The main contribution of the book is to show that the case of slavery in the United States is not a simple case of a minority deprived of their ‘human rights’; instead, Darby argues that such slavery was held to be consistent with conceptions of natural rights. Deprived of divine provenance, and thus forced to rely on ontology, human rights become dependent on the definition of what precisely may be held to be human. Given the *ante-bellum* view of blacks as sub-human, such natural rights theories became a tool, not of liberation, but of



oppression (pp. 112–117). Significantly, a combination of ontologically based human rights and what he labels ‘the black inferiority thesis’ may still lead to racial discrimination (p. 141).

In order to show that the rights recognition thesis is consistent with holding slavery to be wrong, and thus offers a viable alternative to natural rights, contrary to W.D. Ross’s (*The Right and the Good*, 2002 (1930)) criticism of T.H. Green’s presentation of the rights recognition thesis, Darby reconstructs Green’s solution to the problem of slavery and rescues it from the assertion that rights, if dependent on society, cannot see slavery as wrong. Darby’s solution to this is to argue that slaves, deprived of the right to political life, form non-political social relationships in which rights are mutually recognised, showing that slaves possess moral powers; for T.H. Green, the common good, and his pursuit of a political society, would best be served by the larger political community recognising these rights (pp. 155–163).

Darby is clear, despite stating his personal belief that pre-social rights do not exist, that his book is above all a political argument for rights externalism. Thus he does not set out explicitly to claim that the notion of pre-social rights is ‘wrong’ and externalists are right – a point he makes quite clearly in his conclusion while criticising Joel Feinberg and Rex Martin for so doing (p. 177) – but invites us to consider ‘the relative virtues and shortcomings of each and ... which is more attractive on balance’ (p. 178). In a sense, then, both, either, or neither, may be ‘true’, which is a conclusion I find problematic, not only in its appeal to a sort of utility, but also in the scope it leaves for critics to dismiss what Darby says, despite the great worth of much of it, simply by holding it not to be ‘true’: he leaves a window open just large enough for both baby and bathwater to be thrown out.

Darby’s argument is well structured: the individual chapters, while providing compelling arguments in their own right, fit cohesively and clearly into the overall architecture of the book. The book is well presented, with the only obvious erratum seemingly the result of an over-zealous spellchecker, which has ‘corrected’ Hugo Geuss’ surname to ‘Guess’ throughout. Putting aside such trivial errors, Darby’s book is a well-argued and important contribution to the debate surrounding the nature of human rights. This book should be of great interest to political theorists active in this area, as well as those in many other areas who may find some commonly held assumptions about rights to be, at the very least, questionable.

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