

Where do “rights” come from? Discuss alternative theories and state your case for the best option.

Rights can refer to a number of different things, and can consist of human rights, animal rights, natural rights, and legal rights. They can be described as rules which establish what is permissible, pertaining to the legal system, social convention, and ethics (Wenar, 2021). Human rights, which is the focus of this discussion, are rights which are applicable to all human beings, regardless of nationality, race, sex, sexual orientation, gender identity, language, class, or any other status. In short, they are rights to which we are all equally entitled without discrimination. These rights are stated in the Universal Declaration of Human Rights (UDHR), which was established by the United Nations in 1945 (Sutto, 2019).

It is debatable where exactly human rights come from. Some may argue that they simply stem from the law, whilst others believe that their roots are natural and universal. Another view, which is perhaps most significant, is that rights have evolved socially and culturally. It is precisely this question which is explored in this discussion. Various theories from both a theological and anthropological perspective are explored in order to answer this question.

The Christian view on rights is that they are something inherent, rather than something to be earned. Christians believe that humans are made in the image of God, and that this naturally bestows us rights. It is through human relationships that encompass divine

Aria Anderson

love and justice that God's image in humanity is represented (Meilaender and Werpehowski, 2007).

This extract from Genesis 9 is one example of rights in the bible:

“Whoever sheds human blood,
by humans shall their blood be shed;
for in the image of God
has God made mankind.” (Gen. 9:6)

This passage proclaims that killing is wrong, and that in the circumstance that a human has killed another human, they should be given the death penalty. It emphasises the value and precious nature of human life, explaining that humans are made in the image of God, and that it is for this reason that it is wrong to take a human life. Thus, this passage represents a human being's innate right to live simply because they are human.

Aquinas' moral theory consisting of four distinct laws supports the theological idea that rights are inherent. The four laws are eternal law, natural law, human law, and divine law. Eternal law refers to God's wisdom and divine plan of governance for the world (Pasnau, 2023). As is stated in Ephesians 1:4-5 “For he chose us in him before the creation of the world to be holy and blameless in his sight”. This quote provides an example of God's eternal law in the Bible, as it states that followers of Christianity were

predestined to find faith, and that it is God who chose them. However, in order for eternal law to effectively govern the world, there must be a way for it to be imparted to human beings. Divine law is one way this is achieved, an example of which is the ten commandments in the Bible, which provides humans with basic rules to follow. Another way that eternal law is imparted to humans is through natural law, which describes a body of innate laws which are accepted universally as determining what is right or wrong. Human law is the social and political realisation of natural law; it is the formal and informal laws we are expected to follow. For example, it is through natural law that humans know it is wrong to kill another human being, and the formal law which prohibits it is an example of human law. Informal human laws, such as the expectation to help a friend in need, is rooted in the natural law of showing kindness to our fellow human beings. In accordance with Aquinas' theory, human rights must be a practical result of natural law, and the rules set within it are intrinsic and derive from God's plan of governance, for us to be good and holy people.

A conflicting view of human rights is that they are something which has evolved socially, culturally, and politically over many centuries. Sutto (2019) suggests that the belief that everyone is equally entitled to certain human rights is fairly new. Certainly one could argue that if human rights are so intrinsic and derive from a natural law, then why was the UDHR established as recently as 1945? It was the Second World War which acted as a catalyst for the formation of the United Nations and the UDHR, and its primary aim is to maintain international peace and security, and to promote social progress, better living standards, and human rights (United Nations, 2022). Human cruelty presents an

argument against the notion of a natural law, of which world wars are a significant example. History is rife with shocking and tragic suffering, inflicted on humans, by humans. Slavery in the United States wasn't abolished until 1863 (Lincoln, 1863), and legislation which aims to protect people of colour from racial discrimination wasn't passed until 1964 (U.S. Department of Labor, 2022). These events are extremely recent in the wider picture of human history, and this brings into question how innate human compassion and a drive to be good and kind to one another is.

Another argument against the idea that rights are rooted in divinity, is that it could only plausibly be applied to very general and conceptual rights, such as the right to life, in order to be applicable throughout the entirety of human existence (Nickel, 2021). However, the UDHR contains some rights that are only relevant in a contemporary setting, such as the right to education, or the right to share in scientific advancement (United Nations, 1945). This supports the notion that certain rights have developed from social, cultural, and political roots.

Anthropological approaches to universal human rights reveal difficulties, due to the diversity in human culture. In fact, some say that the UDHR is simply a reflection of eurocentric ideas (Patel, 2005). One could reasonably state there are no universals when it comes to human beings. For instance, many believe male dominance to be a universal norm. In fact, there are a number of existing matriarchal societies in the world today, such as the Umoja tribe in Kenya (Bindel, 2015). Another value that's considered to be universally shared by everyone is that killing is wrong, yet many countries make

an exception with the death penalty. Arguments made in favour of the death penalty are that punishments should fit the crime (BBC, 2014). Incidentally, this view reflects the biblical notion of an eye for an eye, but also raises an important inconsistency in the theological argument. If killing is wrong because human life is so valuable, why is it justified in certain circumstances? The existence of a law which allows killing in certain circumstances contradicts the theory of a natural law that provides humans with an intrinsic value that killing is wrong. These examples of cultural diversity highlight why it is difficult to enforce a universal system of rules. Every culture has a unique set of norms and values and a different moral code. A one size fits all code of ethics is questionable and inapplicable on a global level.

Human rights present a guideline of ethics which has evolved socially and culturally throughout human history. The theological theory that rights are inherent and imparted to us through divinity is flawed, for it relies heavily on the concept of universal, absolute laws, of which there are none. Killing is often considered a universal law, but capital punishment is one instance in which it is legally permissible, which contradicts the notion of it being a natural law. Another argument against natural law is how recent the UDHR as well as other laws and legislation are. If human laws are a tangible manifestation of natural and divine laws, then why have so many been implemented so late in human existence? This instead supports the notion that rights and laws have developed and evolved from social and cultural roots. The Second World War, which prompted the formation of the UN, is an example of human cruelty which also contradicts the notion of natural law. The diversity of human culture presents issues

when attempting to implement universal rules and rights, which again highlights how nothing is universal. Human laws continue to be amended still today as society evolves, and human rights and laws will likely continue to evolve to accommodate social and cultural changes.

References:

BBC (2014) *BBC - Ethics - Capital punishment: Arguments in favour of capital punishment*. Available at: https://www.bbc.co.uk/ethics/capitalpunishment/for_1.shtml (Accessed: 11 March 2023).

Bible Gateway (2022) *BibleGateway.com: A searchable online Bible in over 150 versions and 50 languages*. Available at: <https://www.biblegateway.com/> (Accessed: 12 March 2023).

Bindel, J. (2015) 'The village where men are banned', *The Guardian*, 16 August. Available at: <https://www.theguardian.com/global-development/2015/aug/16/village-where-men-are-banned-womens-rights-kenya> (Accessed: 11 March 2023).

Lincoln, A. (1863) *The Preliminary Emancipation Proclamation*. Available at: https://www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=433 (Accessed: 12 March 2023).

Meilaender, G. and Werpehowski, W. (2007) *The Oxford handbook of theological ethics*. Oxford [England]: Oxford University Press.

Nickel, J. (2021) 'Human Rights', in E.N. Zalta (ed.) *The Stanford Encyclopedia of Philosophy*. Fall 2021. Metaphysics Research Lab, Stanford University. Available at:

Aria Anderson

<https://plato.stanford.edu/archives/fall2021/entries/rights-human/> (Accessed: 21 February 2023).

Pasnau, R. (2023) 'Thomas Aquinas', in E.N. Zalta and U. Nodelman (eds) *The Stanford Encyclopedia of Philosophy*. Spring 2023. Metaphysics Research Lab, Stanford University. Available at:

<https://plato.stanford.edu/archives/spr2023/entries/aquinas/> (Accessed: 8 March 2023).

Patel, D. (2005) 'The Religious Foundations of Human Rights: A Perspective from the Judeo-Christian Tradition and Hinduism'. Available at:

<https://www.nottingham.ac.uk/hrlc/documents/publications/hrlcommentary2005/religiousfoundationshumanrights.pdf>.

Sutto, M. (2019) 'Human Rights evolution, a brief history', *The CoESPU Magazine*, p. 18.

United Nations (1945) *Universal Declaration of Human Rights*, United Nations. United Nations. Available at:

<https://www.un.org/en/about-us/universal-declaration-of-human-rights> (Accessed: 6 March 2023).

United Nations (2022) *History of the UN | United Nations Seventieth Anniversary*.

Available at: <https://www.un.org/un70/en/content/history/index.html> (Accessed: 8 March 2023).

U.S. Department of Labor (2022) *Legal Highlight: The Civil Rights Act of 1964*, DOL. Available at:

<http://www.dol.gov/agencies/oasam/civil-rights-center/statutes/civil-rights-act-of-1964> (Accessed: 12 March 2023).

Aria Anderson

Wenar, L. (2021) 'Rights', in E.N. Zalta (ed.) *The Stanford Encyclopedia of Philosophy*.

Spring 2021. Metaphysics Research Lab, Stanford University. Available at:

<https://plato.stanford.edu/archives/spr2021/entries/rights/> (Accessed: 6 March 2023).