

# Lecture Bearers of Human Rights

Master Theory and Practice of Human Rights

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# Griffin's Thesis on Human Rights

## ➤ Griffin's Main Thesis:

Human Rights are those rights necessary to realize  
“normative agency”

Definition: normative agency is "our capacity to choose  
and to pursue our conception of a worthwhile life"  
(p. 45)

# Griffin's Thesis on Human Rights

➤ Main Thesis: Normative Agency as dependent upon the realization of **Personhood**:

A) autonomy, B) liberty, and C) welfare rights

Personhood is already within the normative circle and does not violate Hume's law (it is not a naturalistic definition of human being).

# Griffin's Notion of Agency

## Personhood

- Autonomy= capacity to act on the basis of rational/self-given reasons

See <http://plato.stanford.edu/entries/autonomy-moral/>

- Liberty = “liberty from”...i.e. interference plus “liberty to” i.e. self-determination
- Welfare = minimal well-being i.e. health, income etc.

# Griffin's Notion of Agency

Griffin's definition of who is a "normative agency" as "Personhood"

- «To be an agent..one must (first) choose one's own path through life...'autonomy'. And(second)...one must have at least the minimum provision of resources and capabilities ('minimum provision')»...so (third) others must also not forcibly stop one from pursuing what one sees as a worthwhile life (call this 'liberty')»

# The Problem of Rights

What about in case of conflict of rights?

For Griffin these solutions require trade-offs ! Therefore in Griffin's theory human rights are not absolute.

**Teleological** approach weighting rights in view of the promotion of the notion of personhood (3 components)  
– evaluation of loss/gain in personhood (major/minor liberties affecting differently the notion of personhood)

# Griffin's Notion of Agency

What about if someone, for different reasons is not : 1) an autonomous subject and 2) cannot enjoy freedom ?

He/she is a "defective agent".

Normative agency for Griffin has degrees related to: autonomy, liberty and minimum provision.

# The Problem of Rights

- Whose Rights?

Who is NOT included in the category of normative agents?

«Human infants are not normative agents. Neither are human foetuses, nor the severely mentally handicapped, nor sufferers from advanced dementia»p.83

Ergo: for Griffin they don't have human rights...but other moral rights!



# Rights and Agency in J.Griffin On Human Rights, OUP 2008

Children as potential agents: they have the power to become an agent (and therefore moral worthiness) but this is at an underdeveloped stage.

Griffin's objection: then also embryo, sperm, egg etc. are potential agents morally worthy...but this is a *reductio ad absurdum*! And then what about those defective agents (even handicapped people) who will never develop this potentiality?

# Rights and Agency in J.Griffin On Human Rights, OUP 2008

Griffin refers to the UN Convention on the Rights of the Child (1989) where emphasis is on children's vulnerability and not potentiality.

From vulnerability it cannot be deduced human rights, as Griffin says «also plants are vulnerable!» p.85

So for Griffin the UN Convention on the Rights of the Child FAILS to ground human rights for children.

# Rights and Agency in J.Griffin On Human Rights, OUP 2008

- Is this true?

## Convention on the Rights of the Child

- Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

# Rights and Agency in J.Griffin On Human Rights, OUP 2008

Also, for Griffin, it is a no starter the inference from being "a morally significant subject" to his/her bearing human rights!

Many entities are morally significant yet do not bear human rights.

But Griffin recognises that in the case of children (not infants) one can say that they acquire rights in stages according to their agency's development!

# Rights and Agency in J.Griffin On Human Rights, OUP 2008

Griffin's conclusion :

«My belief is that we have a better chance of improving the discourse of human rights if we stipulate that only normative agents bear human rights – *no exceptions*: not infants, not the seriously mentally disabled, not those in a permanent vegetative state, and so on» (p.92).

Question: can one say that given this explanation human rights are for those who don't need them?

# The Problem of Duties

Whose duties? Three kinds of obligations:

1) universal and perfect obligations (due by all agents to all others) :

both rights and duty bearers are specified - universal human rights

# The Problem of Duties

2) perfect but not universal : the class of the promisees is not universal as for instance in «a promise» (special rights)

3) imperfect and non-universal obligations: i.e obligation to be kind, charitable etc. (discretion by the duty-bearer since there is no right-holder)

# The problem of duties

So which of the three alternatives do you think it applies to human rights?

Obviously category 1) since it is the only which maintains the universality of rights

»»»» consequence »»»»

generation of a community of rights holders/bearers:  
vertical (state/individual) and horizontal  
(individual/individual)