

Review

Reviewed Work(s): An Essay on Rights. by Hillel Steiner

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effect as the absence of such institutions in a prepolitical society. It might lead, for example, simply to a new political order—rather than to anarchy.

Finally, another important criticism made by Kraus is that Hobbesians have yet to resolve the potential conflict between collective and individual rationality (as in Prisoner's Dilemmas). Kraus rebuts various arguments, purporting to show that the net result of individually rational choices are never collectively irrational. And he also criticizes Gauthier's argument that rationality requires that one comply only with nearly fair agreements (narrow, as opposed to broad, compliance).

The above is intended merely to give a hint of some of the main themes. There are all sorts of issues and arguments that I haven't mentioned. And I have completely left out the supporting analysis for his criticisms (which is where all the action is, of course).

About the only significant criticism I have is that the book does not have any systematic discussion of James Buchanan's *The Limits of Liberty: Between Anarchy and Leviathan* (1975), which is an important Hobbesian work.

The book is extremely well written and argued. The richness and depth of the insights make it required reading for anyone with interests in contractarian (Hobbesian or Kantian) theory.

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Steiner, Hillel. *An Essay on Rights*.

Oxford: Blackwell, 1994. Pp. 305. \$54.95 (cloth); \$21.95 (paper).

During the 1970s and 1980s, Hillel Steiner published a series of intriguing and ingenious essays delineating and defending a position which G. A. Cohen has subsequently and aptly labeled "Left-wing Liberalism." Left-wing Liberalism is a rights-oriented political philosophy. Its distinguishing feature is its affirmation, as parts of a single system of compossible rights, of both robust, universal, original rights of self-ownership and robust, universal, original rights to equal shares of extrapersonal objectives—or, at least, to equal shares of natural extrapersonal objects. *An Essay on Rights* is Steiner's attempt to deepen, systematize, and generally smooth the conceptual bumps out of the Left-wing Liberalism advocated in those earlier essays.

Here are the key contentions offered by Steiner and indications of some of their interconnections.

1. The favored conception of freedom is the pure negative conception according to which agent Red is free insofar as he is not prevented from acting by other persons' possession (and, hence, control) of items which would serve as physical components of Red's action. Agent Red is unfree insofar as others, through their possession, prevent Red's use of some physical component necessary for his action or would prevent Red's use of that component were Red to proceed toward that action. "Freedom, then, is the actual and subjunctive possession of physical things" (p. 41). Since "physical things" (or aspects of them) can be possessed by only one agent at a time, one person's

possession and freedom is everyone else's nonpossession and unfreedom. Blue's escape from slave master Red plunges Red into the unfreedom of being precluded from whipping Blue.

2. The favored conception of rights is an entitlement conception according to which an agent's rights are titles to particular physical items and associated liberties to do with those items as he chooses. Only the assignment to individuals of discrete rightful domains will yield a set of compossible rights. Since to assign rights is to assign possession and possession is freedom, to assign a set of rights is to proclaim a certain distribution of freedom. And, if persons' original rights are to be equal, so too must be persons' original possessions.

3. Coherent moral codes are best conceived as endorsements of some plurality of values, with the values within a given code being ordered by priority rules including (perhaps) rules assigning lexical primacy. Equally coherent moral codes may conflict with one another by endorsing different values or different priority rules and, thereby, (probably) mandating incompatible actions.

4. The role of justice is to adjudicate precisely these moral conflicts, not by supporting one of the conflicting moral codes but rather by identifying which prevention of a contending action would be a trespass upon an agent's rights. Both parties can recognize that justice requires that one of the incompatible actions is not prevented even though it cannot be determined which of the two actions is more highly ranked. Such adjudication (according to Steiner) involves giving justice lexical primacy over all other values.

5. Any case for unequal original rights must appeal to relevant differences among persons, most specifically to the greater value of the actions which would arise were certain individuals assigned more than equal rights/freedom. But, according to Steiner, no such interpersonally valid rankings of alternative action patterns are available. Thus, "the freedom-distribution mandated by justice is an *equal* one, . . . everyone is justly entitled to equal freedom" (p. 216).

6. However, this equality of original rights is manifested as two distinct assignments of rights: each agent's original right of self-ownership and each agent's original right to an equal share of natural and created-but-abandoned extrapersonal objects. (Parents also have partial ownership of the personal objects who are their children—but only partial ownership since the parents themselves do not own the germ-line genetic information with which they create their children.) While the right of self-ownership is reasonably straightforward, the right to equal shares within the extrapersonal world is not.

7. Steiner denies (in this *Essay*) that each particular agent has an original right to some particular equal allotment. Rather each agent has a right against each other person who inhabits this globe (or any inhabitable spot) that the other not appropriate to a degree that would prevent that agent himself appropriating some equal share. Each agent acquires title to some particular equal share when he actually appropriates it. (Equality of shares in extrapersonal materials is measured by market value.) While appropriation from nature may draw down the pool of natural things to be appropriated, natural items get replaced by created things formerly owned by the now deceased. For dead persons, having no rights, have no rights of bequeathal. What they cannot take with them refurbishes the global (or galactic) stock available to new rights bearers who have emerged from their childhood cocoons.

8. Steiner's initial account of the right to equal shares points to systematic private ownership of extrapersonal material. There is an egalitarian starting point. But historical entitlement principles pertaining to titles in transformed, purchased, or donated objects seem to open the door to a regime of not-so-equal, yet fully just, private holdings. However, Steiner shifts rather quickly to a joint-ownership conception of equality in shares. The equal right to extrapersonal materials becomes the right to an equal share of their total economic values. Steiner says that, "Titles to sites thus amount to leaseholds: each owner owes to the global fund a sum equal to the site's rental value" (p. 272). But the only way to ascertain current rental values (cf. p. 278) and secure those values from present users is actually to engage in the not-too-long-term leasing of those "sites." Hence, all sites will be—and not merely "amount to"—leaseholds. This endorsement of the joint social ownership of at least all natural and abandoned resources explains Steiner's acknowledged affinity with the early Herbert Spencer and with Henry George. (While parents do not have to lease their children from the trustees of the global fund, parents who have used better-than-average germ-line genetic information in the production of their children do owe special rental payments into that fund.)

All of these contentions and more are defended with philosophical verve and craftsmanship throughout *An Essay on Rights*—though the reader will have to endure all too many excruciating dialogues between Red, Blue, White, et al. and the chatty Operators, Evaluators, and Adjudicators associated with such dialogic devices as the Moral Judgment Machine. However, when all is said and done, *An Essay on Rights* is remarkably unpersuasive. There are important problems within the conceptual framework developed in the first two-thirds of the work, for example, Steiner's account of freedom and his characterization of justice as one among many primary moral rules, albeit the lexically prime one. But the most striking problem is Steiner's failure, in the last third of the book, even to attempt to deal with the most obvious critical questions about Left-wing Liberalism's distinctive substantive contentions.

Here only the briefest mention can be made of only the most obvious questions. (For a more extensive development of these and related problems, I refer the reader to my essay "Distributive Justice and the Tensions of Lockeanism," *Social Philosophy and Policy* 1 [1983]: 132–50.) What justifies the division of personal resources and extrapersonal resources into two separate pools? What justifies the allotment of full self-ownership to persons who are highly favored by nature in their intelligence, talents, functioning body parts, and mental and physical energies? Suppose half of us had two functioning and easily transplanted eyes and the other half had none. Would not the sighted enjoy unequally large allotments of Steinerite freedom—allotments of freedom the preservation of which would constitute profound unfreedom for the unsighted? If overall equality of original possession is not to be achieved by measures such as redistributing body parts, should not those with unequally meager allotments of personal resources at least receive more than equal shares of extrapersonal resources as compensation? With respect to equal rights to extrapersonal resources, what justifies new arrivals' sharing equally in the value directly and indirectly imparted to extrapersonal materials by the labor of their predecessors? If this sharing is to take the form of constant reallocations of discrete holdings, will it not render nugatory the historical

entitlement principles Steiner claims to adopt? If sharing is to take the form of equal payments from a fund generated by a Global Leasing Operation, will not the monopoly position enjoyed by that Operation allow the effective confiscation of all or almost all the fruits of individuals' talents and efforts and, hence, infringe upon self-ownership? And, if the joint-ownership route is taken, why assume that all the globe's right holders, with their enormously diverse moral codes, will favor maximal economic return as the guiding purpose of the Leasing Operation?

Finally, it merits mentioning here that Steiner provides no account of why people have rights, only an account of what set of rights would be just were rights to exist. For Steiner, the endorsement of any primary moral rule, including his principle of justice, is a moral choice in contrast to a philosophical conclusion. Hence, Steiner concludes, "I've offered no reasons as to why we should *be* just. Nor do I think that any can be found" (p. 282).

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Simmons, A. John. *On the Edge of Anarchy: Locke, Consent, and the Limits of Society*. Princeton, N.J.: Princeton University Press, 1993. Pp. 293. \$39.50 (cloth).

Our understanding of Locke's political philosophy has benefited enormously in the last decades from the historical work of a number of important scholars (e.g., Dunn, Tully, Ashcraft). John Simmons's object in *The Edge of Anarchy* is to engage much of this scholarship. It is also to develop "the strongest possible version of . . . a Lockean program in political philosophy." He states openly that "this version is not Locke's, exactly, but rather an improvement on Locke's that departs from his version only in ways that permit it still to be considered truly Lockean in its basic commitments" (pp. 193–94). Many historians of political thought will be horrified by this sort of project, but Simmons's command of the texts and of Locke scholarship should allay their fears. Political philosophers should find the book valuable whatever their interest in the history of thought.

The book is concerned with "the relationship among persons that defines political society and that makes a person a member of such a society" (p. 3), what Simmons calls "the political relationship." Its aim is to develop a Lockean account, one that follows from Lockean moral and political philosophy. An account of the latter is developed in Simmons's *The Lockean Theory of Rights* (Princeton, N.J.: Princeton University Press, 1992), which may, but need not, be read in conjunction with this work.

Simmons argues that the Lockean political relationship is a certain kind of moral relationship, one grounded in consent. The rights and obligations of members of a political society exist only when each individual voluntarily relinquishes certain rights and accepts certain obligations. Lockean political philosophy is, then, a type of political voluntarism: "the view that political relationships among persons are morally legitimate only when they are the product of voluntary, willing, morally significant acts by all parties" (p. 36).