

# The Concept of Human Rights

Alison Dundes Renteln

**Abstract.** – This article examines some traditional Western views of rights and offers a critique of them. In particular it is shown that the case against the doctrine of logical correlativity is flawed. It is argued that rights and duties are always correlative, and that therefore duty-based moral systems can accommodate human rights. By expanding the standard view of rights, the author tries to provide a more solid foundation for a broader range of human rights. In addition, the presumed universality of human rights is called into question. The fact of cultural diversity reveals the inadequacy of traditional Western sources for human rights. [*Human Rights, Western and Non-Western Conception, Cultural Diversity*]

**Alison Dundes Renteln**, studies in History and Literature (Radcliffe College, Harvard Univ., B. A. 1981), Jurisprudence (London School of Economics), and Jurisprudence and Social Policy (Univ. of California, Berkeley, Ph. D.). Her fields of specialization include constitutional law, international law, and legal theory. 1986-1987 acting director of the Law and Society program at the Univ. of California, Santa Barbara; since 1987 Asst. Prof. in the Political Science Dept. of the Univ. of S. California.

There is considerable disagreement among theorists about both the nature and legitimacy of rights. Some of the theoretical issues raised by rights theorists are important for elucidating the notion of a human right. I will focus on the conceptual analysis of rights only insofar as it is relevant for understanding human rights.<sup>1</sup> I will show that the case against the doctrine of *logical correlativity*,<sup>2</sup> which associates rights of one person with the duties of another and vice versa, is flawed. If, as will be argued, rights and duties are always correlative, then duty based moral systems could accommodate human rights, the assertions of some commentators notwithstanding (e.g., Donnelly 1982). Next I will argue against some traditional categorizations of rights. I offer several observations motivated by the desire to expand the standard view of rights. By anticipating possible objections that rights theorists might raise to the assertion of particular universal human rights, I hope to make possible a more solid foundation for a broader range of human rights.

In the second part of the article I present some

classic definitions of human rights. I then discuss some of the traditional Western sources from which human rights are thought to be derived and find them lacking. The underlying reasons for their inadequacy are traced back to a deeply rooted belief in the presumed universality of Western moral notions. These same assumptions manifest themselves in some of the international human rights documents. It is clear from even the most cursory study of other cultures that their value systems differ from those of the West in significant ways, as can be seen in the cases of female circumcision and child labor.

## 1. The Nature of Rights

There are almost as many theories of rights as there are rights theorists. It is sometimes said that the only true rights are legal rights (Bentham in Bowring [ed.] 1843/II: 501; III: 221; Hart 1973: 171-201). Other scholars argue for a broader view of rights which would encompass moral rights as well. For the purposes of explaining the general character of rights, it will not be necessary to distinguish between them.

As is typical in the history of philosophy, what was once a simple notion is often transformed into a much more complicated structure. While this is sometimes useful (and indeed necessary) for certain concepts, it can obfuscate the essential features of an idea. Rights theories exemplify this tendency of rejecting more simple accounts in favor of more complex normative structures (Martin and Nickel 1980: 165). Some of the so-called simple characterizations of rights, however, do capture the essence of a right.

1 For a more detailed exposition of rights theories see Dworkin 1977, Feinberg 1973, Flathman 1976, and Wellman 1978.

2 As opposed to the doctrine of *moral correlativity*; see below.