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Human Rights: When Might Makes Right?

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Abstract. This article illustrates the various rights underlying the concept of human rights as right.

Why are human rights right? Can the various answers all be right?

Human rights can be justified on a moral stance that humans, by virtue of being human, are due certain privileges. These privileges are inalienable—i.e., not capable of being transferred or separated. In fact, these privileges are more than privileges because they are inalienable: in essence human rights are one's due. The moral stance from which one's due stems may be secular or sacred. The stance ultimately is based on rationalism, faith, empiricism, or some combination. As these epistemological tools have their vulnerabilities, so does the moral stance and so do the justification of human rights.

Human rights can be justified on a legal stance. In other words, human rights are right through various legal traditions. With a contemporary perspective, one might most often allude to the common, civil, socialist, and religious traditions. But, the various traditions have their own respective vulnerabilities. The precedent and usual practice criteria of the common law tradition and what should be and what is criteria of the civil law tradition are ultimately based on combinations of arbitrariness, accident, and functional utility. The furthering policy and power criteria of the socialist tradition are ultimately based on functional utility. The sacred should criteria of the religious tradition are based not on God's word but on ever-changing human interpretations of them. Can and should arbitrariness, accident, functional utility, and ever-changing human interpretation form the human rights foundation? Moreover, the legal traditions can be traced back to some moral stance and to the vulnerabilities of a moral stance.