

We All Acknowledge Rights



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I wanted to provide some more clarification on my recent writings on the concept of rights. I wrote in “On Rights II” that it has become fashionable among libertarians, *et al*, to proclaim that rights don’t actually exist – as if it were some sort of great advancement in thinking – and that such libertarians contradicted their proclamation in their very behavior. In “Rights Don’t Exist? Bitch, Please” I expanded on that idea by first explaining the two perceptions of rights, followed by how our behavior shouts a belief in rights from either perspective. (And further, but unrelated to the rest of this essay, that rights exist as a mental construction with effects in the physical world.)

But what I didn’t really do was define the concept of rights. Some of the push back I received focused on this. I realized at the time that defining “rights” was very difficult if one wanted to avoid presupposing a universal conception of either morality or justice. But I think I’ve solved this problem and in doing so have found a way to make my argument, as linked in the two essays above, more clear, and maybe more defensible.

So what are rights? First we should distinguish between certain types of rights. Some rights are explicitly agreed to by the relevant parties. These I would call contractual rights. We each agree to do or to give something to each other, and so based on the conditions to the agreement being met, we each obtain certain rights to each other’s stuff. Other rights are one-sided, as in my giving my children permission to use my tech and to eat my food. Some would call these privileges, and they are, but while the privilege is in effect, my children have been granted the right to use or consume my stuff. Other rights are those which people simply claim out of thin air, however defensible they are, such as the right to life or to work or to keep your stuff or to take the stuff of others. And still other rights are those granted by ones calling themselves “authority” in a given area, ie. legal rights. Many are the types of rights that have been claimed on one basis or another throughout the history of not only mankind, but of most life, I’d say. (Animals defend their territories, too, after all. As do some plants.)

Those are types of rights, and there may be more that I didn't mention, but the question remains, what are rights? What every type of right above has in common is the limiting or liberating of the behavior of people. So I think that's the best way to define rights, keeping in mind that every right can be viewed from two perspectives, positive and negative. "Rights," therefore, is shorthand, as most words are, for the broader claim that some behaviors may be justly limited, and others, liberated. Every type of right above is based on this definition in their own context.

Moving on, how does defining rights like this help my argument that we all acknowledge rights, even those who proclaim "rights don't exist"? Because when a person does or does not do anything, that is, performs in action, or refrains from performing an action, they are necessarily acknowledging either a limit or a liberty on their own and/or others' behavior. How so? Because to act is to use resources, starting with one's body, in the way of one's choosing, and if we are choosing between resources than we are acknowledging that we believe that we are justified, in some way (subjective), in manipulating the resources in question. We are engaging in a liberty when we act, and we are engaging in a limitation when we prevent someone (maybe ourselves) from acting, according to our own subjective conceptions of justice. Therefore, every actor presupposes some underlying rights-based structure, typically beginning with some theory of self-ownership, and often expanded into a theory of property.

To conclude I'd like to make one more point as clear as I can. I am not arguing that a particular conception of rights is universally acknowledged, or that rights exist outside of our mental constructions, or that rights as a mental construction ever enforce themselves naturally. What I am arguing is that to act is to acknowledge that the actor *believes* in rights in some subjectively conceived way. Nobody who acts can escape this without engaging in performative contradiction (their behavior contradicts their words). It simply can't be done. Every limitation we impose on ourselves or others, or liberty we enjoy or allow others to enjoy, is an acknowledgement of rights. Because that's what rights are: the claim, by word or by action, that some behaviors may be justly limited, and others, liberated.

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