

Diversifying Syllabi 2018 Text Summary and Teaching Tips

Article/Essay Title: “Reconciling Feminist Ethics and Politics on the Issue of Rights”

Author: Samantha Brennan

Readability: Easy/Moderate/Difficult

Brennan’s piece is clear and well-organized. Though it does reference quite a bit of background works on rights, Brennan generally presents them in a helpfully introductory way. It also helps that the concepts and issues she’s working with are likely to be at least somewhat familiar to students.

Thesis:

Brennan argues that rights-inclusive theories should be among those moral theories that feminists seriously consider. Rather than argue in favor of a particular rights-inclusive feminist moral theory, this article responds to criticisms that suggest that rights-inclusive theories are categorically incompatible with feminist moral theories, though it does suggest several possible directions for further development of rights-inclusive feminist moral theories.

Key Terms

Right – entitlement to forbid or require certain actions from others

Brief Summary

Introduction p. 260

States intention to argue that rights-inclusive theories should be among those moral theories that feminists seriously consider. Provides two reasons why this is an important project:

- Practical reason: Rights talk already deeply embedded in existing political practice—to give up on it unnecessarily invites exclusion from the political process.
- Theoretical reason: Intuition that rights talk gets some issues right. Ex: right of bodily autonomy as feminist approach to sexual assault and domestic violence.

Lays out form argument will take:

- Responding to 3 types of concern with rights-inclusive theories: structural, psychological, and scope.
- 3 types of response: some concerns aren’t essential to rights-inclusive theory, some potentially concerning features can be reconceived, some concerns can be addressed by supplementation.
- Not addressing metaphysical concerns about foundation of moral rights.

1. The Structure of Moral Rights: Rights as Absolute, Abstract, and Individualistic p. 261

- Claim: Rights are problematically absolute.
 - Claim: Absolute rights result in intractable and extreme moral positions that erase moral complexity.
 - Ex: Abortion as either absolute right of fetus to life or absolute right of woman to choice.
 - Claim: Absolute rights restrict range of cases rights can apply to.
 - Ex: No right not to be pinched.
 - Response: Rights theories need not be so absolute or so abstract.
 - Ex: Thompson’s context-dependent threshold theory of rights.

- But, Thompson’s account needs to be supplemented with theory of harm.
- Claim: Rights theories are problematically morally individualist.
 - Valid criticism of moral libertarian theories that recognize no positive obligations to others.
 - Response: Can be addressed either by understanding rights as nonabsolute (ex: Thompson) or by recognizing positive rights (ex: obligation to promote the good).
- Claim: Rights theories are problematically methodologically individualist.
 - Individuals as bearers of moral rights.
 - Response: This individualism not bad if also recognizes relations between individuals—which rights theories can, unlike rule-centered theories.
 - Response: The practice of rights accountability is necessarily community-oriented and relational.
 - Response: Rights can inhere in group membership. Ex: rights of women, citizens, etc.
- Claim: Rights theories are problematically ontologically individualist.
 - Rights theories invoke atomistic conception of selves.
 - Response: This assumption is not necessary for a rights-inclusive theory—can build rights theories on conceptions of relational selves.

2. Moral Psychology of Rights p. 267

- Claim: Rights theories problematically encourage atomistic, selfish, and antagonistic self-understandings. Two separate concerns:
 - The problem that rights and conflict are connected.
 - Response: Sometimes rights prevent conflicts. Ex: clear property rights.
 - Response: The conflict rights creates can be positive. Ex: rights that make injustice more visible and contestable.
 - The problem of how people use rights: selfish and selfless extremes.
 - People may wrongly take rights to be exhaustive of morality when it is only a small part. Ex: selfish antisocial over-asserter of rights.
 - People may wrongly waive or devalue their own rights. Ex: deferential wife.
 - Response: Need a virtue theory of how to use rights.
 - Response: Giving up rights would damage moral character—because rights are so deeply embedded in practices of resisting injustice.

3. Where Rights Belong: The Question of Personal Relationships p. 270

- Claim: Rights are inappropriate in dealing with personal relationships.
 - Claim: Argument from motivation: Motivation by rights is too thin.
 - Response: Rights can be moral minimum—not exhaustive of moral virtue.
 - Claim: Even thinking about a minimum makes people less virtuous.
 - Response: Possible to have a minimum that doesn’t drag down morality.
 - Response: Danger of exempting personal relationships from rights evaluations. Ex: domestic violence.

Concluding p. 272

Where to start with further feminist theorizing on rights:

- Focus on role rights has within a larger moral theory.
- Explore relevance of contextual factors more deeply.

- Develop a virtue theory of how to use rights.
- Directly address what the content of a feminist rights-inclusive moral theory should be.

SECTION TWO: to be completed by note taker during discussion

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Possible Applications:

- Political Philosophy
- Feminist Philosophy
- Ethics
- Intro to Philosophy

Complementary Texts/Resources:

- Popular articles (e.g. from places like buzzfeed?) that invoke notion of rights
- Michael Stolker, Moral Schizophrenia
- Rawls, Theory of Justice
- Hohfeld, Analysis of Rights
- Jennifer Nedelsky, Law’s Relations

Possible Class Activities:

- Diagram arguments and approaches to responding to them
 - E.G. separate out claims that she is responding to and her responses
- Intuition Pumps
 - One: What is a right? Are they important? Why? How do they seem to figure in our daily lives? How do social justice concerns
 - Two: What rights do you have as students? How about rights specifically indexed to here in this classroom? If rights are problematic in some ways, how should we revise our ordinary conception of rights in such a way that we can still retain the aforementioned rights?