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Allen Buchanan's *The Heart of Human Rights*¹ provides a thoughtful and field-opening analysis of the legal nature of human rights. The work proposes that there is an important difference between the *morality* of human rights and the *legality* of the practice of international human rights. On the one hand of the literature, philosophers have attempted to justify the morality of human rights, which Buchanan guides us through with precision and care. On the other hand, Buchanan proposes to expand the almost-unexplored area of justifying 'the Practice' of legal human rights without recourse to these moral foundations. Buchanan's argument is twofold in this respect: first, the existing literature has not actually provided a philosophical justification for whether the system of human rights is justifiable; and second, philosophers of all the various schools of thought on the topic have been conceptual imperialists – assuming that only their conception of human rights is the correct one. Let us take these two contributions in turn.

In first instance, Joseph Raz's 'Mirroring View' has dominated the field, by claiming that international human rights must correspond, or mirror, pre-existing moral rights². The focus of philosophers has been on the moral rights themselves, which can then be transcribed into international human rights by lawyers. Buchanan convincingly argues that such a view is untenable. The 'Practice' of these human rights itself cannot be safely ignored by philosophers, as there is a discrepancy between individual human rights and the collective application of these rights in the practice. Taking the concrete examples of rights to education and healthcare, Buchanan claims that the duties placed upon states to provide these services to their citizens are better thought of in terms of a system of legal obligations, rather than as moral duties. The question of the legitimacy of the system, thus, becomes all-the-more important.

In the second instance, the two major opposing schools of thought on the nature of human rights, the Political and Practical theorists on the one hand, and the Orthodox or Moral theorists on the other, have each tried to impose their conception of human rights in an imperialist manner. The former have done so by claiming that human rights act as restraints on state sovereignty, while the latter have argued for the rights of human beings by virtue of their humanity. Instead of arguing for one or the other of these views, Buchanan purports that we still lack a justification of the system of human rights, as it actually exists in practice. This justification is provided by Buchanan in this book, with a focus on one aspect of the Practice, namely the UN-based system of human rights law. But Buchanan also identifies other areas of research for this field which would further contribute to the same research agenda: international and regional courts of human rights, NGOs, civil society groups, whistle-blowing officials, domestic courts, legislatures, etc. Students of human rights practice would be wise to follow his footsteps.

¹ Buchanan, Allen. 2013. *The Heart of Human Rights*. New York, Oxford University Press.

² Raz, Joseph. 2010. "Human Rights without Foundations" in Besson, Samantha and Tasioulas, John, eds. *The Philosophy of International Law*. Oxford, Oxford University Press.

There are, however, several limitations to the arguments put forward by Buchanan. Let me begin with his method. Buchanan proposes a pluralistic justificatory method for human rights. This is his answer to Raz's mirroring view, and a direct criticism of the link between moral human rights and legal human rights. Simply put, Buchanan denies that pre-existing moral human rights are either necessary or sufficient for justifying legal human rights. This view, however, itself mirrors the view put forward by Rawls in a *Theory of Justice*³. There, Rawls had argued that moral agreement on a common conception of the good was not necessary to determine the justice of public institutions. Buchanan applies this insight to a different setting, and claims that moral agreement about the status of human rights is not needed for a justification of these legal rights in international institutions. Both Rawls and Buchanan refer to this method as one of pluralism, i.e. of finding agreement on the running of public institutions despite disagreement about conceptions of the good; yet both are ultimately weak pluralists, as they seek agreement on the conception of justice. This method has its appeal, of course, but it also has its drawbacks, and Buchanan's pluralism is not immune from criticism leveled against Rawls. Let us take just one: Michael Sandel's objection to Rawls that his overly Kantian conception of the self leads to a 'procedural republic' – a world where the rightness of a particular action is determined by one's adherence to a particular set of procedures⁴. It is difficult to picture Buchanan's justification for human rights as other than procedural in this sense. This sterilized approach to human rights does little to address the concerns, raised by Buchanan himself on the very first page of his book, that human rights generally face. What of those who object that human rights lack moral foundations, or that they serve the interest of powerful states, or that they lack legitimacy because they are the product of undemocratic institutions? Treating human rights procedurally further exacerbates those concerns, and it is unclear how this procedural approach constitutes the *heart* of human rights – rather than its cold, rational, and bureaucratic side.

Much more powerful, however, is the conclusion by Buchanan that some legal rights provide certain benefits – education and healthcare, for example – that are stronger than any moral human right could justify. This is potentially quite a radical contribution, but Buchanan shies away from these consequences by failing to call upon the United States to provide these goods for its citizens, for example. In the end, it is difficult not to throw back the accusation of imperialism at the author. For Buchanan remains noncommittal about the voluntary nature of legal human rights. While in the past, states have signed treaties on a voluntary basis, he argues that it is not a necessary model for the future, and that it is not morally unacceptable to impose certain human rights. This would raise alarm bells in many corners of the world, and the paternalistic approach of Buchanan's predecessors echoes in his own works.

³ Rawls, John. 1971. *A Theory of Justice*. Harvard, Harvard University Press.

⁴ Sandel, Michael. 1984. "The Procedural Republic and the Unencumbered Self." *Political Theory* 12(1): 81-96.

Last but not least, Buchanan fails to take seriously enough the pluralist challenge, which he nevertheless devotes a chapter to. Like Rawls, his pluralism is not radical, but superficial. Unlike someone like John Gray, for example, who has argued for the merits of a *modus vivendi*⁵, Buchanan incorrectly assumes that this model is weak because it is based on a balance of power, where no-one can enforce their own interests on others. A much thicker understanding of pluralism, whereby lack of agreement between different moral values is not taken as a nuisance but as a richness and a positive element in itself, is altogether ignored. Buchanan still tries to find a way in which legal human rights can be imposed on all, without considering that there are a number of approaches that could bypass these universal rights, which so often end up justifying the interests of the powerful.

⁵ Gray, John. 2000. *Two Faces of Liberalism*. Cambridge, Polity Press.