

There is also a brief review of the now massive “takings” literature. Kaufman feels that the takings issue has perhaps been most responsible for generating grassroots opposition to the environmental movement. Private property rights are deeply embedded in the American psyche, Kaufman believes, and clashes between environmentalists and private property owners are sure to increase.

One of the more interesting themes of the book is the discussion of the changing attitude among some scientists concerning natural states of equilibria. Kaufman sees nature more as a chaotic-dynamic process, making it silly to speak of a “balance of nature.” Large populations of animals come and go with astonishing frequency. The face of the earth itself writhes and heaves unpredictably. All that happens without the interference of mankind.

I doubt that chaotic models will replace more traditional equilibrium models any time soon in science or in economics. However, one does not need to fall back on chaotic-dynamics to reach Kaufman’s conclusion that our best course is to continue to adapt nature to our needs through the use of technology rather than passively to accept natural events. For Kaufman, as for Julian Simon and many others who have thought about these issues, the ultimate resource is the resourcefulness of human beings.

Kaufman has written a book that deserves a wide readership among people who desire to deepen their understanding of the environmental movement. Environmentalists, however, will despise its every page.

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An Essay on Rights

Hillel Steiner

Oxford: Blackwell, 1994, 305 pp.

It is a commonplace that the past few decades have witnessed an explosion of rights. “Human rights” seem to have multiplied endlessly. Each individual is asserted to have a right to welfare, a right to self-esteem, a right to health care, even, according to the United Nations’ Universal Declaration of Human Rights, a right to “periodic holidays with pay.” Unfortunately, these rights often conflict with the older human rights that classical liberals had fought for: the rights to life, liberty, and property (or the “pursuit of happiness”); the right to be secure in one’s home and possessions; the right to be left alone to worship God or to find one’s happiness as one sees fit. Such classical liberal “negative” rights do not conflict with each other, whereas “positive” rights to be provided with things produce many conflicts. If my “right to health care” conflicts with a doctor’s “right to liberty,” which one wins out? Will the doctor be forced to provide me with my health care? And to how much health care do I have a right, if the doctor also has the right to “periodic holidays

with pay?" (And to how many "periodic" holidays does the doctor have a right?)

As entitlements have multiplied and, increasingly, clashed with each other, traditional rights theory has been robbed of its very meaning. The traditional liberal notion of rights was precisely that rights *cannot* clash. The point of rights is to guide each person as to which actions are permissible in order to avoid conflicts among individuals or groups and to allow each person his freedom.

Rights theory took the wrong turn when it made "right" a mere synonym for interest or benefit: whenever something is in my interest (say, receiving free medical care or paid holidays), then I can claim a "right" to it. But as interests can conflict, rights-as-synonyms-for-interests can conflict as well.

The intellectual errors and problems of such misguided rights theory are brilliantly analyzed by University of Manchester philosopher Hillel Steiner in his book *An Essay on Rights*, the result of years of hard thinking about the topic. Steiner has gained a reputation in the field of moral and political philosophy by his insistence on "compossibility" as a criterion of rights. A set of "compossible," or mutually consistent, rights means that the actions they legitimate must be jointly performable. Steiner indicts almost all of contemporary rights theory—the kind that has generated the rights explosion—as fundamentally mistaken: "Any justice principle that delivers a set of rights yielding contradictory judgements about the permissibility of a particular action either is unrealizable or (what comes to the same thing) must be modified to be realizable."

Property rights satisfy the compossibility criterion, because when they are well defined they precisely inform people about what they may do with reference to particular material objects. On the other hand, vague, floating rights such as a "right to privacy" (as distinguished from a right to private property, which is how we normally ensure our privacy) come into conflict with equally vague rights such as the "right to know" or the "right to free expression." Your right to know about me or to speak about me might conflict with my right to privacy, and if that is true, how are we to know what we should do or what we are morally entitled to do? Property rights, on the other hand, allow us to pursue our interest in privacy or our interests in knowing without inherent legal conflicts requiring an all-wise and all-benevolent legislator to sort them out.

For these (and other) reasons Steiner considers rights and property to be coextensive. "A set of categorically compossible domains, constituted by a set of property rights, is one in which each person's rights are demarcated in such a way as to be mutually exclusive of every other person's rights." First and foremost among these rights, and the source of the traditional rights of association, speech, worship, and the like, is the right of "self ownership," the right that John Locke put at the foundation of his theory of property and justice. The rights of self-owners are necessarily compossible, for each person is responsible for one body, his own. (Steiner also discusses the cases of parent/child and guardian/ward

relationships as special applications of the general principle.) The result of Steiner's work is a brilliant reworking and defense of "classical *laissez faire* liberalism of the natural rights-based kind."

Steiner's arguments are complex and rigorous, taking up technical issues at the very cutting edge of moral and political theory. Steiner manages to make them accessible by means of a very ancient technique pioneered by Plato: the dialogue. Various positions are compared by means of characters who articulate and defend them, revealing the strengths and weaknesses of each. Although not the best dramatic exchanges I have ever read, the dialogues in *An Essay on Rights* serve Steiner's purpose of making often quite complicated arguments clear and easy to grasp.

Even when I could not endorse Steiner's conclusion, his arguments forced me to rethink my reasons carefully. Steiner is a master of logical argument and if you like exercising your mind, you will thoroughly enjoy the experience. There is one issue, however, on which I believe he has made a crucial error, and as it is clearly of great importance to Steiner, I should mention it. In an "Epilogue" on "Just Redistributions," Steiner endorses what used to be known as the "single tax" idea of Henry George. Georgists allege that one cannot legitimately own naturally occurring resources, but can only have rights to the value one adds through one's work. Therefore, those who use such resources must pay a tax (it is rarely indicated to whom) reflecting its value. Setting aside the perhaps insuperable difficulties of actually implementing such a scheme, especially on a global basis, the key philosophical error lies in assuming what the classical writers on property called a "positive community" of unappropriated resources. That was the notion that members of a group have claims to an equal share, as in a partnership from which others can be excluded, as distinct from a "negative community," in which all human beings have an equal right to appropriate unappropriated resources.

The seemingly slight difference between the "right to an equal share" and the "equal right to appropriate a share" has enormous consequences, as Steiner's conclusions show. I found myself quite unconvinced of the arguments offered on behalf of the first formulation. But this in no way detracts from the rigor, the unremitting brilliance, and above all the timely relevance of *An Essay on Rights*. It deserves not only to be on the shelf of every political thinker, alongside John Rawls's *A Theory of Justice* and Robert Nozick's *Anarchy, State and Utopia*, but it also deserves the attention of anyone seeking to repair the damage done by the rights explosion.

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THE LAWS OF THE MARKETPLACE

Though my heart be left of centre, I have always known that the only economic system that works is a market economy, in which everything belongs to someone—which means that someone is responsible for everything. It is a system in which complete independence and plurality of economic entities exist within a legal framework, and its workings are guided chiefly by the laws of the marketplace. This is the only natural economy, the only kind that makes sense, the only one that can lead to prosperity, because it is the only one that reflects the nature of life itself.

—Václav Havel

*Summer Meditations on Politics, Morality
and Civility in a Time of Transition*
(London: Faber and Faber, 1992), 62.