

“HUMAN RIGHTS: INTERACTIONAL OR INSTITUTIONAL?”

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Abstract

In *World Poverty and Human Rights* (Polity 2002) Thomas Pogge introduces the distinction between institutional and interactional conceptions of human rights. Both conceptions assume a Hohfeldian form according to which a right constitutes a claim; but they disagree about who the claims are primarily held against. An interactional conception of human rights holds that, like other rights, they are claims held primarily against other individuals. An institutional conception of human rights holds that they are claims held primarily against coercive social institutions and secondarily against those who contribute to upholding such institutions. On an institutional conception, insofar as individuals have duties correlative to the human rights of others, they only ever derive from those held by the coercive social institutions of which they are a part. Pogge's defence of an institutional conception of human rights challenges the interactional conception taken for granted by many human rights theorists. This paper aims to provide a detailed and critical examination of the institutional-interactional distinction. This is important because how human rights are conceived bears on the allocation of duties correlative to human rights as well as on the content of those duties.

I begin by considering some of the central philosophical and practical implications of accepting the institutional conception of human rights. One is that the existence of human rights on this conception presupposes the existence of coercive social institutions. A further implication is that ordinary individuals cannot directly violate the human rights of others. I suggest that both these implications run contrary to some widely-held intuitions about the nature of human rights, giving us reason to expose the institutional conception to further scrutiny. I go on to offer a close analysis of the interactional-institutional distinction which, I argue, is presented as falsely dichotomous. I lay out a broader spectrum of available conceptions of human rights based on a parallel discussion about conceptions of justice. After locating Pogge's institutional account within it and critically examining his motivation for accepting it, I conclude that he fails to provide sufficient support for his position. Building on similar criticisms of the institutional conception of human rights raised by Simon Caney, John Tasioulas, and Henry Shue, I offer a more plausible conception according to which human rights have both institutional and interactional components. Pogge's overall project, I argue, would lose no force by accepting this sort of hybrid conception. Questions remain about how to best incorporate institutional and interactional components into a conception of human rights. I conclude with some thoughts on how this might be done.