

Table of Contents

Acknowledgments *ix*

Introduction *xi*

1. Rights and Hohfeldian Analysis 1
 - A Neo-Hohfeldian Analysis 1
 - The Nature of Liberties 6
 - The Structure of Hohfeldian Relations 11
 - Disagreements with Hohfeld 17
 - Agreements with Hohfeld 19
2. Normative Constraints 25
 - Claim and Immunity Rights 25
 - Liberty and Power Rights 30
 - Duty, Disability, Liability, and No-Claim Rights 34
 - Some Objections 39
 - Martin: Socially Recognized Normative Directions 49
3. Deontic and Alethic Concepts 63
 - Some Fundamental Normative Concepts 63
 - Hohfeldian and Normative Analysis 72
 - Feinberg: Valid Claims 75
 - Moral Rights 77
4. The Relational Nature of Rights 85
 - Relational Obligations 85
 - Protection and Justification: the Interest and Choice Theories 86
 - Raz: Interests that Justify Duties 88
 - Hart: Protected Choices 99
 - Wellman: Advantaged Wills 104
 - Sumner's Theory-Based Argument for the Choice/Will Theory 111
5. Rights, Reasons, and Persons 116
 - Reasons and Relational Obligations 116
 - Simple and Complex Justification 128
 - Non-relational Obligations 131
 - Consequentialism 133
 - The Individuation of Rights 140
 - Some Implications of the Justified-Constraint Theory 147

TABLE OF CONTENTS

6. Rights Conflict 157
 Permissible and Unavoidable Rights Transgression 157
 Prima Facie and Specification 160
 The Identity of Prima Facie and Specification 167
 Rights Conflict and Arguments 176
 Wellman's Examples 187
 Dworkin: Trumps 189

7. Right Holders: Present 195
 Individuals, Groups, and Relevant Features 196
 Clearing Some Underbrush 200
 Individualism Versus Collectivism 204

8. Right Holders: Past and Future 211
 The Problem of the Subject 212
 Feinberg's Proposed Solution 213
 Wellman's Proposed Solution 216
 Time and Rights 219
 Parfit and the Non-Identity Problem 228
 Implications 230

9. A Final Comparison 233
 Objections to the Justified-Constraint Theory 233
 Problems with Other Theories of Rights 236
 Advantages of the Justified-Constraint Theory 241

References 245
Index 249