

Book Notes: Rights From Wrongs: A Secular Theory of the Origins of Rights, by Alan Dershowitz

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RIGHTS FROM WRONGS: A SECULAR THEORY OF THE ORIGINS OF RIGHTS. BY ALAN DERSHOWITZ. NEW YORK: BASIC BOOKS, 2004. Pp. ix + 261.

BY ANDREW SUNTER

In stark departure from the conventional, ever-expanding body of thought on the ontology of human rights, Alan Dershowitz forwards a rights theory that is not predicated on human nature, logic, law, or religious faith. Dershowitz contends that human rights exist notwithstanding the ontological status of God; that human nature is inherently value-neutral and, therefore, not the source of rights; that the *a priori* premises of logic, while cogent in a vacuum, enjoy little practical consensus; and that positivist legal sources cannot, in themselves, effectively sustain rights, since they can provide no independent means of self-evaluation.

Dershowitz characterizes his approach as a bottom up dystopian account of human rights. Dershowitz argues that rights are founded by human experience—we gain human rights knowledge from the wrongs of the past. For example, the right to religious freedom was fostered by historical tragedies of religious intolerance and persecution, such as the Holocaust, the Crusades, or the Spanish Inquisition. If human nature is at all relevant to human rights, it is because the human species has an unique ability to learn from its mistakes and avoid their repetition.

Dershowitz provides a refreshing departure from the moral essentialism that seems to dominate human rights discourse. However, Dershowitz—more renowned as a celebrity defence lawyer and left-leaning political commentator than as a socio-political thinker—occasionally slips into his own undefended version of essentialism. There are moments when *Rights from Wrongs* reads less like a carefully reasoned theory than a populist polemic. Dershowitz strives to make his argument accessible to a broad audience, and while his non-technical prose is engaging, he has a tendency towards deconstructing straw men rather than nuanced moral philosophies. However, while Dershowitz's thesis is not altogether persuasive, his central claim is an important reminder that effective rights protection depends more on hard work than ideology.