

ON WALDRON'S CONCEPTION OF MORAL RIGHTS

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ABSTRACT

J. L. Mackie (1978) once pointed out that we have a moral right to do something only if we have no moral duty not to do it. This view implies that the only moral rights we can claim to have are rights to do what is not morally wrong. Jeremy Waldron (1981) argues against such a conception of moral rights in a paper called "A Right to Do Wrong." According to him, a correct conception of moral rights should allow for the possibility that we may have a moral right to do something that is morally wrong. He thinks that only if there is such a possibility can we be said to be really in possession of the kind of autonomy that liberals think we should enjoy when making important choices in our lives.

In Waldron's view, the contemporary liberal Ronald Dworkin's theory of "rights as trumps" has left such a possibility open. The first half of this paper examines Dworkin's theory and seeks to show that, in order to be consistent, Dworkin had better opt for Mackie's rather than Waldron's conception of moral rights. The second half of this paper tries to defend Mackie's conception against Waldron's. Two kinds of autonomy are distinguished, namely, "autonomy" which is bound by the requirements of morality and "autonomy" which transcends them. In his argument for an alternative conception of moral rights, Waldron is in fact speaking of the second kind of "autonomy." For him, the possibility of there being moral rights to do what is morally wrong must be acknowledged if "autonomy" in making important choices in our lives is to be protected as an ideal by moral rights. This paper tries to nullify the force of this claim by arguing that "autonomy" as conceived by Waldron in the second way is not a right kind of ideal to be protected by moral rights.