

## Summary

### *“Compensation and the Exercise of Rights”*

by Claire Grant

Grant’s paper explores the foundations of compensation in the moral theory of rights, asking in what circumstances the infringement of rights should create a duty to pay compensation. The paper engages with a classic case originally advanced by Joel Feinberg, of a hiker lost in the woods who is forced to break into a private but vacant cabin and use its supplies in order to survive. Feinberg, followed by Judith Jarvis Thomson, has argued that in such a case, the rights of the cabin owner are not violated but rather only infringed. The hiker may permissibly infringe such rights in such circumstances, so long as - - Feinberg and Thomson stipulated -- he pays compensation for the cost of the damage done to the cabin. In contrast, Grant argues that compensation should only be paid where a wrong has been done: it belongs to the theory of reparation. Therefore compensation is not morally owed by the hiker to the cabin owner, although the hiker does owe the remedial duties of regret and gratitude. Conversely, if the cabin owner does have the legal right to claim such compensation, he should morally refrain from doing so. Further, the law should be changed to exclude legal liability in such cases of necessity, because a liberal society should not enforce liability in necessity cases where voluntariness is substantially impinged. Grant concludes that a society of rights is not necessarily a tendentious or overly litigious society, so long as rights are understood ethically (and, ideally, legally) in the way sketched above. A further intensification of such an attitude would produce a community of friends, in which rights-owners would often refrain from insisting on their rights even in cases which did not involve absolute necessity.