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Chapter 9

Human rights as foreign policy imperatives

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INTERNATIONAL RESPONSIBILITY FOR HUMAN RIGHTS

In this chapter I will argue for a broad conception of moral responsibility with respect to human rights. This conception concerns requirements of justice that extend across borders. I will defend a principle of International Responsibility for Human Rights, according to which widespread human rights abuses require an international response.¹

Under this principle, the particular obligations that individual states incur will vary as follows: all states are morally prohibited from profiting in their dealings with regimes that violate human rights.² Further, a state that is directly implicated causally in human rights violations in another state has a special obligation to support international efforts to halt those violations and to make reparations. This may include shouldering the costs of intervention across borders. And finally, as benefiting members of an international community, wealthier states are obligated to offer aid to poor states, when doing so will further the cause of human rights. I will not explore in any detail strategies states ought to take in order to satisfy the positive obligations the principle imposes. I focus instead on arguments that aim to show that societies in crisis must be brought up to a decent minimum. A reasonable consensus on human rights defines that minimum.

The argument I develop thus addresses the content of human rights as well as their function within international relations. Human rights must be conceived of narrowly if they are to play the role spelled out for them by the principle of International Responsibility for Human Rights. A narrow conception of human rights will not include many rights specified in the Universal Declaration of Human Rights. It will

not include, for example, the right to holidays with pay (article 24), the right to education directed at "the full development of the human personality" (article 26), or the right "to enjoy the arts and to share in scientific advancement" (article 27). Nor, more controversially, will it include the full liberal right to freedom of expression (article 19), the right to democratic political participation (article 21), or the right to equal pay for equal work (article 23).

Human rights advocates are likely to endorse the role that I claim human rights ought to play in international relations. They may be unhappy, however, with my narrow construal of the content of human rights.³ By contrast, political realists who might endorse the narrow content as a matter of political accommodation or in the service of national interest would reject the strongly normative role for human rights that I argue is required by international justice.⁴ My argument does not represent a compromise between these two positions. It grows out of a broader moral philosophy of the nature and limits of our obligations to other persons.

I begin with a sketch of the fundamentals of a moral philosophy that leads toward a principle of International Responsibility for Human Rights. A fundamental requirement of morality is this: we should reasonably be able to think that the principles that guide our social interactions are compatible with the basic interests of all persons involved.⁵ These social interactions encompass behavior that either directly or substantially affects other persons. The requirement that our behavior be compatible with the interests of those affected by it conveys the idea that all persons have equal moral status. We should be concerned that persons who share the aim of meeting this requirement do not have reasonable objections to our conduct.

We should understand this "impartialist" moral requirement to hold across national borders. People who are committed to standing in morally acceptable relations with other people would affirm the equal moral status and claims of persons generally, regardless of national identity and physical location. Associative obligations to our fellow citizens cannot override the more fundamental moral requirement that the impact of our conduct on other people be compatible with their most basic interests. Distance between persons often gives some indication of when morally relevant interactions or interpersonal effects are present. But there is no reason to think that distance itself matters morally.⁶ Our political and economic conduct is often closely connected with the life conditions of persons who live outside our borders. The goods we consume

are produced in an international economy and the governments we elect are engaged in political interactions that affect the stability and prosperity of other societies around the world.⁷ The rapid and growing exchange of information and the development of new technologies have global implications, including serious consequences for the natural environment. These and other indicators of increasing interdependence and mutual influence between societies only strengthen the moral intuition that the basic interests of other people matter no less when we do not share their culture, ethnicity, religion, national identity or geographical region.⁸

HUMAN RIGHTS AS URGENT NEEDS

Let us refer to societies that are minimally just as "decent" societies.⁹ As I shall understand it, the goal of protecting human rights should be shared globally: this goal is at the core of a conception of global justice whose principles would secure joint acceptance by decent societies. That is, concern for human rights is fundamental to a cross-culturally shared (or shareable) conception of international justice. I have supposed that some concern for the basic needs of persons generally, regardless of national affiliation, is a requirement of morality for persons who are engaged socially or politically with one another. It should not be surprising, then, that states supported by morally concerned individuals would endorse some version of International Responsibility for Human Rights.

This principle will meet the normative requirement of joint acceptability, however, only when the role it articulates for human rights in international relations is restricted by a narrow understanding of the content of human rights. The content of human rights must be consistent with a range of not unreasonable understandings of justice that societies may adopt for regulating their internal affairs. We should not assume that all decent societies must be liberal. A society would be intolerant to assume that other societies with different histories and cultures should share the conception of rights particular to its own understanding of domestic justice. The prospects for effective joint deliberation and action in accordance with principles of international justice would thereby be remote.¹⁰ A narrow conception of human rights is designed to avoid this problem.

The requirement of joint acceptability by decent societies of a conception of human rights aims to ensure that each party demonstrates respect and concern for the interests of the others, despite real disagreement over

the nature of domestic justice.¹¹ This requirement is basic to a morality of states as distinguished from a mere *modus vivendi*. The idea that some substantial mutual concern is part of the concept of decency means that adherence to principles of global justice would not be the result of self-interested bargaining between states. There are, of course, self-interested reasons why states would care about the international protection of human rights; no society can guarantee its security against natural disaster, political corruption, internal conflict, or foreign aggression. But acknowledging the mutual concern that is basic to any plausible conception of morality and justice is needed to explain how a shared commitment to the protection of human rights globally could remain sufficiently strong and stable over time.

I submit that in view of their shared moral framework of mutual concern, decent societies would agree that human rights generate moral imperatives. An obvious and primary imperative of human rights is domestic respect and implementation. I take that for granted. My focus is on the idea that when domestic respect and implementation is lacking in a society, human rights generate foreign policy imperatives for other societies. They constitute imperatives for an international response. I now consider several relevant kinds of foreign policy imperatives.¹²

The first sort of foreign policy imperative concerns *prohibitions on engagement*, for example, in trade. All decent states have a moral obligation not to profit from dealings with regimes that systematically violate human rights. It is objectionable as well for countries to allow international corporations that contribute to the violation of human rights elsewhere to operate within their borders. Just as corporations are required to engage in a lawful business, they should be held to human rights standards. Generally speaking, profiting from injustice is wrong, and in the human rights cases with which we are concerned, the matter of injustice is severe. Due consideration to the severity of the injustice supports prohibitions on engagement. Economic disengagement with regimes that are involved with human rights abuses also places valuable pressure on those regimes to change their conduct.

A second sort of imperative involves *duties of aid*. Aid may come in many forms: cash payments, loans, food, clothing and equipment, medical care, education, training, and advice. Decent societies would agree that wealthier societies are under a moral obligation to aid those in need, when providing aid would further the cause of human rights. The inequalities between societies are tremendous and there is much that wealthy states could do to bring poor states up to a minimally decent

level of well-being, without incurring unreasonable costs.¹³ A narrow conception of human rights helps to make the point that parties with more resources can help at minor cost to themselves, relative to the stakes involved. This may involve adjusting the terms of international trade, engaging in debt relief and establishing minimum wage regulations for international corporations. In other words, wealthier nations may be under pressure to reform international institutions as well as, in some cases, to provide more direct forms of aid to governments. As rescue examples help to show, it is commonly recognized that those who are in an advantageous position to further important moral aims have stronger obligations to act. This intuition is only strengthened by the fact that the standard of living in poorer countries has often been negatively affected by the conduct of wealthier countries in the international arena. These effects lend further weight to the argument that wealthier states ought to take steps to rectify the most egregious inequalities and to aid those in need up to a decent minimum.¹⁴ It is hard to see how the denial of these duties of aid could be consistent with sincere affirmations of concern for the basic welfare of persons generally.

There is a third sort of imperative generated by the moral urgency of human rights: *requirements of intervention*. Sometimes clear and direct causal connections can be drawn between the conduct of one state and the human rights situation in another. If a state supports a regime that is responsible for widespread human rights violations or if it fosters economic activity that results in human rights violations or deprivations, that state bears a special moral responsibility for rectifying the damage. Its conduct has detrimental effects that are both substantial and direct. This constitutes a blatant violation of the moral compatibility requirement. When the international community reasonably deems it necessary to intervene across borders in order to halt abuses, those states that have been causally involved with the injustice are obligated to support that effort (with soldiers, supplies and money), when they have the resources to do so. Intervention may call for aggressive forms of diplomacy, as well as embargoes and other military operations. I stress the importance of diplomatic intervention, which can be neglected. Of course, given a state's history of questionable foreign policy, its reparative actions ought to be monitored and enforced by international institutions.

One might object that such causal connections are insufficient to support the special responsibilities I have described, since a state's economic or political support for another state's unjust regime might fall short of establishing the supporting state's moral blameworthiness for

the abuses of the unjust regime. The supporting state is not the agent of those abuses and may even be ignorant of them. Still, the supporting state's role is, generally speaking, reason enough to establish that the state has an obligation within a collective scheme to attempt to rectify the abuses, even at significant cost and risk, such as incurring deprivations through sanctions or suffering military casualties. Placing special moral pressure on societies that are directly causally responsible for human rights violations is a practical way to end those violations and to organize an international response, and it does not seem unjust.¹⁵

Thus we have arrived at a certain understanding of how International Responsibility for Human Rights should be distributed. This principle is compelling because the injustices with which the principle is concerned are very serious. Bringing the worst off up to a very basic standard of living is a moral priority. The role played by this threshold represents an important restriction on the scope of the principle. International Responsibility for human rights is concerned with needs that are especially urgent. Moreover, such needs could be recognized by all concerned parties (provided each has some concern for the welfare of persons as such); that is, the urgency of these needs could be collectively endorsed.

Urgent needs, as I understand them, pick out a class of needs that affect the basic welfare of persons, but they do not include all the needs whose fulfillment or deprivation significantly affect how well a person's life goes.¹⁶ Security and subsistence needs, for example, count as urgent. By contrast, winning an Olympic medal may be an important goal for someone, but this does not mean that she has an urgent claim on us to help her achieve it. This may be true even when winning the medal substantially affects her welfare; for instance, achieving her ambition may make a real difference to whether she judges her life as a whole to have been worthwhile.¹⁷ Persons may disagree about the fundamental importance of many commitments and ambitions, including commitments to religion, education, or technological development. A standard of moral urgency, however, must be able to generate consensus among parties who aim for agreement and have some moral concern for one another. On the understanding of urgent needs I am proposing, human rights comprise a suitably thin moral standard of urgency within international relations.

The plausibility of the principle of International Responsibility for Human Rights depends on the possibility that decent societies would agree that human rights violations comprise harms serious enough to warrant an international response and, in particular, a response that

would suffice to rectify the injustice. As I have suggested, the urgency of human rights entails that all states have an obligation to refrain from economic engagement with a regime that violates human rights. It also provides the basis for establishing duties for certain states to provide aid or to act more aggressively to change such a regime. In these ways human rights would assume priority in foreign policy. Recognizing the moral urgency of human rights can be viewed as the cost of membership in the international community.

THE COSMOPOLITAN ROOTS OF INTERNATIONAL JUSTICE

The view I have articulated so far fits within the broad framework for thinking about international justice put forth by Rawls in *The Law of Peoples*. In particular, I follow him in holding that a conception of international justice should be jointly acceptable to decent societies. Rawls develops this idea by supposing that principles of international justice are principles that would be chosen by representatives of decent societies behind a veil of ignorance. These representatives, we are to imagine, do not know the size of their territory or population, their relative strength, the extent of their natural resources or economic development, or whether they are liberal or non-liberal.¹⁸ They do assume, however, that the societies they represent are decent. The principles that would be chosen include those that assert the equal status of peoples, the bindingness of treaties, limitations on the right to war and on its conduct, duties of assistance under unfavorable conditions, and the importance of human rights.¹⁹

The fact that societies rather than individual persons are represented in the hypothetical choice situation when the task is to formulate principles of international justice has led some critics to object that Rawls' law of peoples is insufficiently cosmopolitan.²⁰ A cosmopolitan view holds that the fundamental unit of moral concern is the person, and that all persons matter morally. Cosmopolitanism is thus individualistic and universalistic; states or societies can have moral claims only derivatively.

Charles Beitz contrasts cosmopolitanism with what he calls "social liberalism." According to the social liberal, the fundamental units of moral concern within a theory of international justice are societies, not individual persons. On this view, we are to understand the international community as a society of domestic societies characterized by a division of labor: "domestic societies are responsible for the well-being

of their people, while the international community is responsible for maintaining background conditions in which decent domestic societies can flourish."²¹ It is the corporate interests of peoples, rather than the fundamental interests of their members considered as individuals, that are to determine the choice of principles of international conduct.²²

What is wrong with social liberalism, according to Beitz, is that insofar as it is compatible with concern for human rights, it leaves us without the right sort of justification for them. It is because all persons matter morally that human rights are a pressing concern, not because respect for human rights enables a society to function smoothly and to enjoy peaceful and productive relations with other societies. Our strategic interest in international stability is not what underwrites the moral status of human rights.²³ "For example, the reason why people have human rights not to be tortured," he writes, "does not seem to be that regimes that torture are dangerous to other regimes: although the latter fact (if it is a fact) might justify intervention, it does not imply anything about the moral situation of the tortured."²⁴

Beitz is wrong, however, to classify Rawls as a social liberal. The criterion of decency for societies that Rawls puts forth is designed to be responsive to the basic interests of persons; the moral status of peoples or societies can and should be understood to be derivative. Rawls defines decency largely in terms of respect for human rights. I have suggested some further analysis. The content of human rights can be understood to be the subject of negotiation between societies that are supported by morally concerned individuals who affirm that the fundamental interests of all persons matter morally. Recall the moral intuition with which we started: the basic interests of other people matter no less when we do not share their culture, ethnicity, religion, national identity or geographical region. This intuition is central to a cosmopolitan moral philosophy.²⁵ Using this intuition to guide us helps to show how a conception of international justice that takes seriously the moral claims of peoples or societies can be situated within a cosmopolitan moral conception – one in which shared ethical concern for human rights generates international pressure to ensure that all societies are decent.

The reason we are led to imagine negotiation of the content of human rights taking place between societies or peoples rather than between individual persons is that this acknowledges that persons may have a basic interest in culture: an interest in group membership, in a sense of community, and in realizing shared values, including a collective sense of religious devotion, commitment to a particular language, or an

understanding of political authority as, say, gendered or hereditary.²⁶ I group these sorts of considerations loosely together as cultural claims. Cosmopolitanism must leave room for the importance of cultural claims, since many persons care deeply about them and, properly constrained, cultural claims can be understood to be compatible with the basic human rights of persons as such.²⁷ It is natural and morally unobjectionable, generally speaking, to form special ties with particular individuals and groups with whom one shares interests and values that define a sense of one's identity. Common values may be expressed, for instance, in educational requirements, the declaration of a state religion, or restrictions on eligibility for political office.

The limitation that human rights places on collective autonomy, however, is serious and important in view of the fact that most societies are multi-ethnic and multi-religious. A narrow approach to human rights can acknowledge the importance to some members of their shared ends and attachments at the same time that it ensures protection for the human rights of members of minority groups. It achieves this by checking to see that its content is compatible with the interests of both liberal and non-liberal societies, provided that all such societies in turn represent the basic interests of all of their members. In other words, a narrow approach makes room for cultural claims while maintaining that all societies must be decent.

THE CONTENT OF HUMAN RIGHTS

I have argued that only a suitably constrained conception of human rights could be endorsed by all decent societies. A narrow conception contrasts with a conception that gives expression to a full-blown understanding of the elements of a good life,²⁸ or to what is demanded by a conception of justice fully adequate to order the affairs of some domestic society. A narrow conception of human rights must respect variance in local conceptions of justice at the same time that it provides the right sort of guidance within international relations – expressing what we might think of as the limits of toleration. It would be likely to include the following²⁹:

- (1) *Security rights*: the right to life and to bodily integrity.
- (2) *Subsistence rights*: the right to a minimally adequate standard of living (food, clothing, housing, and rudimentary medical treatment, such as low-cost, life-saving vaccinations).³⁰

- (3) *Individual liberties*: freedom from forced labor, freedom of conscience, freedom of private expression and association, freedom publicly to protest the violation of human rights, free movement, the right to emigrate.³¹
- (4) *Political rights*: the right to have reasonable and accountable political representation.³²
- (5) *Due process rights*: the right to public disclosure of criminal charges, a hearing or trial to assess the truth of the charges and public disclosure of the verdict and sentence; the right not to be subject to torture.

A regime that uses terror to “ethnically cleanse” some portion of its territory, for example, clearly violates the security rights of the targeted population. All states have a duty to refrain from economic engagement with such a regime. The case for intervention of some sort is strong when less invasive methods of addressing the problem are unlikely to be effective. Any states that have substantially supported the offending regime are obligated to assist in intervening when it is necessary in order to address the human rights crises.

The CIA helped to destabilize the popularly elected Allende regime in Chile in 1973 and was instrumental in empowering the Pinochet regime. (Let us accept these as the facts.) The Pinochet regime was subsequently responsible for widespread human rights violations – of security, individual liberties, political rights and due process. There is a good case to be made that the United States thus incurred a duty of reparations. A similar case can be made with respect to the human rights crisis in East Timor, given the history of United States support – economic, political and military – for the Indonesian government.

Left off the narrow list of human rights are:

- (6) *Rights associated with liberal democracy*: the right to vote, the right to organize political parties, to conduct political campaigns and to run for public office, free public speech, freedom of the press.
- (7) *Rights associated with a secular state*: the public teaching and practice of religion, sexual and lifestyle liberties that extend beyond private expression and association.
- (8) *Rights associated with the value of equality*: the right to work and to receive equal pay for equal work, the right to education, the right to equal citizenship and to full equality before the law, the right to non-discrimination on the basis of sex, race, religion, and so on.

I certainly do not deny the importance of rights in these latter categories and, in particular, their common connection in practice with the narrow rights I have identified as basic.³³ These connections are important to understand, especially since I am arguing for a conception of human rights that includes subsistence rights. Security and subsistence may depend on non-discrimination. Subsistence may also depend on education and employment. Democracy and many due process rights may be necessary to ensure adequate political representation, and so on.³⁴ In such cases, human rights can be said to require protective and enabling rights, and the international community is required to support them. Nevertheless, there are good reasons not to count these enabling and protective rights as themselves basic human rights. The problem with classifying them as human rights is the potential conflict this may generate with what I have referred to as cultural claims.³⁵ Substantial majorities in some societies may reject the value of equality or rights associated with a secular state, majorities that could include groups that are denied these rights.³⁶ Even so, perhaps it is possible for a hierarchical and religious state, for instance, to secure basic human rights.³⁷ If it can do this while retaining the support of its population, why should it not retain good standing within the international community? We should take seriously the possibility that what would suffice to secure basic human rights may vary contextually. The narrow list of human rights, by contrast, would appear to concern non-negotiable aspects of basic welfare as well as to constitute preconditions of meaningful consent and the possibility of even limited personal and cultural expression.

Of course, any account of legitimate political authority must address the challenge posed by dissenting minorities. On the account I defend, the human rights, narrowly construed, of all groups within a decent society must be protected; denial or deprivation of these rights is intolerable. Provided that this healthy minimum is ensured, disputes some groups may have with their larger society about further rights (e.g., against discrimination) are not sufficient to undermine their society's decent international standing or to generate imperatives for other societies to respond. Some societies or some of their members may find themselves in sympathy with the complaints of dissenting minorities in other societies, and may even feel moral pressure to assist them, for instance, in promoting democracy or greater equality. Such assistance might be permitted without requiring the international community to support it.

The content of the human rights I have proposed is not unfamiliar.³⁸ But I believe my proposal adds a new angle in thinking about their justification. What it adds is this: a narrow conception of human rights is justified not only or simply because it expresses an area of overlap among a range of reasonable conceptions of justice. Its narrowness is also justified by the role that decent societies can agree it should play within foreign policy. Human rights are foreign policy imperatives. They generate moral obligations – for non-engagement, aid, or intervention – to be represented within foreign policy as priorities, insofar as a society is in a favorable position to be able to implement the policy or has incurred a special debt. I have stressed that all societies have duties of non-engagement with unjust regimes that flout human rights, and some societies have positive duties, generated by their causal responsibility for human rights abuses or by their wealthy status, to aid or intervene for the sake of human rights. An advantage of treating human rights as generating these duties is that it becomes more difficult to justify weighing-off considerations of human rights against other foreign policy objectives, such as promoting domestic economic gain or non-urgent security interests. This should make it more difficult generally for human rights policy to be compromised. Human rights rhetoric that does not acknowledge the proper priority of concern about human rights distorts the policy role that the moral priority of human rights necessitates – and amounts to no genuine human rights policy at all.

The idea that human rights should function as foreign policy imperatives shows why even societies with relatively similar conceptions of justice, such as liberal societies, would find it appropriate to adopt a pared-down conception of human rights. I have proposed that human rights represent a threshold below which a foreign policy response of some sort is morally required. These are matters about which societies are apt to be cautious. Accordingly, they will be drawn to a narrow construal of the content of human rights.

We ought to think of human rights as generating foreign policy imperatives. This view expresses an idea of international responsibility. The principle of International Responsibility for Human Rights, however, is defensible only on a narrow conception of human rights. Given the foreign policy stakes involved and room for significant and not unreasonable disagreement about the requirements of domestic justice, only a narrow conception of human rights could be collectively endorsed.

NOTES

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- 1 I first defended a version of this principle in "La Responsabilità Internazionale per i Diritti Umani," *Paradigmi*, 18: 1 (Jan.–Apr. 2000), 43–57.
- 2 I take human rights violations to cover deprivations through neglect as well as deliberate abuses.
- 3 See, for example, James W. Nickel, *Making Sense of Human Rights* (Berkeley: University of California Press, 1987), and Fernando R. Tesón, *A Philosophy of International Law* (Boulder, CO: Westview Press, 1998), ch. 4.
- 4 For a more skeptical view, see, for example, Carl Wellman, *Welfare Rights* (Totowa, New Jersey: Rowman and Littlefield, 1982). Wellman writes, "Our most fundamental welfare rights are at best civic rights, moral rights of the individual as a citizen holding against his or her state. Only in this way can the problem of scarce resources and pointless duplication be solved in theory and the responsibility for meeting human need fixed in practice." (181) A more qualified skepticism can be found in Onora O'Neill, "Transnational Economic Justice," in her *Bounds of Justice* (Cambridge: Cambridge University Press, 2000); see also Onora O'Neill, *Faces of Hunger* (London: Allen and Unwin, 1986), ch. 6.
- 5 The ideas in this paragraph are discussed at length in my "Personal Concern," *Canadian Journal of Philosophy*, 30: 1 (March 2000), 115–36.
- 6 See Peter Singer, "Famine, Affluence, and Morality," *Philosophy & Public Affairs*, 1: 3 (Spring 1972), 229–43.
- 7 There is, in effect, a global basic structure. See Allen Buchanan, "Rawls's Law of Peoples: Rules for a Vanished Westphalian World," *Ethics*, 110: 4 (July 2000), 705–6.
- 8 See Samuel Scheffler, "Individual Responsibility in a Global Age," *Social Philosophy and Policy*, 23: 1 (Winter 1995), 219–36.
- 9 This is a term used by John Rawls in his "Law of Peoples," in *On Human Rights*, ed. Stephen Shute and Susan Hurley (New York: BasicBooks, 1993). See also John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999).
- 10 See Rawls, *The Law of Peoples*. See also John Rawls, "The Idea of Public Reason Revisited," *The University of Chicago Law Review*, 64:3 (Summer 1997), 765–807.

- 11 It presupposes what Joel Feinberg calls a "community of interest." See his "Collective Responsibility," in *Collective Responsibility: Five Decades of Debate in Applied Ethics*, ed. Larry May and Stacey Hoffman (Savage, MD: Rowman and Littlefield, 1991), p. 62.
- 12 These imperatives may include the objective of securing compliance with agreements a society has already entered into, agreements that bear on the protection of human rights. This would only make the case for human rights stronger, since it would be part of international law enforcement. But the foreign policy imperatives that stem from human rights have moral force even when a non-compliant state has not signed any agreement.
- 13 I do not wish to deny that the cost to better-off states of protecting human rights globally could be substantial, even when distributed broadly across the international community. But I believe that human rights can be protected without morally objectionable cost, given reasonable proposals for solving entrenched problems over time. For discussion of what counts as an unreasonable burden, see Richard W. Miller, "Cosmopolitan Respect and Patriotic Concern," *Philosophy & Public Affairs* 27: 3 (Summer 1998), 202–24.
- 14 The threshold of a decent minimum would appear to be considerably weaker than what would be required by redistributive schemes favored by those who argue for a global "difference principle." See Charles R. Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1979), 136–53; Thomas Pogge, "An Egalitarian Law of Peoples," *Philosophy & Public Affairs*, 23: 3 (Summer 1994), 195–224; and Kok-Chor Tan, "Critical Notice of John Rawls, *The Law of Peoples*," *Canadian Journal of Philosophy*, 31: 1 (March 2001), 113–32.
- 15 Still, this criterion of responsibility may well fall short of desert as the basis for moral blame. We might better use the concept of liability rather than blameworthiness. For further discussion, see Erin Kelly, "The Burdens of Collective Liability," in *Ethics and Foreign Intervention*, ed. Deen Chatterjee and Don Scheid (Cambridge: Cambridge University Press, 2003). See also Erin Kelly, "Doing without Desert," *Pacific Philosophical Quarterly*, 83: 2 (2002), 180–205. For criticism of the idea of rejecting the concept of desert as fundamental to morality and justice, see Samuel Scheffler, "Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics," *Philosophy & Public Affairs*, 21: 4 (Fall 1992), 299–323.
- 16 See T. M. Scanlon, "Preference and Urgency," *The Journal of Philosophy*, 72: 19 (November 1975), 655–69.
- 17 I am not assuming, however, that what makes a person's life go best is determined by what satisfies her preferences. Distinguishing a category of urgent needs can be done without embracing any particular theory of what makes a person's life go best.
- 18 Rawls, *The Law of Peoples*, pp. 32–3.

- 19 Ibid., p. 37.
- 20 See, Charles R. Beitz, "Rawls's Law of Peoples," *Ethics*, 110: 4 (July 2000), 669–96. For further discussion of Rawls' view as insufficiently cosmopolitan, see Kok-Chor Tan, "Liberal Toleration in Rawls's Law of Peoples," *Ethics*, 108: 2 (1998), 276–95; and his "Critical Notice of John Rawls, *The Law of Peoples*." See also Thomas Pogge, "An Egalitarian Law of Peoples."
- 21 Beitz, "Rawls's Law of Peoples", 677.
- 22 Ibid., 681.
- 23 Ibid., 685.
- 24 Ibid., 685.
- 25 See Martha C. Nussbaum, *For Love of Country: Debating the Limits of Patriotism*, ed. Joshua Cohen (Boston: Beacon Press, 1996); Thomas Pogge, "Cosmopolitanism and Sovereignty," *Ethics*, 103: 1 (October 1992), 48–75; and Beitz, "Rawls's Law of Peoples."
- 26 See Rawls, *The Law of Peoples*, pp. 61–2.
- 27 I cannot here address the difficult question of whether cultural claims can give rise to group rights. See Buchanan, "Rawls's Law of Peoples: Rules for a Vanished Westphalian World," 716–21. See also Allen Buchanan, *Secession* (Boulder, CO: Westview Press, 1991), pp. 74–81. I am suggesting, however, that persons whose basic human rights are protected may have no urgent claims to group rights.
- 28 See, for instance, Martha Nussbaum, "Non-Relative Virtues: An Aristotelian Approach," in *The Quality of Life*, eds. Martha C. Nussbaum and Amartya Sen (Oxford: Oxford University Press, 1993), pp. 242–69, and also her *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000).
- 29 The categories I use were suggested to me by James Nickel.
- 30 For extensive discussion of the nature of subsistence and security rights, see Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, 2nd edn. (Princeton: Princeton University Press, 1980).
- 31 This right will be subject to certain qualifications. It is also not a right to open borders, and does not imply a right to immigrate into the society of one's choice.
- 32 This need not take the form of a democratic government. See, for instance, Rawls' discussion of a "decent consultation hierarchy," in *The Law of Peoples*, pp. 71–8. Nevertheless, it is a strong requirement, as my remarks in note 36 suggest. Political authority cannot be forced on any group as a mere system of domination.
- 33 On the interconnectedness of rights, see Nickel, *Making Sense of Human Rights*, p. 104.
- 34 Amartya Sen has demonstrated that famines do not occur in countries with democratic voting rights and a free press. See *Development as Freedom* (New York: Alfred A. Knopf, 1999), chs. 6–7.

- 35 See Tesón, *A Philosophy of International Law*, pp. 109–15.
- 36 If rejection of these values is not supported by a substantial majority, including at least some of those denied the rights in question, we would have reason to suspect that some persons' basic political rights are not protected.
- 37 See Rawls, *The Law of Peoples*, pp. 71–85.
- 38 Shue presents a narrow conception of rights in *Basic Rights*. See also Rawls, *The Law of Peoples*. An even narrower conception is presented in Michael Ignatieff, *Human Rights as Politics and Idolatry*, ed. Amy Gutmann (Princeton: Princeton University Press, 2001).