

## Human Rights as a Common Concern

CHARLES R. BEITZ *Bowdoin College*

*The doctrine of human rights has come to play a distinctive role in international life. This is primarily the role of a moral touchstone—a standard of assessment and criticism for domestic institutions, a standard of aspiration for their reform, and increasingly a standard of evaluation for the policies and practices of international economic and political institutions. International practice has followed the controlling documents of international law in taking a broad view of the scope of human rights. Many political theorists argue, however, that this view is excessively broad and that genuine human rights, if they are to be regarded as a truly common concern of world society, must be construed more narrowly. I argue against that perspective and in favor of the view implicit in contemporary international practice, using the right to democratic institutions as an example.*

More than fifty years have passed since the U.N. General Assembly adopted the Universal Declaration of Human Rights, and in that time the doctrine of human rights has come to play a distinctive and in some respects an unexpected role in international life. This is primarily the role of a moral touchstone—a standard of assessment and criticism for domestic institutions, a standard of aspiration for their reform, and increasingly a standard of evaluation for the policies and practices of international economic and political organizations. This role is carried out in a variety of ways. Perhaps the most visible is the increasing willingness to regard concern about human rights violations as an acceptable justification for various kinds of international intervention, ranging from diplomatic and economic sanctions to military action, in the domestic affairs of states.

But coercive intervention in any form is exceptional, and the political functions of human rights usually are considerably less dramatic. For example, a government's human rights record may determine eligibility for development assistance programs, or human rights conditions may be attached to internationally sponsored financial adjustment measures. The likely effect on satisfaction of human rights may function as a standard of evaluation for the policies of international financial and trade institutions. In the United States, legislation requires periodic reporting by the government regarding human rights practices in other countries and makes eligibility for certain forms of preferential treatment in U.S. foreign policy dependent on satisfaction of minimum human rights standards. In various parts of the world, most notably in Europe, regional codes have been adopted, and there is a developing capacity for adjudication and something like enforcement (even the European Court of Human Rights' capacity to hold governments accountable lacks

the machinery of coercion typically associated with adjudication within the state).<sup>1</sup>

The public role of human rights also has been important—more so perhaps than generally recognized in the United States—beyond the sphere of intergovernmental relations. Human rights have served as bases for standard setting, monitoring, reporting, and advocacy by nongovernmental organizations at both the domestic and the international levels of world politics (Best 1995; Korey 1998). To whatever extent contemporary international political life can be said to have a “sense of justice,” its language is the language of human rights.

I do not mean to overstate the case. Notwithstanding the hopes of its authors, the Universal Declaration does not function today as an “international bill of rights.” The international capacity to enforce the requirements of human rights law on states is at best embryonic. Outside Europe, most individual victims of human rights abuses have no effective appeal beyond their domestic courts, if there. And even in countries within the global “human rights culture” there is great variation in the degree to which internationally recognized human rights are embedded in domestic legal systems.<sup>2</sup> The juridical role of human rights is both limited and uneven. But none of this shows that the national foreign policy measures, international institutions, and nongovernmental organizations dedicated to the advancement of human rights are politically inconsequential. In fact, the global human rights regime is almost certainly more influential today than at any time since World War II.<sup>3</sup>

This fact recalls a longstanding worry about the doctrine of international human rights, expressed variously in terms of its alleged partiality or parochialism.

Charles R. Beitz is Professor of Government, Bowdoin College, Brunswick, ME 04011.

For questions and comments on earlier versions, I am grateful to Brian Barry, Amy Gutmann, Kristen Hessler, Jamie Mayerfield, Thomas Pogge, Thomas Scanlon, Lawrence Simon, and Dennis Thompson, as well as to audiences at Columbia University and Princeton University.

<sup>1</sup> Notwithstanding, governments seem to acknowledge the court's authority, as the decision by the British government regarding the treatment of homosexuals in the military illustrates (*Financial Times* 1999). On the variety of roles played by human rights in intergovernmental relations, see, e.g., Forsythe 2000, pt. II; Vincent 1986, esp. chaps. 4–6; and the case studies in Risse, Ropp, and Sikkink 1999.

<sup>2</sup> The idea of a human rights culture derives from the Argentinean jurist Eduardo Rabossi (Rorty 1993, 115).

<sup>3</sup> Precisely why this should be true is an interesting question. There is a provocative discussion that focuses on the growth of the European human rights regime in Moravcsik 2000.

In practice, the worry arises as an objection to external measures that are intended to induce a government to comply with the doctrine's requirements. Such measures by another government or an external organization are sometimes said to constitute the imposition of foreign values upon a culture whose history and conventional moral beliefs do not support them—in the extreme case, a kind of postcolonial imperialism.

There is a reflection of this worry at the theoretical level in a tension between two conceptions of human rights that can be found in philosophical thought. According to one conception, human rights represent the common element in a range of views about social justice or political legitimacy found among the world's cultures. A variant of this position, which is more permissive as to what might be counted as a human right but is motivated by a similar idea, regards human rights as political standards that would be reasonable to accept regardless of one's (culturally influenced) views about social justice or political legitimacy. This notion might be expressed by saying that human rights strive to be nonpartisan, nonparochial, or neutral among conflicting political cultures and ideologies.<sup>4</sup> I shall call this the nonpartisan or restricted conception of human rights.

The other conception regards human rights as distinctive of a particular view or family of views about social justice or political legitimacy. Although a list of human rights might not be a complete description of the requirements of social justice for a society, on this conception it would be more than the common element found among, or acceptable to, otherwise divergent views of social justice. That is, human rights identify conditions that society's institutions should meet if we are to consider them legitimate. But because there is no general reason to believe that these conditions are included in all the views about social justice or political legitimacy that exist in the world—or even among those that have achieved widespread acceptance in individual societies—there is no claim that human rights are nonpartisan. On this view, in contrast to the first, the advocate of human rights takes a stand on controverted questions of political theory. I call this the liberal or full conception of human rights.<sup>5</sup>

Many people will think that the restricted conception is the more plausible because it seems to embody a tolerance of culturally embedded moral differences

that is missing from the liberal view. But there is something paradoxical about this thought. Once we begin to describe evaluative standards for social and political institutions, it is hard to explain why we should stop short of a full description of these requirements as we see them. Of course, any such standards should be appropriate for the empirical circumstances in which they are supposed to apply, and it is important to add that this will leave some room for variation. But the intent would still be to state conditions for the legitimacy of institutions. If this is the intent, then why should we stop short of a full, liberal conception of human rights? And what would be the principle of distinction between the full and the restricted conceptions?

My purpose here is to explore the thinking that might lead someone to advocate a nonpartisan or restricted view of human rights. More precisely, I shall take up one aspect of this subject: Does the nonpartisanship, nonparochialism, or neutrality of a set of rights, in itself, provide a reason to treat these rights, as opposed to a more extensive set like that found in international doctrine, as having a special status in international affairs? In putting the question this way, I mean to distinguish considerations of ideological and cultural pluralism from various other kinds of reasons for giving some political aims priority over others—for example, reasons of urgency, efficiency, and institutional competence. These other reasons are obviously important and may often prove decisive in establishing priorities for political action, but they are also more easily understood, so for now I lay them aside. I will conclude—tentatively, because I cannot give the view an affirmative defense here—that considerations of ideological and cultural pluralism need not, in themselves, limit the scope of a plausible doctrine of international human rights, although they may have important bearing on reasoning about the connection between human rights and political action.

## INTERNATIONAL HUMAN RIGHTS AS PARTISAN STANDARDS

To place the theoretical question in its political context, I begin with some summary remarks about the history and content of the doctrine of human rights as we find it in international law and practice.

Although the contemporary international doctrine of human rights has many antecedents, both philosophical and political, it is principally a legacy of World War II. It arose, on the one hand, from the statement of allied war aims in the Atlantic Charter (1941) and, on the other, from persistent pressure brought by individuals and groups outside government for a declaration of political principles for the postwar world. The Preamble to the United Nations Charter (adopted in 1946) affirms "faith in fundamental human rights," and Article 1 commits the organization to encourage respect for "human rights and for fundamental freedoms for all." (By contrast, there was no mention of human rights or any analogous idea in the Covenant of the League of Nations [Lauren 1998, chaps. 5–6].) The

<sup>4</sup> In an article whose title ("Human Rights as a Neutral Concern") inspired the title of this paper, Scanlon (1979, 83) describes human rights as "a ground for action that is neutral with respect to the main political and economic divisions in the world" and as standards that "are not controversial in the way that other political and economic issues are." He does not suggest, as do some of the writers considered below, that human rights aspire to be neutral among all conceptions of justice or legitimacy. Rawls (1999a, 65, n. 4 and accompanying text) cites the Scanlon article as a source for the conception of human rights in *The Law of Peoples*.

<sup>5</sup> Donnelly (1999, 81) characterizes human rights as "a distinctive, historically unusual set of social values and practices." Others who have espoused a liberal view of human rights include Waldron (1993, 10–24), Nino (1991, passim), and Rorty (1993). Needless to say, agreement about the scope of human rights can coexist with disagreement in other dimensions.

charter does not give content to the idea of human rights and fundamental freedoms, however. For that one must refer to the Universal Declaration (1948) and two international covenants, one on civil and political rights and the other on economic, social, and cultural rights (both 1966). It bears remembering that the declaration is just that, a declaration of the General Assembly without the force of law, whereas the covenants are treaties to which national governments have acceded. Together these documents, which often are referred to collectively (and, as I suggested earlier, misleadingly) as the International Bill of Rights, constitute an authoritative catalog of internationally recognized human rights.

There are various ways to classify the rights enumerated in these documents. For our purposes it is useful to think of internationally recognized human rights as falling roughly into five categories, although it is less important to agree about categories than to appreciate the scope and detail of the enumerated rights.

1. Rights of the person refer to life, liberty, and security of the person; privacy and freedom of movement; ownership of property; freedom of thought, conscience, and religion, including freedom of religious teaching and practice “in public and private”; and prohibition of slavery, torture, and cruel or degrading punishment.
2. Rights associated with the rule of law include equal recognition before the law and equal protection of the law; effective legal remedy for violation of legal rights; impartial hearing and trial; presumption of innocence; and prohibition of arbitrary arrest.
3. Political rights encompass freedom of expression, assembly, and association; the right to take part in government; and periodic and genuine elections by universal and equal suffrage.
4. Economic and social rights refer to an adequate standard of living; free choice of employment; protection against unemployment; “just and favorable remuneration”; the right to join trade unions; “reasonable limitation of working hours”; free elementary education; social security; and the “highest attainable standard of physical and mental health.”
5. Rights of communities include self-determination and protection of minority cultures.

I note, but shall not discuss, that other international agreements have elaborated and enlarged the scope of human rights in the areas of genocide, slavery and forced labor, racial discrimination, apartheid, discrimination against women, and the rights of children.<sup>6</sup>

There has been a long-standing dispute in official international discourse about human rights doctrine on two major points: whether the international community should recognize any priorities, either moral or pragmatic, among categories of rights (particularly between civil and political as against economic and social rights) and whether human rights doctrine should take note of

cultural differences in a way that would make the content of a person’s human rights depend upon features of that person’s culture. The last major international conference on human rights, conducted in Vienna in 1993, considered these issues at length. The final act of the conference declined to set priorities among categories, holding that “all human rights are universal, indivisible and interdependent and interrelated.” Although it recognized that “the significance of national and regional particularities . . . must be borne in mind,” it declared that “it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms” (United Nations 1993, sec. I.5).

Human rights are sometimes thought to set a minimal standard, but it is not obvious what this can mean. The rights of the declaration and the two covenants, taken in their entirety, include requirements that bear on nearly every significant dimension of a society’s basic institutional structure, ranging from protections against the misuse of state power to requirements concerning the political process, welfare policy, and the organization of the economy. In scope and detail, international human rights are not more minimal than, say, the requirements of Rawls’s principles of social justice. And those principles are not minimal in any very interesting sense.

Still, one can acknowledge the scope and detail of internationally recognized human rights without giving up the idea that they are or should aspire to be neutral or nonparochial standards. So it may be useful to recall, briefly and without critical comment, some recent instances in which it has been said that human rights are not neutral because they conflict with practices endorsed by one or another of the world’s major conventional moralities. All of these are familiar in the human rights literature.

One example is the dispute about “Asian values.” In the last decade some East Asian political leaders (e.g., Lee Kwan Yew of Singapore and Mahathir Mohamad of Malaysia) argued that some of the political and civil rights found in the international doctrine—mainly freedom of expression and political participation—are incompatible with traditional Asian political beliefs, which value social harmony over public dispute and the collective pursuit of shared interests over the individual pursuit of private interest. The civil and political rights of the declaration were distinctively “Western” values. For this reason, it was said, international pressure for domestic political reform (exerted, e.g., by means of the attachment of political conditions to international financial arrangements) was inappropriate (Kausikan 1993).

Or consider the question of the subordination of women in traditional Islamic doctrine, elements of which are carried over into some authoritative modern interpretations. There is, for example, no presumption of equal treatment or equal protection of law, no protection against forced marriage, and either required or permitted forms of gender discrimination (e.g.,

<sup>6</sup> These agreements, as well as the Universal Declaration and the two covenants, are conveniently collected in Brownlie 1992.

mandatory veiling and sexual seclusion and segregation). To the extent that these elements are embodied in the public law and legally sanctioned practices of Islamic states, such as Iran and Pakistan (or for that matter Saudi Arabia), there is a clear conflict with the requirements of international human rights doctrine, and pressure to conform to these requirements will be regarded as partisan.<sup>7</sup>

Finally, there is the much discussed matter of female genital mutilation (FGM), still practiced ritualistically in Sahelian African on as many as two million girls, at or before puberty, each year. FGM, which can take several forms, is sustained by cultural acceptance rather than the force of law, so it does not obviously represent a case of a human rights violation by the state. Yet, where it occurs, FGM is not an aberration; it is entrenched in local cultures and permitted or required by local moral codes. And it is subject to intervention, if not by the state, then by nongovernmental agencies that claim to be acting to defend the human rights of the women affected. There is controversy about the seriousness of the harms brought about by FGM in comparison with various practices found in Western cultures, but whatever one's view about that, it would be hard to argue that interference to curtail FGM constitutes the application of a culturally neutral standard.<sup>8</sup>

In each of these cases it has been said that the local moralities that permit or require practices inconsistent with international human rights are sufficiently complex to allow for an internal critique of the offending practices.<sup>9</sup> This is true and important, but it does not diminish the impression that human rights operate in all three settings in a nonneutral way. Indeed, the existence of disagreements internal to a culture, combined with the fact that the weight of human rights seems usually to favor the modernizing, cosmopolitan side of the disagreement, only strengthens the view of international human rights as a partisan rather than a neutral concern. Jack Donnelly (1999, 84) has written that internationally recognized human rights "set out as a hegemonic political model something very much like the liberal democratic welfare state of western Europe." No doubt this overstates the case, at least insofar as it suggests there is an unambiguous "liberal" position about the full range of the subject matter of international human rights (there is, e.g., no single liberal view about self-determination or the rights of minority cultures). But Donnelly is correct that the declaration and covenants cannot really be regarded as setting forth a culturally or politically ecumenical or syncretistic doctrine.

<sup>7</sup> See the analysis of contemporary sources of Islamic human rights law, including the 1981 Universal Islamic Declaration of Human Rights, in Mayer 1995, 95–6 and 117–8. On the extent of officially sanctioned human rights violations in the countries mentioned, see U.S. Department of State 1999.

<sup>8</sup> Welch 1995, 87–97. For the criticism that concern about FGM is ethnocentric, see the discussion by Tamir (1996) and the response by Kamm (1996).

<sup>9</sup> See Sen 1999, 231–46, on Asian values, and An-Na'im 1990, chap. 7, esp. pp. 175–7, on gender in Islamic law. In general, compare Perry 1998, 76–8.

## NEUTRALITY AND PATERNALISM

The evident partisanship of international human rights doctrine has led some philosophers to suggest that we should distinguish between the full set of values recognized as human rights in international law and a restricted subset variously referred to as "basic rights" (Shue 1996)<sup>10</sup> or "human rights proper" (Rawls 1999a, 80, n. 23). For expository purposes I shall call the restricted subset—whatever its contents turn out to be—"genuine" human rights. The fact that the rights in the subset could be regarded as nonpartisan, or ideologically or culturally neutral, might be seen as qualifying them to play a special role in foreign policy for which international human rights generally are not suited.

Among those who believe there are grounds for restricting genuine human rights to some sort of nonparochial or neutral core, it is not always clear what these grounds are or why we should care about them. In this section and the next, I discuss these questions in connection with each of two distinct interpretations of neutrality or nonparochialism.

Consider first an approach suggested by some remarks of Michael Walzer (although he does not make the connection with human rights explicit), who distinguishes between "thin" and "thick" moralities. Walzer (1994, 9–10) speculates that a comparison of the moral codes found in various societies might produce "a set of standards to which all societies can be held—negative injunctions, most likely, rules against murder, deceit, torture, oppression, and tyranny." These standards would constitute "the moral minimum," not a complete moral code but, rather, "reiterated features of particular thick or maximal moralities." Someone influenced by such a distinction might regard human rights as part of the "minimum" or "thin" morality, nonparochial in that they are part of a core of requirements shared by all conventional or "thick" moralities—the common elements in a global moral pluralism. Thus, for example, R. J. Vincent (1986, 48–9) writes of a "core of basic rights that is common to all cultures despite their apparently divergent theories," which he describes as a "lowest common denominator."<sup>11</sup>

As Walzer's speculation suggests, this conception of nonparochialism, if treated as a constraint on what we should count as genuine human rights, would yield a relatively short list. Among others, rights requiring democratic political forms, religious toleration, legal equality for women, and free choice of a marriage partner would certainly be excluded. Other rights might be excluded if they were understood to generate certain kinds of duties; if, for example, the right to a high standard of physical and mental health were

<sup>10</sup> Compare Miller 1995, 74–5. There is an interestingly different view in Buchanan 1999, 52–6 and 59–60.

<sup>11</sup> Similarly, Martin (1993, 75) believes human rights are principles that "would be regarded as reasonable by persons at different times or in different cultures. And such principles, again cross-culturally, would be thought to have connection . . . with a fairly wide range of differing conventional moralities."

thought to imply that society has an obligation to ensure the accessibility of health care for all, then the existence of disagreement about distributive responsibilities outside of families or local communities would presumably exclude this right as well.<sup>12</sup>

The narrowness of the resulting conception might encourage us to think that this interpretation of neutrality relies excessively on the metaphor of a “core” of rights common to the world’s main conventional moralities. Perhaps this is too restrictive; after all, the idea of a right is itself culturally specific. So one might shift to a more elaborate conception that sees human rights as falling within an “overlapping consensus” of political moralities.<sup>13</sup> On such a view, nonparochial human rights would not necessarily be part of a common core in the sense of being recognized by all conventional moralities; instead, they would be rights that could be accepted by a reasonable person consistently with acceptance of any of the main conceptions of political and economic justice in the world. The idea here is that human rights should be the objects of a possible agreement among the world’s political cultures; they are norms for the conduct of governments and international organizations that anyone who belongs to one of these cultures can accept without renouncing other important political principles.<sup>14</sup> Such a view would be narrow in comparison with the present international doctrine, but presumably it would be broader than the “common core”: A value could count as a genuine human right even if it were not explicitly present in every culture, just in case members of each culture could reasonably accept it as consistent with their culture’s moral conventions.

There are other forms of this basic idea, but rather than proliferate interpretations I shall turn instead to the question why we should care about a doctrine of human rights limited to either a common core or an overlapping consensus. In answering this question, we should remember that one function of human rights in international politics is to justify external interference in a society aimed at changing some aspect of the society’s internal life. Such interference might aim, for example, to stop genocide or forceful political repression, to protect the innocent against civil violence when local authorities are unwilling or unable to do so, to restore a democratic government removed by force of arms, or to deliver humanitarian assistance to those imperiled by natural disaster or political collapse.

<sup>12</sup> In Walzer’s (1994, 28–31) view, distributive justice generally is part of thick but not thin morality; see his suggestive and interesting remarks on “the cure of souls and the cure of bodies in the medieval and modern West.”

<sup>13</sup> The idea of an overlapping consensus is due to Rawls, but he does not use it in the analysis of human rights. See Nussbaum 1997, 286, and 1999, 37–9 and *passim*, for the application of this idea to human rights.

<sup>14</sup> I think this is consistent with Scanlon 1979, but it does not seem to be consistent with his view in *What We Owe to Each Other* (1998, 348). The position taken there allows judgments about the (un)reasonableness of culturally influenced beliefs about value to enter into bottom-line judgments about right and wrong; there is no guarantee that these judgments would satisfy the condition in the text. The latter seems to me to be closer to the truth.

I believe the reason many people aspire to a nonparochial or culturally neutral doctrine of human rights is connected to this interference-justifying role. Those who object to interference to protect human rights may claim that the interference is unjustifiably paternalistic. It would be paternalistic in that it limits liberty on the grounds that those whose liberty is limited (the “subjects”) will be better off as a result of the interference, and it would be unjustified either because the subjects are capable of making choices for themselves or because the intervenor judges “better off” by standards the subjects have no reason to accept. A doctrine of human rights that satisfies a neutrality constraint might seem to offer the best prospect of meeting the antipaternalism objection because, if the human rights at stake are neutral in an appropriate way, then it can be replied that the aims of interference are ones that its subjects themselves would accept if they were in a position to bring their own moral beliefs to bear on the matter at hand.

The antipaternalism objection, as interpreted above, faces the following problem. When we are concerned about a violation of human rights in another society, we are usually not confronted with a situation in which people are unanimous in endorsing standards of conduct that justify the behavior of concern to us.<sup>15</sup> The picture of a “we” who believe in human rights and a “they” who do not is badly misleading. Among the “they” are oppressors and victims, and usually there is little reason to believe that the victims all share the values that the oppressors think justify their conduct. What this shows is that the perception of interference to defend human rights as a form of paternalism can be a misapprehension. Paternalism is an intervention in a person’s self-regarding choices on the grounds that the intervention is good for that person. The individual whose liberty is interfered with is the same person as the one whose good the interference is intended to advance. In typical cases of interference based on human rights, however, some people’s liberties are infringed in order to protect the human rights of others. The justification appropriately appeals not to paternalistic considerations but to the desirability of preventing a harm or securing a benefit for someone threatened by another agent’s wrongful actions or omissions. (Although not always: Interference to persuade a young girl not to undergo an FGM procedure is genuinely paternalistic, but noncoercive interference—such as providing information and so respecting the girl’s capacity for choice—affords a different defense.) That this should not be immediately obvious is evidence of the continuing grip of the analogy of person and state, which tempts us to treat the state as if it had the moral attributes of an individual rather than as an aggregate of separate persons with wills and interests of their own.

In most cases, then, what I have called the antipaternalism objection, if it pertains at all, must be interpreted elliptically. It must hold that, for purposes of

<sup>15</sup> The point has often been noted. See, e.g., Nussbaum 1999, 10–2; Scanlon 1979, 88.

justifying external interference in a society, we should base our judgment of what constitutes harm or benefit to a member of that society on standards of value that belong to the conventional morality of the society, even if we have reason to believe that those on whose behalf the interference occurs would reject these values in their own cases. We might call this the principle of cultural deference.

In itself this is not necessarily a form of moral relativism, since it does not deny that sound cross-cultural moral judgments are possible. Nevertheless, taken as a general principle of practical reasoning, it is a strange, even a bizarre, view, for it allows the content of the doctrine of genuine human rights to be determined by the array of political moralities or conceptions of justice to be found in the world. Suppose a society with a racist political culture approves of the forced sterilization of a despised minority race as a means of population control. If we accept the principle of deference, we are forced to delete the right against genocide from the catalog of genuine human rights, because it is neither part of nor consistent with the racist conception. But surely we would resist doing so.

Someone might think that cases like that of a genocidal society are only theoretical possibilities, that no society would for long support such a horrible morality. Perhaps, over time, one expects a “normal distribution” of conventional moralities, each with a distinctive structure and content, but all converging on a substantial common core. This seems to me demonstrably too optimistic, but even if one regards the genocide case simply as a thought experiment, reflection about it suggests that the ground of our belief that, for example, genocide is a great wrong has to do not with the fact that other people agree it is so, but with the nature and consequences of genocide itself (compare Scanlon 1998, 337–8).<sup>16</sup>

Whether a standard should be accepted as a ground of action, and a fortiori as a ground of international action, does not turn on whether the standard is a part of, or implied by, existing conventional moralities. Actual agreement is too strong a condition to impose on any critical standard, and I believe it misrepresents the motivating idea of human rights. To say that human rights are “universal” is not to claim that they are necessarily either accepted by or acceptable to everyone, given their other political and ethical beliefs. Human rights are supposed to be universal in the sense that they apply to or may be claimed by everyone. To hold, also, that a substantive doctrine of human rights should be consistent with the moral beliefs and values found among the world’s conventional moralities is to say something both more and different, and potentially subversive, of the doctrine’s critical aims.

<sup>16</sup> Brown (1999, 119) claims to the contrary that “there are no general moral standards that apply” to “Bosnian Serbs who kill Bosnian Muslims” or “Muslim extremists who think that the death penalty is an appropriate response to apostasy” because in each case the agents do not believe the conduct in question is wrong. This cannot be right. The Bosnian Serbs who killed innocent civilians were wrong to do so, whether they accept this or not.

## DECENCY AND MINIMAL LEGITIMACY

I shall turn now to a different reason for limiting genuine human rights to a nonparochial core (and therefore a different idea of the way the core can be nonparochial). The basic idea is that we can distinguish between minimal and full legitimacy, with human rights serving as necessary conditions of minimal legitimacy. A minimally legitimate regime is one that merits respect as a cooperating member of international society, even if it falls short of being (what we would recognize as) fully legitimate or reasonably just.

Something like this distinction lies behind the conception of human rights found in Rawls’s *The Law of Peoples* (1999a). It can be seen as an attempt to describe a view that is significantly nonparochial without being neutral in either of the senses I distinguished in the last section. As Rawls conceives of human rights, they are normative standards that would be satisfied by any “decent” regime, whether a liberal democracy or a (nonliberal, nondemocratic) “decent hierarchical society.” For Rawls, “decency” is a term of art that serves to demarcate the boundaries of acceptable pluralism in international relations. Decent societies are those that liberal societies have reason to recognize as “equal participating members in good standing” of international society (the “Society of Peoples”) (p. 59). Being so recognized, decent societies are entitled to a presumption against interference in their internal affairs; it would be wrong for foreign governments to intervene militarily, to attach political conditions to bilateral relationships and transactions, or to criticize. Rawls distinguishes decency from liberal justice: All liberal societies are decent, but not all decent societies are liberal. Human rights are common to all decent societies, whether they satisfy the requirements of liberal justice or not. So conceived, human rights “cannot be rejected as peculiarly liberal or special to the Western tradition. They are not parochial” (p. 65).

What should count as genuine human rights? Rawls believes that all decent societies would respect the rights of the person, the rights associated with the rule of law, freedom of religious belief and thought, freedom of expression (although perhaps not as extensive as justice requires in liberal societies), and certain economic (mainly subsistence) rights. Decent societies might, however, diverge beyond this area of overlap; specifically, they are not required to provide for equal freedom of public religious practice (but there must be sufficient liberty to allow the practice of minority religions “in peace and without fear” [Rawls 1999a, 74]), equal access to public office, or a right to democratic political participation. Therefore, the corresponding rights of the declaration—equal freedom of public religious practice as opposed to freedom of conscience and private religious practice, the right to vote in free and fair elections—do not count as “human rights proper”; they “seem more aptly described as stating liberal aspirations” or “appear to presuppose specific kinds of institutions” (p. 80, n. 23).<sup>17</sup>

<sup>17</sup> Freedom of religion can be considered a human right “proper,” in

Rawls's view has been criticized for being too tolerant of illiberal regimes (e.g., Buchanan 2000; Tésón 1994). This may turn out to be correct, but there is a danger of overstatement: The scope of international toleration in Rawls's theory depends on the idea of "decency," which as he understands it is more restrictive than it may seem. A decent regime renounces aggressive war as an instrument of policy; follows a "common good conception of justice," in which everyone's interests are taken into account (although perhaps not on an equal basis); and respects certain basic rights, including subsistence rights, for all (so that, among other things, official discrimination against women is not permitted) (Rawls 1999a, 64–7). It is true that decency is compatible with a state religion and with undemocratic, but not nonparticipatory, political institutions: decency is, and is intended to be, a weaker requirement than liberal justice.<sup>18</sup> Even so, the constraints of decency are hardly undemanding and, taken seriously, probably would exclude many of the non-democratic regimes in the world today and possibly some ostensibly democratic ones as well. In the end this may not be enough to meet the criticism, but it helps avoid a distorted picture of the theory.

It is important to see that, unlike the common core or overlapping consensus views, Rawls's view does not require the content of the human rights doctrine to be restricted by the array of political-moral conceptions in the world. The content is determined from the beginning by the normative idea of decency; human rights are said to be nonparochial in relation to all decent societies, not all societies simpliciter. This is why Rawls's view is not open to the objection that it deprives the human rights doctrine of its capacity to serve as a basis of social criticism. But there is a price to be paid. As Rawls (1999a, 80–1) observes, human rights must be considered as "binding on all peoples and societies, including outlaw states" that violate these rights. But because human rights are conceived so that they are necessarily common only to decent societies, it cannot be argued that interference to protect human rights in other societies would always be consistent with the conventional moralities of those societies.

Of course, much depends on the facts of the case, particularly on the relationship between the nature of a government and the content of its society's conventional morality. The case of a rogue tyranny oppressing

a population that shares a decent political morality is different from the earlier example of a genocidal government in a racist society. But the possibility of variation does not affect the basic point that a doctrine such as Rawls's might justify interference in nondecent societies that could not easily be defended against complaints that it imposes alien values. Something more needs to be said to respond to such a complaint.

The response might have to do with the normative idea of decency itself, which serves to characterize the minimum requirements of legitimacy. Where does the force of this idea come from? The answer is not clear to me. The underlying thought is that a society should not have to satisfy liberal principles of justice in order to be regarded by other societies as legitimate; a society may be deficient by liberal standards yet still embody elements that distinguish it from a band of thieves who have achieved a *modus vivendi*. These elements include the rule of law, an acceptance that all persons have legal personality and the capacity to participate in public life, and a "common good idea of justice" that is shared, at least, by judges and other public officials. Such a society might be said to embody a form of reciprocity even if, from a liberal perspective, it is not the preferred form.<sup>19</sup> Unlike liberal societies, such a society might embody and promote a single, comprehensive view of the good life; but it would do so under conditions (including respect for "human rights proper") that render the society tolerable as a cooperating partner for liberal societies in the international order.

The question, however, is not whether a society that satisfies these criteria of decency is to be preferred to one that does not; so much is clear. At issue is whether, and if so why, decent but not just societies should be regarded as legitimate and, therefore, as qualified for treatment as "members in good standing" of the international order. Why—for the (limited) purposes of international political life—should decency be regarded as on a par with liberal justice?<sup>20</sup>

At one point Rawls (1999a, 67) writes that the definition of decency is simply stipulated for the purposes of the theory, and the reader must judge "whether a decent people . . . is to be tolerated and accepted." But it is a serious question whether we have enough to go on intuitively to make such a judgment. Do we have a clear enough common-sense idea of decency, as a standard for institutions distinct from that of social justice, to judge other than arbitrarily? At another point he suggests that the content of the idea of decency is related to the function this idea plays in the conduct of liberal foreign policy. Liberal states should tolerate decent nonliberal states (which respect "human rights proper") because they are so structured and governed as to be peaceful, cooperating members of international society and therefore do not threaten international stability, whereas interference is permissible in "outlaw" states (which do not respect these

Rawls's sense, only if its scope is interpreted more narrowly than what some believe to be the intent of Article 18 of the Universal Declaration. The human right to freedom of religion, as Rawls understands it, forbids the persecution of minority religions, but it allows for a state religion that enjoys various political privileges, such as public offices open only to its members (1999a, 65, n. 2), and the state religion may, "on some questions, be the ultimate authority within society and may control government policy on certain important matters" (p. 74).

<sup>18</sup> In the political sphere, for example, a decent regime need not be democratic, but it must provide regular opportunities for all citizens to communicate their views and preferences to those authorized to make political decisions. Rawls (1999a, 64) calls such an arrangement a "decent consultation hierarchy." The details are complex, and I pass over them here.

<sup>19</sup> I am grateful to Amy Gutmann for help in clarifying this thought.

<sup>20</sup> The restriction to international political life is important. Rawls need not (and does not) claim that decency and justice are "on a par" for any other purpose.

rights) because their internal features cause them to threaten international order (p. 81). As a practical matter this may be true, but it cannot give a plausible account of the basis of human rights, because it would locate the justification in the wrong place, not in the significance of human rights for the rights holders but in the beneficial consequences for international order of reducing the number of regimes that do not respect them.<sup>21</sup>

Rawls's most perspicuous argument for tolerating decent but illiberal regimes appeals to the consequences of toleration for these societies themselves. Decent societies, by definition, are open to internal, nonviolent change, and Rawls (1999a, 61–2) believes that the evolution of their institutions in a liberal direction is more likely if they are treated “with due respect” as equal members of international society. This is an empirical hypothesis about political development, and I suspect that some version of it is true in a significant range of cases (although I am not sure what would count as evidence for it). Yet, although the political development hypothesis bears clearly on the question of how we should act toward a society, it does not bear so obviously on the question of the ethical significance of a society's political decency or, derivatively, of the proper scope of a doctrine of human rights. Perhaps the connection, in Rawls's view, is that human rights should be understood as a class of moral consideration whose *only* role in political discourse is to justify coercive intervention in a society's affairs. If that is correct, then the fact that a value is not sufficient to justify coercive intervention counts against identifying the value as a human right.

But whether Rawls holds this view or not, there are two reasons not to accept it. First, it is not true that the only role of human rights in international discourse is to justify coercive intervention. As I observed at the beginning, human rights are also, for example, invoked to justify noncoercive interference by outsiders (governments, international agencies, nongovernmental organizations) and to justify programs of reform by compatriots. We should conceptualize human rights in a way that is adequate to this larger role. Second, as before, the argument against interference does not easily extend to an argument for limiting the scope of human rights. Granting the political development hypothesis grants nothing about the moral standing of the values expressed as human rights; the hypothesis is about the best means of realizing these values, not about their standing as values. Indeed, the best argument against reform intervention in a decent society, assuming that the hypothesis is correct, is that intervention is more likely to retard than encourage the society's movement from decency to (liberal) justice. But such an argument depends on rather than repudiates the claim that the liberal conception is an appropriate standard for the society in question.

What is the upshot for human rights? I believe it is this. If it were possible to regard a decent society as

minimally legitimate, in the sense of being, for purposes of its international relations, morally on a par with a liberally just society, then it would be possible to understand “human rights proper” as necessary conditions of minimal legitimacy. There would be a clear sense in which these human rights, as against the full catalog of internationally recognized human rights, could be defended as nonparochial. If the ethical significance of decency derives from that of liberal justice, however—for example, if its normative force depends on the hypothesis that decent societies, left to their own devices, are likely to develop into liberal ones—then the hypothesis might yield a reason not to interfere in decent societies, but there would be no deep distinction between “human rights proper” and other human rights that are part of liberal justice but not of decency. Indeed, it is hard to see any distinction of principle at all.

### PURPOSES AND LIMITS OF INTERNATIONAL HUMAN RIGHTS

Notwithstanding these doubts about Rawls's interpretation of human rights, reflection about his view suggests two related precepts for any plausible conception. I shall try to formulate these precepts in a general way and then explain why they seem plausible.<sup>22</sup>

First, a satisfactory philosophical conception of human rights should be suited to the public role that we need human rights to play in international affairs. The doctrine of human rights is a political construction intended for certain political purposes and is to be understood against the background of a range of general assumptions about the character of the contemporary international environment.<sup>23</sup>

Second, the conception should interpret human rights as “common” in a special sense, not as the area of agreement among all existing political doctrines or comprehensive views, but as principles for international affairs that could be accepted by reasonable persons who hold conflicting reasonable conceptions of the good life.

Here are some points of clarification. First, to say that international human rights compose a doctrine adopted for certain political purposes is to reject some traditional views about the character of human rights, such as those that interpret human rights as a contemporary restatement of the (or a) theory of natural law or natural rights, or as a statement of a single comprehensive view about political justice or the political good that is supposed to apply to all human societies at all times and places.<sup>24</sup> Human rights are standards intended to play a regulative role for a range of actors in

<sup>21</sup> I do not mean to say that Rawls himself gives such an account of human rights.

<sup>22</sup> Thomas Pogge's comments on an earlier draft helped me formulate these precepts.

<sup>23</sup> Jones (1996, 183–204) emphasizes the political character of Rawls's interpretation of human rights. Note, however, that Rawls (1999a, 81, n. 25) has reservations about this interpretation.

<sup>24</sup> For example, Finnis (1980, 198) believes human rights are “a contemporary idiom” for natural rights (see pp. 210–30 for his view of the content and limits of the doctrine of international human rights).



the political circumstances of the contemporary world. Yet, to describe human rights doctrine as a “political construction” is not to say that human rights are unrelated to these other kinds of views: In adhering to the doctrine or in criticizing it, one might be moved by beliefs about natural law or natural rights or by a comprehensive conception of the good. But it would be an error to identify these more fundamental moral beliefs with a political doctrine of human rights.

Second, according to these precepts, the particulars of the public political role expected of human rights are essential to a comprehension and defense of the doctrine. I shall say more about this role below. For now the essential point is that human rights are meant for certain political purposes, and we cannot think intelligently about their content and reach without taking account of these purposes. I do not mean to say that one should accept uncritically the conception of the political role of human rights prevailing in international affairs any more than one should accept the details of prevailing views of their content. But criticism must begin with some conception of the practice being examined, and the contours of this practice are to be found in the doctrine of human rights as we have it in contemporary international life.

Third, the second precept states that human rights should be acceptable to reasonable persons, not peoples. This is possibly in contrast to Rawls, who writes of peoples as corporate wholes with more or less widely shared conventional moralities. I have discussed my doubts about this elsewhere (Beitz 2000) and here simply call attention to the possible contrast and note its importance in thinking about the content of the human rights doctrine. In my view, human rights are ultimately justified by considerations about the reasonable interests of individuals, not those of whole societies conceived as corporate entities.

A view of this kind is at odds with some traditional conceptions in distinguishing between human rights as a political doctrine and various underlying views about social justice. Why should we accept the revisionist view? Part of the answer is that, as a historical matter, international human rights doctrine is not accurately interpreted as an effort to fill the same conceptual space as was filled by natural law or natural rights in the Western political tradition. Those ideas aimed to supply something different—a comprehensive conception of the good or just society, perhaps, or an account of the constraints a government should observe in the use of its monopoly of political power. By contrast, the international doctrine is a negotiated agreement (or set of agreements) that describes “a common standard of achievement for all peoples and all nations” (Universal Declaration, Preamble), and it is meant to provide guidance in the conduct of international political life by actors such as international organizations and their member states, nongovernmental organizations, and individuals.

But the argument need not rest on a historical observation. Contemporary international society needs a doctrine of the kind imagined by the framers of the Universal Declaration. One reason, which Rawls no-

tics, arises from the developing international capacity and disposition to intervene coercively in the affairs of states to protect the interests of their own people. Standards are needed to guide the use of this coercive power. As I have been urging, however, human rights doctrine serves other purposes as well. The most general, albeit awkward, statement of these purposes might be this. The global political structure contains an array of institutions and practices, including the foreign policies of states, with the capacity to influence the conditions of life for individuals in their domestic societies. In some cases this influence comes about through intentional action, such as military intervention or the attachment of political conditions to development aid. In other cases it occurs through the normal operation of an institution, such as structural assistance provided by international financial bodies. Moreover, as I have been emphasizing, transnational action that affects human rights is not limited to the operations of governments and international organizations; it may also be carried out by nongovernmental organizations, acting in international fora or within the internal political processes of individual societies. The doctrine of human rights is a statement of standards to guide the structures and conduct of global political life insofar as these bear on the conditions of life for individuals in their societies.

To be more specific, a doctrine of human rights suited for contemporary international practice should be capable of playing at least three kinds of roles. First, it constrains the domestic constitutions of states and the fundamental rules of international organizations and regimes. (Whether this constraint should operate by means of the embodiment of these norms in constitutions, organizational charters, and so forth, I take to be another question, one not settled by theoretical considerations.) Second, it describes goals for social development applicable to all contemporary societies, to the extent that they are or can be influenced by such external forces as the foreign policies of other states and the practices of international institutions. (The degree and kinds of influence appropriate in particular cases is again another question, involving both normative and pragmatic considerations.) Third (and derivatively), the doctrine furnishes grounds of political criticism to which it would be appropriate to appeal in the setting of global politics by a range of international and transnational actors—not only governments but also officials of international institutions and nongovernmental organizations acting in their capacity as citizens of global society.

On this view the doctrine of human rights is significantly teleological. It is a statement of aspiration applicable to all contemporary societies, but all of its requirements may not be capable of being satisfied simultaneously or in the short run. Human rights may not bear on political choice as straightforwardly as they would if conceived in more traditional terms as side constraints or prohibitions. The actions required to satisfy a human right will depend on the case. This is not only because achieving a given end may require different strategies in different settings, but also be-

cause priorities will have to be set and compromises reached when, in the short term, the effort to secure one right threatens to block efforts to secure another. Joel Feinberg (1973, 95) observed long ago that some rights of the declarations seem to be more accurately conceived as rights “in an unusual new ‘manifesto sense’” than on the model of legal claim-rights.<sup>25</sup> The view I sketch here is compatible with this observation.

### A CASE STUDY: POLITICAL RIGHTS

According to the formula I suggest, the doctrine of human rights is “common” in the sense that, considered in light of the political purposes it is expected to serve, reasonable persons could accept it despite differences in their reasonable conceptions of the good. Because this formulation depends from the outset on judgments about which conceptions to count as reasonable, its effect is to frame the question of the justification of human rights as a substantive problem of political theory, comparable to problems such as the justification of principles of social justice for domestic society. What distinguishes the problem about human rights from the others is the special character of the international political environment in which these standards must operate. Concerns regarding cultural parochialism or political bias would arise, if at all, within the substantive argument for each of its elements.

To illustrate, let me consider whether the doctrine of human rights should recognize a right to democratic institutions. The Covenant on Civil and Political Rights is unequivocal. It holds that there are human rights to political institutions that afford every citizen an opportunity to participate in public affairs either directly or through “freely chosen representatives”; to compete for public office and to vote in “genuine periodic elections”; and to assemble peaceably without restrictions “other than those . . . which are necessary in a democratic society in the interests of national security or public safety” (Arts. 21, 25). As a purely descriptive matter, there is no question that these requirements are nonneutral in the sense that they are not endorsed by all the major political moralities in the world. What is the ethical significance of this fact? Does it mean that we should not regard democratic rights as genuine human rights, or that we should not accept the defense or promotion of democratic rights as a justification for interference in a nondemocratic society’s domestic life?

These questions are worth special attention because the element of international human rights doctrine most often said to be objectionably parochial is that concerned with democratic rights. At the same time, there is a discernible trend in international law toward recognition of a universal right to democratic institutions (Franck 1995, chap. 4). So these questions mark a

specific point of tension between the restricted conception of human rights prevalent in philosophical thought and the development of international law and practice.

Consider a hypothetical case. Imagine an authoritarian regime in a society in which historically the predominant political beliefs are not democratic. Citing the Covenant on Civil and Political Rights, a modernizing insurgency fighting for democratic reforms calls upon the international community for military and financial help. Given the society’s cultural history, international interference, if successful, would produce a result that would be regarded as a change for the worse by a significant portion, perhaps even a majority, of the society. The question is whether this fact argues against interference to help the reformers and, if so, for what reason.

One possible reply returns to the issue of paternalism. Interference in this kind of case, perhaps in contrast to most interferences to defend human rights, would be genuinely paternalistic: It involves coercive interference in some people’s liberty on the grounds that the results would be in their own interests. But it would not be justified paternalism. Normally, the justification of a paternalistic choice has at least three elements: (1) a claim that the subject is unable to choose rationally for himself owing to a failure of reason or will; (2) evidence that the choice is guided by knowledge of the subject’s own interests, to the extent they can be known, or by a reasonable conception of the interests it would be rational for the subject to have; and (3) a reasonable expectation that the subject will come to agree that the agent’s choices on his behalf are the best that could be made under the circumstances.<sup>26</sup> In my example, because a significant portion or even a majority of the population does not share democratic political values, for this portion of the population the second element (and possibly the third) of the justification would fail. The interference does not appear to take seriously the moral beliefs of those whom it coerces.

This reply seems to me to yield the most plausible account of the ethical significance of the fact that many in our hypothetical society hold moral beliefs inconsistent with democracy. Yet, it is open to certain doubts. First, it may be questioned whether what I describe as people’s “moral beliefs” accurately identify their political interests. This is primarily an empirical issue, and I have not worked out the case in enough detail to resolve it one way or the other. One would want to know, for example, about the nature of the evidence that many people reject democratic values, whether the society has any past experience with democratic forms, and whether there have been occasions for public political deliberation about forms of government.

On one set of assumptions, the very fact that political institutions lack the features characteristic of democracy—such as free expression, political competition, voting—would suggest that preferences about political forms are not either fully informed or freely arrived at.

<sup>25</sup> Feinberg’s use of “manifesto sense” is not, as some writers have thought, derisory; he endorses and expresses sympathy for this usage. It is also worth noting that one can accept the idea that some human rights are “manifesto rights” without also accepting Feinberg’s view that it is not possible to assign corresponding duties to them. That, I believe, is a mistake.

<sup>26</sup> I rely here on the discussion in *A Theory of Justice* (Rawls 1999b, 218–20).

In that case the justification of paternalistic interference must fall back on a judgment about what it would be rational for people to want if they were in possession of full information and able to reason freely, and here we have no choice but to engage the substantive question of the value of democracy. Telescoping a long argument, suppose there is reason to believe that democratic institutions are instrumental to the enjoyment of certain (nonpolitical) human rights, including the rights of the person and subsistence rights. Then, assuming these other rights are not themselves culturally controversial, there is an argument that it would be rational to want democratic rights as means of ensuring the satisfaction of urgent human interests, whatever the present political values in a culture.<sup>27</sup> (There is also the counterargument that some other configurations of political institutions, like Rawls's "decent consultation hierarchy," would be equally effective in securing human rights. Which is correct depends on a historical and political judgment, not an ethical one.)

Second, the reply considers only the perspective of the nondemocratic portion of the population. What about the democratic insurgents who asked for outside help? Again, one needs more information, but presumably the insurgency has local causes and responds to local grievances and aspirations. From the perspective of this group, interference is not a matter of paternalism at all but of avoiding or reducing harm or protecting against injustice. It is hard to see how this issue can be addressed other than by examining the urgency of the interests at stake in relation to the costs of interference and its probability of success. Once again, it seems that the justifiability of interference to support the democratic reformers should be faced as a free-standing issue in political ethics in which the values that interference may achieve are compared with the costs and risks of making the attempt. There is no categorical conclusion possible about the sufficiency of democratic reform as a justification of intervention in a case like this.

These reflections suggest an alternative explanation of the ethical significance of local disagreement over political values. It may be that this bears on the feasibility of constructive interference, or on its prospects of success in the long run, rather than on the nature or scope of human rights themselves. If a significant portion of the population lacks democratic sympathies, then it is not likely that democratic institutions will be sustained even if a democratic insurgency attains its immediate objectives. In that case it could be true both that there is a human right to democratic institutions and that interference in support of a prodemocratic insurgency would be wrong.

Why, then, should we say there is a right at all? If the acceptability of interference to promote democratic institutions effectively depends on the extent of democratic commitment within a culture, have we not con-

ceded that there is no universal (and hence no human) right to democracy? The answer is that we have not. The question trades on the idea that there can be no right without a remedy, or no right without some feasible strategy for its realization. But the fact that intervention is unlikely to succeed in establishing democratic institutions in a divided political culture does not imply that nothing ever will; institutional change is a complex historical process, usually accompanied by changes in political belief as well. Moreover, a human right to democracy may have practical force otherwise than by licensing coercive intervention. For example, it might call for efforts at persuasion and education or support for the development of elements of a democratic social infrastructure (associations, labor unions, and so on). Of course, to accept this as a reply to the objection, one must accept a conception of a human right as something different from a legal right or certain moral rights; for example, although it may generate duties for various agents, a human right cannot always be a ground for insisting on immediate compliance. But if human rights are regarded as political constructions in the way I have described, this is unremarkable.

## CONCLUSION

The discourse on international human rights suffers from a strange juxtaposition. In major arenas of international politics concerns about human rights are more prominently expressed than ever before, and there is some reason to believe that these concerns increasingly motivate action. Yet, within contemporary political thought human rights are often regarded with suspicion. These suspicions are diverse. Some people think there is no such thing as *universal* human rights (i.e., rights that may be claimed by anyone). Some think there is no such thing as universal *human* rights (possessed by human beings independently of their relationships with others and their institutional memberships). Some think that "internationally recognized human rights" are not *rights* (at least not in any sense that would be familiar to someone influenced by Hohfeld). Some think the international doctrine of human rights is a good idea corrupted by overextension: Although there may be such a thing as a universal human right, some (perhaps many) of the rights specifically enumerated in the international instruments fail to qualify. And some believe the doctrine of human rights is a cloak for liberal political values, an instance of partisanship rather than a neutral basis for global agreement.

I have only addressed the last of these suspicions directly, although I have adverted to some of the others. I have observed that the doctrine of human rights, regarded for the moment as part of the positive law of international society, cannot plausibly be considered culturally or politically nonpartisan. And I have argued that this fact, in itself, does not count against the doctrine. What is distinctive about human rights as a category of normative standard is not their suppos-

<sup>27</sup> The argument is made in Shue 1996, 74–8, and Sen 1999, 178–86. I made a similar argument about the value of democracy, concentrating on the circumstances of developing societies, in Beitz 1981, 177–208.

edly symmetrical relationship to the conceptions of political justice or legitimacy to be found in the world's cultures but, rather, the role they play in international relations. Human rights state conditions for political and social institutions, the systematic violation of which may justify efforts to bring about reform by agents external to the society in which the violation occurs. This interference-justifying role may limit the content of the doctrine, but there is no reason to suppose the limitations will yield a neutral or nonpartisan view. Indeed, it is hard to see how things could be otherwise. In the words of the Vienna Declaration, human rights specify conditions that institutions should satisfy in order to respect "the dignity and worth inherent in the human person" (Preamble); but the concept of a person with inherent dignity and worth is a substantive moral idea and will almost certainly be more congenial to some than to other conceptions of justice or political good.

Is this kind of partisanship problematic for the doctrine? I believe not, provided that each of its elements can be defended by an appropriately general argument, as I suggest is possible for the right to democratic institutions. Such a defense would hold that human rights are "common" in a morally significant way without being, so to speak, empirically nonparochial. This, of course, is not to say that cultural and political differences do not come into deliberation about how to act. These differences may enter in a variety of ways—for example, as factors determining the feasibility and cost of a contemplated interference or the risks of collateral harm. They may also enter at a more basic level, as factors influencing a judgment about the rightness of using coercive means of interference, particularly when the purpose of the interference is genuinely paternalistic.

This conception of human rights faces a variety of objections. Here I note three of the most prominent and simply gesture at the kind of reply that might be offered to each. First, it may seem excessively pragmatic to regard human rights as a "political conception." Whatever else they are, human rights are surely moral standards, standards whose authority rests on recognizably moral considerations. To suggest otherwise, the objection holds, fails to take seriously both the character and the history of the idea of human rights. I believe, however, that the objection starts from a faulty premise. To say that the doctrine of human rights is a political conception is not to deny that its authority rests on moral considerations; human rights are political, not in the source of their authority, but in their role in public ethical life. As I have described them, human rights are standards to which it is reasonable to hold political institutions accountable in the processes of contemporary world politics. They operate as *prima facie* justifications of transnational (although not only transnational) political action aimed at bringing about change in the structure and operation of domestic (and international) institutions. Any account of the authority of human rights must take note of the political contexts in which they operate,

but this hardly means that the account would exclude moral considerations; in fact, it would depend upon them.

Second, in some ways a contrasting objection is that a partisan conception of human rights is insufficiently realistic. According to this objection, unless a doctrine of human rights is culturally neutral it cannot possibly play the role that we need a doctrine of human rights to play in international affairs. The reason is that if a violation of human rights is not regarded as a shared basis for political action, then the capacity to enlist international support when it is most needed will deteriorate, and the doctrine of human rights will become little more than a sectarian hope. The latter proposition seems true enough, but the point about neutrality does not obviously follow from it. It is an empirical question whether a political doctrine must be neutral in order to enlist enough international support to be influential, a claim that not only has not been proved but also is most likely false. The growth of the global human rights regime itself may be evidence to the contrary.

Third, there is a residual worry that an expansive doctrine of human rights can too easily be used as an instrument of neocolonial domination, as a way to rationalize the use of coercion by a hegemonic power to advance its own interests. Of course, there is one sense in which this is a legitimate worry if not almost a necessary truth. If an expansive doctrine of human rights embraces liberal political values, and if the hegemonic power identifies its interests with the advance of these values, then coercion that is soundly justified by human rights considerations also will advance the interests of the hegemonic power. What troubles people, however, seems to be not this kind of case but one in which human rights considerations are abused or distorted in order to make self-interested political action seem to be justified by other-regarding considerations. The fear is that an expansive doctrine will be more open to this sort of abuse than a minimalist one.

This is not an abstract fear. The history of intervention (e.g., by the United States in Central America) includes many instances of what plausibly can be seen as analogous abuses of the values of self-government and individual liberty as rationales for self-interested interference. Let us therefore concede the hypothesis that an expansive doctrine is more open to abuse by a hegemonic power than a more narrowly drawn conception. What follows? Since we are conceiving of human rights as a public, political doctrine, it cannot be replied that the possibility of abuse is irrelevant to the content of the doctrine. If this possibility were significant, and if unilateral intervention were the only mechanism realistically available to promote human rights, then a narrowing of the doctrine's content might be appropriate. But there is an alternative: It is to establish multilateral institutions to protect human rights doctrine from unilateral abuse. This is one source of the argument for a world human rights court, and it may

also argue for something like the complex voting system found in the Security Council, which otherwise might be seen as objectionably constrained by its supermajority requirements and the great-power veto. If such mechanisms can be made to work, the potential for neocolonial abuse of human rights doctrine will not by itself argue for a limitation of the doctrine's substantive scope.

All of this only gestures at how one might defend a more robust theory of human rights than that presumed by those who regard neutrality as a virtue, and one more in keeping with the doctrine of human rights found in contemporary international practice. Plainly, more needs to be said to develop such a defense and to explore the objections that could be brought against it. And plainly, that would be beyond the scope of a single article.

So I will conclude with an observation on a different although related point. The question of whether an expansive conception of international human rights can be defended is different from the question of whether we ought to accord human rights a fundamental place in international political theory. As a central element in international practice, human rights are well established, and political theorists should strive for a critical understanding that takes seriously their practical role. But there are good reasons to resist thinking of human rights as the fundamental terms of international political theory. For example, rights are rarely self-evident and usually stand in need of justification, and the justification seldom terminates in another assertion of right. And because the satisfaction of a right typically imposes costs on others, we need a mechanism for assigning responsibility for bearing those costs. In itself, however, the concept of a human right is not much help in designing such a mechanism because it is concerned with the interests of the beneficiary of the right rather than with the relationship in which the right is satisfied. For both reasons it seems likely that a satisfactory theory of human rights is better conceived as an aspect of a more general theory of global justice.

## REFERENCES

- An-Na'im, Abdullahi. 1990. *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law*. Syracuse, NY: Syracuse University Press.
- Beitz, Charles R. 1981. "Democracy in Developing Societies." In *Boundaries: National Autonomy and its Limits*, ed. Peter G. Brown and Henry Shue. Totowa, NJ: Rowman & Littlefield. Pp. 177-208.
- Beitz, Charles R. 2000. "Rawls's Law of Peoples." *Ethics* 110 (July): 669-96.
- Best, Geoffrey. 1995. "Justice, International Relations, and Human Rights." *International Affairs* 71 (October): 775-800.
- Brown, Chris. 1999. "Universal Human Rights: A Critique." In *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler. Cambridge: Cambridge University Press. Pp. 103-27.
- Brownlie, Ian, ed. 1992. *Basic Documents on Human Rights*, 3d ed. Oxford: Clarendon.
- Buchanan, Allen. 1999. "Recognitional Legitimacy." *Philosophy & Public Affairs* 28 (Winter): 52-6.
- Buchanan, Allen. 2000. "Rawls's Law of Peoples." *Ethics* 110 (July): 697-721.
- Donnelly, Jack. 1999. "The Social Construction of International Human Rights." In *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler. Cambridge: Cambridge University Press. Pp. 71-102.
- Feinberg, Joel. 1973. *Social Philosophy*. Englewood Cliffs, NJ: Prentice-Hall.
- Financial Times*. 1999. "Gays Win Case against Armed Services Ban." September 28, London ed., p. 16.
- Finnis, John. 1980. *Natural Law and Natural Rights*. Oxford: Clarendon.
- Forsythe, David P. 2000. *Human Rights in International Relations*. Cambridge: Cambridge University Press.
- Franck, Thomas M. 1995. *Fairness in International Law and Institutions*. Oxford: Clarendon.
- Jones, Peter. 1996. "International Human Rights: Philosophical or Political?" In *National Rights, International Obligations*, ed. Simon Caney, David George, and Peter Jones. Boulder, CO: Westview. Pp. 183-204.
- Kamm, F. M. 1996. "Is Body Intrusion Special?" *Boston Review* 21 (October/November). <http://bostonreview.mit.edu/BR21.5/Kamm.html> (accessed January 30, 2001).
- Kausikan, Bilahari. 1993. "Asia's Different Standard." *Foreign Policy* 92 (Fall): 24-51.
- Korey, William. 1998. *NGOs and the Universal Declaration of Human Rights: "A Curious Grapevine."* New York: St. Martin's.
- Lauren, Paul Gordon. 1998. *The Evolution of International Human Rights: Visions Seen*. Philadelphia: University of Pennsylvania Press.
- Martin, Rex. 1993. *A System of Rights*. Oxford: Clarendon.
- Mayer, Ann Elizabeth. 1995. *Islam and Human Rights: Tradition and Politics*, 2d. ed. Boulder, CO: Westview.
- Miller, David. 1995. *On Nationality*. Oxford: Oxford University Press.
- Moravcsik, Andrew. 2000. "The Origins of International Human Rights Regimes: Democratic Delegation in Postwar Europe." *International Organization* 54 (Spring): 217-52.
- Nino, Carlos Santiago. 1991. *The Ethics of Human Rights*. Oxford: Clarendon.
- Nussbaum, Martha. 1997. "Human Rights Theory: Capability and Human Rights." *Fordham Law Review* 66 (November): 273-300.
- Nussbaum, Martha. 1999. "In Defense of Universal Values." *The Fifth Annual Hesburgh Lectures on Ethics and Public Policy*. Notre Dame, IN: Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame.
- Perry, Michael J. 1998. *The Idea of Human Rights*. New York: Oxford University Press.
- Rawls, John. 1999a. *The Law of Peoples*. Cambridge, MA: Harvard University Press.
- Rawls, John. 1999b. *A Theory of Justice*, rev. ed. Cambridge, MA: Harvard University Press.
- Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink, eds. 1999. *The Power of Human Rights*. Cambridge: Cambridge University Press.
- Rorty, Richard. 1993. "Human Rights, Rationality, and Sentimentality." In *On Human Rights: The Oxford Amnesty Lectures 1993*, ed. Stephen Shute and Susan Hurley. New York: Basic Books. Pp. 111-34.
- Scanlon, T. M. 1979. "Human Rights as a Neutral Concern." In *Human Rights and U.S. Foreign Policy*, ed. Peter G. Brown and Douglas MacLean. Lexington, MA: Lexington Books. Pp. 83-92.
- Scanlon, T. M. 1998. *What We Owe to Each Other*. Cambridge, MA: Harvard University Press.
- Sen, Amartya. 1999. *Development as Freedom*. New York: Alfred A. Knopf.
- Shue, Henry. 1996. *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, 2d ed. Princeton, NJ: Princeton University Press.
- Tamir, Yael. 1996. "Hands Off Clitoridectomy: What Our Revulsion Reveals about Ourselves." *Boston Review* 21 (Summer). <http://bostonreview.mit.edu/BR21.3/Tamir.html> (accessed January 30, 2001).
- Téson, Fernando. 1994. "Some Observations on John Rawls's 'The

- Law of Peoples.’” *American Society of International Law Proceedings* 88: 18–22.
- United Nations. 1993. “Vienna Declaration and Programme of Action.” World Conference on Human Rights. U.N. Doc. A/CONF.157/23 (July 12).
- U.S. Department of State. 1999. *Country Reports on Human Rights Practices for 1998: Near East and North Africa*. February 29. [http://www.state.gov/www/global/human\\_rights/1998\\_hrp\\_report/98hrp\\_report\\_nea.html](http://www.state.gov/www/global/human_rights/1998_hrp_report/98hrp_report_nea.html) (accessed January 30, 2001).
- Vincent, R. J. 1986. *Human Rights and International Relations*. Cambridge: Cambridge University Press.
- Waldron, Jeremy. 1993. *Liberal Rights: Collected Papers 1981–1991*. Cambridge: Cambridge University Press.
- Walzer, Michael. 1994. *Thick and Thin: Moral Argument at Home and Abroad*. Notre Dame, IN: University of Notre Dame Press.
- Welch, Claude E. 1995. *Protecting Human Rights in Africa: Roles and Strategies of Nongovernmental Organizations*. Philadelphia: University of Pennsylvania Press.