2

Rights: their basis and limits

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Introduction

Rights appear in every plausible theory of justice and dominate contemporary political rhetoric. Critics, as a matter of course, raise two objections to this proliferation of rights talk. First, they argue that no clear justification exists for rights. As a result, every political issue can be turned into a demand for rights. This inflation of rights claims has devalued the currency of rights to the point of worthlessness. Second, they object that rights encourage individualistic and anti-social behaviour. People stand on their rights to avoid obligations to others. Such attitudes are justified when society makes unreasonable demands on people. But they can also appear at odds with, or indifferent to, such necessary social virtues as compassion, civility and charity. This chapter addresses these two standard criticisms. Section 1 explores two approaches to rights – the interest-based (IB) approach, and the obligation-based or Kantian view. Both are shown to offer coherent justifications that can avoid turning all political concerns into a matter of rights. Section 2 then compares the ways they relate to other social duties. It shall be argued that only the Kantian approach fully escapes the second criticism by positively requiring that we supplement rights with other social virtues. As such, it is to be preferred over the IB approach.

1 Interest-based and Kantian approaches

Contemporary political theorising starts by accepting that a diversity of religious, moral and philosophical outlooks is a permanent fact about societies which is not to be regretted. Given this pluralism, rights-theorists cannot invoke theological premises in their justification of rights, and without these premises the claim that rights are natural is mysterious and metaphysically suspect. The most promising approaches to rights which eschew such thinking are the IB and Kantian approaches.

The IB approach has it that a person has a right to *x* when his or her interest in *x* is sufficiently important for other people to be held under a duty to provide him or her with *x*, or not prevent his or her pursuit of *x*. Rights are systematised

by principles of justice specifying the nature of these rights, and the priority they have in relation to one another. Two prominent advocates of the IB approach are Jeremy Waldron and Joseph Raz. Waldron claims that, 'An individual has a right to G when the importance of his interest in G, considered on its own, is sufficient to justify holding others to be under a duty to promote G'.¹ For Waldron, rights protect a person's important interests not only in liberal freedoms, but also in socio-economic goods.² For Raz, rights protect persons' interests in securing well-being.³

By contrast, on the Kantian view duties of justice constitute the basis of rights, and these duties, rather than interests, are morally basic. Duties of justice are systematised by principles of justice which specify the content of rights, and their relationship to other social values. The Kantian view is that a person A has a right to x if and only if all other people have an obligation to provide A with x, or not to prevent A from having x, and this obligation is derived from the categorical imperative (CI). Kant argued that all moral obligations are derived from one supreme moral principle, the CI, which asks each of us to 'Act as if the maxim of your action were to become through your will a universal law of nature' (a maxim is a subjective principle of action, or the purpose of an action). Kant classified obligations deriving from the CI as perfect or imperfect. If a maxim cannot be *conceived* of as a universal law of nature without contradiction then we have a perfect duty not to act according to that maxim; Kant's famous examples of perfect duties are the avoidance of suicide and false promising.⁴ If a maxim cannot be *willed* as a universal law of nature without contradiction then we have an imperfect duty not to act according to that maxim; Kant's examples are developing one's talents and charitable giving.⁵ The difference between perfect and imperfect duties is that the latter contain a greater degree of latitude with respect to their performance than the former. For example, if I have a perfect duty not to make false promises then I must never make a false promise at any time, but if I have an imperfect duty of beneficence to give to charity this need not mean that I must put money in every charity tin I come across, although the pattern of my giving behaviour, and possibly my character, must be of a certain type. Kant thought that only certain perfect duties – duties of justice – should serve as the input to a theory of justice. Kant's fundamental principle of justice ensures a right to equal freedom for every citizen.⁶

The desiderata of a theory of rights according to which these two approaches will be considered are as follows:

- 1 An account of the basis of rights should allow for an interesting debate with respect to the content of rights. Having established a basis for rights, it should then be a further question whether people only have rights to non-interference by others, or whether in addition they have substantial, 'welfare' rights to things like food, shelter, medical care and education.⁷ Unless questions about the basis and content of rights are kept separate, no debate

about the content of rights is possible among those who agree on the basis of rights, let alone among those who disagree about the basis of rights.

- 2 A theory of rights should generate concomitant duties in a way that is sensitive to the context of the rights-holder. That is, a theory of rights should allow that what is demanded of people in order that Alison's right to X in circumstances C is met might differ from what is demanded of people in order that Bob's right to X in C is met. The duties which correlate with rights should not be taken to demand uniform courses of action across time and space.
- 3 A theory of rights should allow for a distinction between universal rights and special rights. Universal rights are had by every person with the characteristics providing a basis for rights; special rights are had by a person in virtue of something that distinguishes him or her from other persons. The most common example of a universal right is the right to non-interference: in various ways it is argued that all persons share something according to which they have this right. The most common example of a special right is a right created by contract: for example, spouses have particular rights against one another in virtue of the contract they make with one another in marriage. The distinction between universal and special rights is fundamental to law and jurisprudence, and should be accommodated and explained by a theory of rights.
- 4 A theory of rights should make possible the construction of rights-respecting institutions from scratch. That is, a theory of rights should guide us to political action even in the absence of institutions that encode these rights in law. Unless this is the case, rights are impotent as tools for political change.

Let me compare the IB account and the Kantian account in terms of how they satisfy these desiderata.

- 1 *Basis/content distinction.* The IB approach can, but need not, support a conception of substantial 'welfare' rights beyond more traditional rights to things like liberal freedoms, equality before the law, private property, and a vote. The concept of an interest is flexible enough for it to be an open question whether rights extend beyond non-interference. Interest-based theorists such as Jeremy Waldron support a view of rights as extending to welfare rights, but not all IB theorists insist on this point.⁸

Prima facie, the elasticity of the concept of an interest makes the IB account more attractive than the Kantian account with respect to the basis/content distinction. It might be thought that Kant's classification of duties of giving to others as imperfect – and thus not matters of justice – unacceptably narrows the scope of rights so as to include only libertarian rights to freedom and non-interference. However, there are interpretations of Kant's theory of rights which address this worry. For example, Onora O'Neill argues that the

commitment of all practical reasoners to principles which could also serve as principles of practical reason for other agents yields a substantive account of justice whereby persons have both rights to non-interference and welfare rights.⁹ On her interpretation, principles of justice must protect individuals against systematic or gratuitous injury, either through direct attacks upon them, or through damage to the social and natural fabric of the world. Thus, principles of justice protect individuals from more than the interference by others with their freedom; individuals are also injured when they are prevented from obtaining food, deprived of shelter or denied an education. When this form of injury is systematically inflicted – as might be the case in famine situations, societies in which the homeless form a class, or in societies marked by mass illiteracy – political institutions distributing rights to food, shelter, and education are demanded by justice.

- 2 *Context sensitivity.* The IB approach is context sensitive: the demands placed on person A by person B's important interest in x will not be the same as the demands placed on person C if A and C stand in different relations to B. In Jeremy Waldron's terms, each interest-based right will generate waves of duties for people differentially placed with respect to rights-holders. For example, the right not to be tortured imposes a duty on all people not to torture one another, but it imposes extra 'duties of enforcement' on government officials to investigate and prosecute torturers, 'duties of rescue' on those in a position to save torture victims and, perhaps, 'duties of communication' on journalists and educators.¹⁰ Once we have identified an important interest, and established a person's right to have that interest satisfied, we can trace the waves of duty to their various holders and set up political and legal institutions and procedures to ensure that these duties are performed.¹¹

Similarly, the Kantian approach makes the duties associated with rights sensitive to the context in which both rights and duties appear. Discharging a duty of justice which is politically manifested in the right of hungry people to food may, in some contexts, demand simply that hungry people are not interfered with in their planting and harvesting of crops. But in other contexts, when planting and harvesting is not possible, it might require the active provision of food for hungry people and, perhaps, action to make planting and harvesting possible in the future. Duties the performance of which are sensitive to context in the sense of external circumstances will also be sensitive to the ways in which people are differentially situated with respect to rights-holders. The actions which qualify as the performance of a duty to provide hungry people with food will be different for a genetically modified (GM) foods executive than for a citizen of a state which has eradicated hunger among its people. The GM foods executive will have duties to be honest about the extent to which use of GM seeds may make a population dependent on GM companies in the future; the citizen of an affluent state will have duties to lobby his or her government to apply pressure to GM foods

companies to make such matters clear to their customers; both have a duty to pay taxes which contribute towards foreign aid programs.

- 3 *Universal and special rights.* It is clear how an IB approach can give an account of universal rights: once an interest shared by all people has been identified as being of sufficient importance to provide the basis for a right, we can claim that all people have a duty to help/not hinder one another in the pursuit of this interest. For example, the important interest every person has in not being assaulted straightforwardly means that each person has a duty not to assault another person, in which case all people have the right not to be assaulted.

It might seem that the IB account cannot so easily accommodate special rights, because it is hard to see how an interest can be sufficiently important to ground a right unless it is an interest that all people share, in which case the interest grounds a universal right. The way in which an IB approach might accommodate special rights can be seen in Joseph Raz's account of the rights created by promise-making. Raz claims that every person has an interest 'to be able to forge special bonds with other people'.¹² This shared interest (a) grounds the universal right to make promises from which the right to make a particular promise is derived, and (b) grounds the universal right to have promises made to us kept. Given that the second of these universal rights can only be exercised when a person has had a promise made to him or her, we can derive from it special rights to have this particular promise kept, even if what it is that is promised is not itself in our interests. Interest-based approaches can account for special rights by deriving them from higher level universal rights, and linking the exercise of the universal right to a particular set of circumstances which are not common to all people.

Kantian accounts have an in-built distinction between universal and special rights. Special rights, like those which correlate with promise-related and contract-based duties are duties of justice because principles of false promising and intentional contract breaking cannot be adopted by all practical reasoners. When a person has created a special relationship between himself or herself and another person through the making of a contract, then the other has special rights against him or her that he or she perform his or her side of the contract. In addition to special rights correlating with duties created by particular relationships, the CI procedure yields universal rights to reciprocal non-interference with the freedom of others. When a person adopts a principle of interfering with certain freedoms of others while denying that others ought to interfere with his or her own enjoyment of the same freedoms, he or she makes himself or herself an exception to the principle of reciprocal non-interference, which shows that his or her principle is not adoptable by all practical reasoners.¹³

- 4 *Building rights-respecting institutions.* Onora O'Neill argues that the Kantian approach is superior to the IB approach with respect to this desiderata

because the Kantian approach makes it easy to identify the counterpart-obligation holders for universal rights to liberty, or special rights attaching to particular relationships. If everyone has a right to liberty, then everyone has an obligation not to interfere with the liberty of others. In the same way, those with an obligation to respect special rights can be identified by considering the relationship characterised by the special right; for example, those who have a duty to respect a person's special rights arising out of a contract can be determined by discovering who the parties to the contract were.

O'Neill claims that although universal and special rights require institutional structures for their enforcement – courts, a penal system, a police force – they can nevertheless be pressed in the absence of these structures, which are not necessary for the identification of counterpart-obligation holders. But she claims that the same is not true of universal welfare rights to goods and services. Unless and until counterpart-obligations are distributed by institutions, it makes no sense to talk of welfare rights at all. It is important to note that O'Neill is not making the relatively uncontroversial point that institutional structures make the identification of counterpart-obligation holders for welfare rights more easy. Rather, her point is the stronger one that without the institutional identification of such obligation holders, welfare rights do not exist.¹⁴ Thus, on O'Neill's account, and in the absence of institutional structures designed to ensure the satisfaction of welfare rights, it will not do to say that a given person has 'a right to relief against the whole world',¹⁵ or to answer the question 'Who has the obligation to supply food to all those who need it?', with, 'All of us'.¹⁶ When the language of universal welfare rights is used in the absence of structures which create counterpart-obligation holders – as is the case with United Nations (UN) Declaration of Human Rights – the expectations of putative rights-holders will be inflamed and disappointed: 'The perspective of rights provides a perilous way of formulating ethical requirements since it leaves many possible obligations dangling in the air.'¹⁷ O'Neill claims that the priority given to obligations in Kantian approaches avoids this problem. The obligations with which her Kantian approach starts include obligations not to injure others by depriving them of important goods and services. Even if people with these obligations do not know to whom exactly these obligations are owed, they can nevertheless 'make the construction of institutions that allocate tasks and identify claimants the first step towards meeting their obligations'.¹⁸

O'Neill's argument does not succeed as a criticism of the IB approach. This is because the identification of interests as important enough to warrant holding others to be under a duty to promote the interest does not require institutional structures. Jeremy Waldron claims that conceiving of rights as generated by interests gives us enough grounds to start to think about how to distribute concomitant duties to promote or support that

interest through political and legal institutions and processes. That is, the interest-based account of rights allows us to detect the presence of rights in the absence of legal or other structures which specify who has a duty to ensure that the right is met.¹⁹

This means that, 'I can say . . . that a child in Somalia has a right to be fed, meaning not that some determinate individual or agency has a duty to feed him, but simply that I recognize his interest in being fed as an appropriate ground for the assignment and allocation of duties'.²⁰

Recognising that another person has an important interest in food, shelter or education does not require institutions of law or international political conventions. The fact that we recognise that a person A has such an interest in x is sufficient for us to attribute to A certain rights to x, which means that we can begin to build institutions to distribute the counterpart-obligations to provide A with x, which we acknowledge to exist when we attribute a right to x to A. On the IB account, when we accept the rights-claims people make we also accept an obligation to put in place structures which ensure that that right is met by distributing its counterpart-obligations. But this seems on a par with the Kantian approach which moves from obligations through institutions to political rights.

The IB approach and the Kantian approach are evenly matched according to desiderata 1–4. In the remainder of this chapter I want to focus on the extent to which commitment to each theory of rights gives us grounds for choosing between different and competing conceptions of the good society, and for arguing that people ought to work to create this society. I shall argue that with respect to this question, the Kantian approach is superior to the IB approach.

2 Beyond justice?

Let me start by considering the Kantian approach to the good society question. O'Neill and other Kantians point out that there are many 'social virtues' – for example, charity, civility, solidarity, compassion – which are not a part of justice, and to which people do not have rights, yet which we have an obligation to develop and which have non-justice related value.²¹ The Kantian approach can make sense of duties to work towards these valuable aspects of society with its tripartite division of morally good actions.

- 1 *Perfect duties of justice* are required and are the basis upon which rights are attributed to people.
- 2 *Imperfect social duties* do not have correlate rights but are nevertheless required: for example, we have a duty to act charitably, but not everyone has the right to charity from us.

- 3 Finally, there are *supererogatory acts* which it is good to perform, but which we do not have a duty to perform (for example, acts of heroism or great self-sacrifice).

By creating conceptual space between perfect duties and supererogatory actions the Kantian approach allows that we have some social obligations to which no rights correlate. The Kantian approach thus has the resources to explain why we ought to work towards a rights-respecting compassionate, civil, fraternal society rather than a rights-respecting heartless, aggressive, self-seeking society: we have imperfect, non-justice related, duties of compassion, civility and fraternity.

O'Neill argues that, in general, pure rights-based approaches lack the resources to address the good society question because they only address the obligations people have to perform those actions necessary for the respect of rights; the performance of all other actions, or the cultivation of certain dispositions, however laudable, is on these accounts non-obligatory.²² There are two ways of taking this criticism. First, it might be claimed that rights-based approaches lack an account of why a just and good society is better than a just and bad society. Second, it might be claimed that rights-based approaches cannot explain why people in a just society ought to work to make that society good. With respect to the IB approach, this criticism bites only in its second sense. The problem with the IB approach is not that it is necessarily indifferent between visions of the good and bad just society. The good just society can be endorsed over the bad just society in virtue of its supererogatory value, assuming that IB theorists can give an account of supererogatory value. Rather, the criticism is that on the IB approach people only have obligations to perform actions necessary for the protection of certain important interests, but there are social virtues not related to the protection of such interests which characterise the good society and which, we would want to say, people ought to cultivate. The problem is that supporting judgements about the goodness of societies by reference to their supererogatory values leaves it unclear why people ought to work to create this value in their societies. If the value of a good society is supererogatory, then presumably action fit to create this value is also supererogatory. But supererogatory action is non-obligatory, in which case we cannot say of people who do not work to create the good society that they ought to do so. The Kantian approach avoids this problem because its account of the value of a good just society is given in terms of the performance of actions which are obligatory, albeit imperfectly so.

Let me assess the force of this criticism against Waldron's version of the IB approach. With respect to the social virtue of charity, Waldron claims that 'the welfare state functions . . . as a clearing house for . . . imperfect obligations [of charity]'.²³ Although Waldron makes room for the concept of imperfect duty, this does not yield an answer to the good society question which resembles the

Kantian answer. This is because, according to Waldron, some important interests generate imperfect duties *which correlate with rights*: an interest in, say, food is sufficiently important to hold others to have imperfect duty of charity towards the hungry and, therefore, for the hungry to have rights to have this interest satisfied.²⁴

Waldron's incorporation of imperfect duty into the typology of value of the IB approach might straightforwardly be taken to address the question of the good society question by being extended to cover social other social virtues like fraternity, civility and kindness. However, this extension dissolves the distinction between the just and the good society, and so should be avoided. If it is claimed that persons' important interests in being treated fraternally, civilly and kindly generate imperfect duties to be fraternal, civil and kind, then what Waldron claims about the imperfect duty of charity applies *mutatis mutandis* to these other imperfect duties: people have rights that others treat them fraternally, civilly and kindly. But if people can claim the performance of imperfect duty as a matter of right, then rights take up all the space of value-judgements about the nature of a society. The claim implies that all societies are either just or unjust, and that there is no possibility of a society which is just but not good (as in, for example, Kant's 'nation of devils').²⁵

It is clear that Waldron does not hold this view. For him, people have rights to perform actions that are 'stupid, cowardly, tasteless, inconsiderate, destructive, wasteful, deceitful, and just plain wrong, as well as actions that are wise, courageous, cultured, compassionate, creative, honest, and good'.²⁶ Rights do not take up all the space of value-judgements. But in that case, duties to create a good society must be understood in terms of something other than the promotion of/non-interference with persons' important interests, otherwise such duties would generate rights, and judgements about the goodness of a society would be equivalent to judgements about its justice. The IB theorist has two options for fleshing out this understanding of imperfect duties to create a good society.

First, it might be claimed that imperfect duties characterising the good society are not generated by interests at all, in which case the question of their correlation with rights does not arise on the IB approach. The problem with this approach is as follows. Any account of justice fit for conditions of pluralism will explain why people who reject justice nevertheless have an obligation to be just: it will have authority for such people. If the account of imperfect duties to create the good society is derived from the same source as the account of justice which it accompanies, then it will have the same authority as this account. This is the case with the Kantian approach: obligations of justice and imperfect social obligations are both derived from the CI, and have their authority in virtue of this derivation. In contrast, if the authority of imperfect social obligations is divorced from the authority of duties of justice – as is the case in the approach under consideration – then we are owed an independent account of the grounds on which imperfect social obligations have their authority. Perhaps

such an argument can be made. However, given the difficulty philosophers have faced in coming up with accounts of justice which are plausibly authoritative in conditions of pluralism, we are entitled to some scepticism here.

A different approach for the IB theorist is to claim that imperfect social obligations are derived from interests, but that these interests are not important enough to hold others to be under duties to help/not hinder their pursuit, and so do not correlate with rights. Here, duties of justice and imperfect social obligations share their authority in virtue of being derived from the same source: interests. If an argument can be made to show that, regardless of how they differ on moral, religious, or philosophical questions, all people ought to help/not hinder one another in the pursuit of their interests, then both duties of justice and imperfect social obligations have authority in pluralism. What distinguishes them is the importance of the interests from which they are generated, which affects whether performance of the duties can be enforced in law through the allocation of rights to people.

The key claim of this approach is that social obligations are generated by interests which are of less importance than interests generating rights. The problem is how to make an argument for this claim. Consider some standard imperfect social obligations: toleration, kindness, charity. Is it the case that persons' interests in being treated with toleration, kindness or charity are less important than their being assured freedom of speech, association or market participation through the allocation of rights? Of course, freedom of speech, association and market participation are very important goods necessary for human flourishing. But the idea that these goods can be ranked above toleration, kindness and charity is unattractive, for two reasons. First, ranking strategies require the employment of some overarching standard or master-good according to which all goods can be compared, such as utility. But in conditions of pluralism appeal to such a master-good in political justification is problematical. Second, even if the problems associated with appeal to a master-good can be avoided, the way in which particular goods are ranked will be a matter of disagreement among people committed to a just and good society in conditions of pluralism. These problems make it best to avoid such ranking strategies.

The Kantian approach retains the distinction between duties of justice and imperfect social obligations without ranking the goods to which these duties relate. On the Kantian view, these obligations are distinguished according to how maxims expressing purposes contrary to the realisation of these goods fare when subjected to the CI procedure: a person has a duty of justice not to act on any maxim which cannot be conceived without contradiction, and an imperfect duty not to act on any maxim which cannot be willed without contradiction. But this does not mean that the goods protected by duties of justice are more important than the goods, protected by imperfect duties. All it means is that the way in which these goods are realised differs.

Conclusion

Given that the IB approach and the Kantian approach perform equally well according to the four desiderata outlined earlier, should the fact that the Kantian approach performs better with respect to the good society desideratum lead us to prefer this approach? A hard-nosed response would be to deny that the good society desideratum is appropriate as a touchstone for comparing the approaches. A hard-nosed person might respond that a theory of *justice* is just that; it is no criticism of such a theory that it does not provide answers to questions about the good society, and so there is no reason to prefer a Kantian approach to rights over an IB approach. The problem with this response is that it makes theories of justice rather mean and cold-blooded creatures. Conceptions of justice which have in the past inspired people have offered substantive accounts of the content of justice, but have also suggested ways of thinking about what a good society might be like once justice is achieved. They have offered visions of transformed social relations, improved characters, more fulfilling work and more exciting art and culture, and they have done this without collapsing the distinction between the just society and the good society. Without pretending to argue this point, I think it would be a great loss if such visions disappeared from the landscape of justice-talk. For anyone who agrees, the Kantian approach to the basis of rights is preferable to the IB approach.

Notes

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- 1 J. Waldron, 'Can Communal Goods be Human Rights?', *Liberal Rights: Collected Papers 1981–1991* (Cambridge, Cambridge University Press, 1993), p. 359.
- 2 See J. Waldron, 'Liberal Rights: Two Sides of the Coin', *Liberal Rights: Collected Papers 1981–1991* (Cambridge, Cambridge University Press, 1993), p. 11.
- 3 See J. Raz, 'On the Nature of Rights', *Mind*, 93 (1984), pp. 207–8.
- 4 I. Kant, *Groundwork of the Metaphysic of Morals (The Moral Law)*, tr. H.J. Paton (London, Unwin Hyman, 1948), p. 85, 422/54–5.
- 5 Kant, *Groundwork of the Metaphysic of Morals*, pp. 85–6, 423/55–7.
- 6 'Every action which by itself or by its maxim enables the freedom of each individual's will to co-exist with the freedom of everyone else in accordance with a universal law is *right*'. I. Kant, 'The Metaphysics of Morals', in *Kant's Political Writings*, ed. H. Reiss (Cambridge, Cambridge University Press, 1970), p. 133.
- 7 An example of the former conception is R. Nozick's conception of rights as 'side-constraints'; *Anarchy, State, and Utopia* (Oxford, Basil Blackwell, 1974), pp. 26–53. An example of the latter is the UN Declaration on Human Rights.
- 8 See Waldron, 'Liberal Rights: Two Sides of the Coin', p. 11.
- 9 O'Neill's version of Kant's CI procedure 'demands that practical reasoning follow

- principles that are thought of as *adoptable* or *followable* by all for whom it is to count as reasoning'. O. O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning* (Cambridge, Cambridge University Press, 1996), p. 57.
- 10 See J. Waldron, 'Rights in Conflict', *Liberal Rights: Collected Papers 1981–1991* (Cambridge, Cambridge University Press, 1993), pp. 203–25, 212–13.
 - 11 Context sensitivity is also a feature of Raz's IB approach. See Raz, 'On the Nature of Rights', pp. 199–200.
 - 12 Raz, 'On the Nature of Rights', pp. 201–4.
 - 13 Of course, there are questions here about how principles of interference are described by those who adopt them. For example, take a person who defends a principle of reciprocal non-interference with sexual freedom, but wants to ban homosexual sex in virtue of his or her principle of reciprocal interference with ungodly practices. Does this person make an exception of himself or herself in virtue of holding the second principle? Much depends on the account we give of the correct exercise of judgement in the formation of maxims, and in the relationships that persons take to hold between their maxims. For a good discussion, see B. Herman, *The Practice of Moral Judgement* (Cambridge, MA, Harvard University Press, 1993).
 - 14 See O'Neill, *Towards Justice and Virtue*, p. 132. See also O. O'Neill, 'Women's Rights: Whose Obligations?', *Bounds of Justice* (Cambridge, Cambridge University Press, 2000), pp. 97–114.
 - 15 Waldron, 'Liberal Rights: Two Sides of the Coin', p. 16.
 - 16 C. Jones, *Global Justice* (Oxford, Oxford University Press, 1999), p. 94.
 - 17 O'Neill, *Towards Justice and Virtue*, p. 134.
 - 18 O'Neill, *Towards Justice and Virtue*, p. 135.
 - 19 See J. Waldron, 'Introduction', in J. Waldron (ed.), *Theories of Rights* (Oxford, Oxford University Press, 1984), pp. 1–20, 10–11.
 - 20 Waldron, 'Introduction', p. 10.
 - 21 O'Neill, *Towards Justice and Virtue*, p. 143.
 - 22 As O'Neill puts it, 'Nothing shows why indifference or self-centredness should not be life-projects for liberals, providing, of course, that others' rights are respected'; *Towards Justice and Virtue*, p. 144.
 - 23 Waldron, 'Liberal Rights: Two Sides of the Coin', p. 17.
 - 24 It is not clear why Waldron feels the need to appeal to an imperfect duty of charity in order to generate rights to food. Why not argue that the interest people have in food is sufficiently important to hold all others to be under a perfect duty to promote this interest, and that the state acts as a clearing house for the discharge of this perfect duty? Indeed, on O'Neill's Kantian approach, key socio-economic rights like the right to food are generated by duties of *justice* because the provision of food is necessary if gratuitous and systematic injury to the hungry is to be avoided.
 - 25 Kant states that, 'As hard as it may sound, the problem of setting up a state can be solved even by a nation of devils (so long as they possess understanding)'. 'Perpetual Peace', in *Kant's Political Writings*, ed. Hans Reiss (Cambridge, Cambridge University Press, 1970), pp. 93–130, 112.
 - 26 J. Waldron, 'A Right to Do Wrong', *Liberal Rights: Collected Papers 1981–1991* (Cambridge, Cambridge University Press, 1993), pp. 63–87, 85.