Human Responsibilities:  
A Relational Account of Human Rights

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ABSTRACT

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What is and should be the scope of our appeals to human rights? To what desiderata should our theory of human rights adhere? On my proposal, human rights (i) are inherently relational, and (ii) play an important background role in our broader normative practices. Human rights derive from a foundational community relationship that human beings stand in with one another qua human beings. They are not, as naturalistic conceptions have it, grounded in the possession of any specific capacities such as high levels of rationality. They are also not, as political or practical conceptions claim, grounded in more specific relationships such as those between state and citizen. Unlike the current approaches, my relational approach offers both a non-derivative justification for recognizing all living human beings as human rights bearers and all human agents as duty bearers. Rights holder status and duty bearer status both have their source in this basic relationship shared by human beings. As such, neither precedes the other. The relationship gives rise to both. As an upshot, the view accounts for a variety of cases where we ordinarily do not invoke human rights even when their content is relevant, such as in cases of violent crimes or in interpersonal relationships. In turning to these examples, I consider not merely under what conditions human rights exist, but also under what conditions they ought to be invoked. Thus while they have a universal scope, we need not always appeal to them as human rights in order to fulfill them.

My inquiry into the grounds of human rights begins with a paradox that emerges for both naturalistic and political conceptions of human rights. Namely, even though human rights have their place in social and political relations, they are often conceived in ways that are blind to the
basic role that these relations play in constituting them. While they inhere in individual human beings, the function and content of human rights is largely dependent on facts about human relationships. This paradox is particularly striking in the case of anti-discrimination rights, which many naturalistic views struggle to include as these rights derive not from any particular capacity, but from a comparative egalitarian premise. Instead, a relational view can point directly toward the damaging effects of severely unequal social attitudes—of failures to recognize one another as fellow human beings. Despite these differences, there are ‘natural’ and ‘political’ elements to my proposal as well, though both notions get reinterpreted. The natural, insofar as it figures in my account, is the relational framework in which individual human beings live their lives. The political consists in these overlapping networks of social relations. Thus the natural and the political coincide, and in effect my approach falls in neither of the two traditional camps. Instead, by focusing on the relationship between all human beings and conceiving of this relationship as both natural and social/political, I aim to formulate a genuinely new account of human rights.
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INTRODUCTION

Human rights are often described as claims that we hold against one another in virtue of our shared humanity. Since the signing of the Universal Declaration of Human Rights (UDHR) in 1948, and especially since the 1970s, they have become a prominent part of our political, legal, and moral discourse. This way of framing human rights conjures up the image of human beings standing in opposition to one another, making demands on each other, and especially doing so in the context of international law. This image helpfully brings out the degree to which human rights are inherently tied to action. We recognize them; we claim them; we fulfill them. Human rights require us to take action, and they require us to regard one another as equal bearers of rights. Beyond our actions, their fulfillment makes demands upon our attitudes; we have a responsibility to regard our fellow human beings as equals worthy of dignity and respect.

What this image obscures is the degree to which human rights have a relational component. They need not be overly individualistic, as the antagonistic phrasing ‘holding against’ suggests. The common depiction of human rights in the international legal context does not alleviate this impression. Instead, it emphasizes the formal prevention of human rights violations and the means of recourse for situations in which violations occur. Legal courts in our home countries and international judicial bodies such as the International Criminal Court (ICC) and the European Court of Human Rights (ECHR) provide forums for recourse when human rights are under threat. Nonetheless, focusing on human rights at this level and primarily in cases of violation masks the frequency with which we as individuals and members of communities work to fulfill the human rights of those around us.

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One can support an account of human rights founded on an understanding of the ways in which human beings are deeply shaped by and entrenched in webs of relationships with one another. Indeed, these relationships are not inherently in tension with the egalitarian demands of human rights; they create the structures that allow us to realize them. While large-scale institutions and organizations enable the protection of human rights, they are only one part of the picture. In further developing that picture, I generate a relational account of human rights, and I argue that we need to adopt an account of this type in order to meet two central criteria.

Throughout this dissertation I argue that our theory of human rights must (1) non-derivatively accommodate all living human beings as human rights bearers, and (2) account for the fact that all human agents have human rights related responsibilities. At their heart, these criteria get at what I take to be central intuitions of our human rights practice and theory, and ones that I have already begun articulating. However, dominant theories of human rights struggle to accommodate them. This should concern us because we would be sacrificing something substantial if we gave up either of them. These criteria take seriously the claim that human rights are universal—both in the sense that they are universally held by all living human beings and in the sense that they hold against all human agents.

To fail to accommodate the first criterion is to accept that there are some living human beings who are not human rights bearers, or whose status as human rights bearers derives from alternative justifications. An example of an alternative justification would be recognizing those with limited agential capacities as human rights bearers because of practical problems generated by not doing so rather than for reasons tied to their equal status. These criteria take seriously the assertion that human rights are moral rights possessed in virtue of our humanity alone that are often best realized in the context of political and legal communities and institutions. In doing so,
they also preserve the egalitarian spirit of human rights, the notion that no matter where we happen to live, what body we happen to be born into, or what skills we happen to have, we owe one another respect simply on account of being fellow human beings.

To address a question likely to arise, there will still be marginal cases on the view. For example, fetuses and the presumably permanently comatose will fall into that camp. However, they are marginal cases due to disagreement about whether they are alive rather than about whether they are human beings. Human rights practice generally gives equal attention to all living human beings as well, and this I take to be a fundamental component of what human rights aim to do. Human vulnerability is precisely why we need many of the rights that we do; thus it seems unconscionable to rule out individuals who are indisputably human beings due to this vulnerability. In the case of a quintessential right to not be tortured, the individual being tortured is likely not in a position to be able to claim that right for himself. A practice of being able to claim rights on behalf of others is already a central part of our practice, and it should not be used as a reason for ruling out some individuals. I take a relational approach to be our best bet for being able to non-derivatively recognize these individuals as human rights bearers. Other accounts simply cannot do the heavy lifting that we need here, and we should aim to find an account that can accommodate all living human beings.

To fail to accommodate the second criterion is to limit human rights to particular political arrangements. If not all human agents bear human rights related responsibilities, then there must be some additional factor, such as entry into a particular political society, that is necessary for the existence of human rights related responsibilities, and thus, necessary for human rights themselves. The second criterion recognizes the related point that if human rights are truly rights possessed in virtue of our humanity alone, then there is no principled reason for arguing that only
certain agents have the responsibilities for ensuring that they are met. To make that assertion would be to assert that human rights are contingent, to suggest that they only exist in the presence of particular kinds of political relationships. For example, if one takes it to be the case that states are the primary duty bearers with regard to human rights, this presumes that states need exist in order for human rights to exist. Taking seriously the claim that human rights are a species of moral rights requires us to think more broadly about who count as the relevant duty bearers.

The asymmetry in human rights holders and human rights duty bearers identified in the criteria reflects a difference in who qualifies as a human rights bearer and who is capable of carrying human rights related responsibilities. While the first criterion recognizes all living human beings as human rights bearers, the latter focuses on human agents. To make this move is in one way more limited and in another way more expansive than it would be were all living human beings both human rights bearers and duty bearers. On the one hand, it acknowledges that there are some human beings who lack the agential capacities necessary to be appropriately held responsible for ensuring the human rights of others, and yet are themselves possessors of human rights. I will argue that their status as human rights bearers stems from their membership in the community of human beings rather than from their possession of any particular capacity. A prime example of this would be a young child. In this way, the focus on human agents is more limited than the focus on living human beings. On the other hand, group agents comprised of individual human agents, such as institutions or organizations, can bear human rights related responsibilities, and many of them are better equipped to do so than individuals operating in isolation. Nonetheless, these groups themselves are not the bearers of human rights, though those who comprise the groups are. As a result, there might be good human rights related reasons for
ensuring that group interests are protected, though these reasons stem from the importance of protecting the human rights of individuals. For example, indigenous groups, recognized in the United Declaration on the Rights of Indigenous Peoples\(^2\) as rights bearers, would not non-derivatively qualify as human rights bearers on my relational account. Nonetheless, it might be necessary to recognize group rights in order to protect the human rights of particular indigenous individuals who are human rights bearers.

Throughout this dissertation, I argue that the best way for us to accommodate these criteria is by adopting a relational approach to human rights that grounds our human rights related responsibilities in a basic membership relation that exists between human beings simply as fellow human beings. Toward that end, the overall narrative arc of the project moves from relationships to responsibilities to rights. The interesting unit of analysis from the start is that of a relationship, and much of the project is about making sense of the myriad ways that these relationships influence our understanding of our own identities and shape the content of particular responsibilities that we have to one another. Appealing to rights is continuous with other means of communicating specific kinds of moral demands. Based on their very structure, rights suggest a relationship. What it is for someone to have a right is for someone else to have a duty. I take this structural aspect of rights as useful for thinking about what is distinctive about them and how they differ from other modes of appeal.

In grounding human rights in relational responsibilities, I aim to give us a means for thinking about the positive realization of rights rather than primarily about their violation. This move also allows us to put rights claims into more direct conversation with other modes of praising, blaming, and holding one another responsible. In doing so, we are able to broaden the

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conversation about the means by which human rights can be realized, and to challenge the common assumption that they are inherently individualistic in a way that is necessarily damaging to our relationships with others. Put another way, even in cases where we recognize that human rights characterize a situation, there is still a further question about whether appealing to human rights is necessary or more effective at fulfilling the content of those rights.

Especially at a moment where greater economic, social, and technological connections have become possible, we find ourselves faced with many humanitarian challenges, and by questions about how effective human rights can be at responding to them. What I offer in this dissertation is a theoretical sketch of how we might best conceive of human rights and their correlative responsibilities, and how doing so requires challenging our present ways of thinking about how human rights are realized. It requires us to view ourselves as individual human beings and as members of a variety of groups actively engaged in realizing the human rights of ourselves and of others in our everyday lives. My hope is that doing so can create space for thinking about human rights in more context-sensitive ways without sacrificing central intuitions from the scholarship and practice of human rights.

Progression of the Chapters

Chapter 1: A Relational Approach to Human Rights

The first chapter situates the project in the human rights literature and makes a case for why a relational model drawing on the ethical literature on valuing and special relationships can offer insights for thinking about relational responsibilities. In particular, I contrast it with what I take to be the most prominent approaches, which I refer to as naturalistic, political, and integrative approaches. In doing so, I demonstrate how those approaches are unable to
accommodate the criteria that I have laid out in this introduction. Alternative views also leave human rights theory open for criticism both from those concerned about speciesism and those concerned about human rights discourse and practice as a form of imperialism. I demonstrate how a relational approach is able to preserve crucial features of our human rights practice without being subject to these objections to the same degree as other major contenders.

Chapter 2: The Human Community

The second chapter builds plausibility that human beings do stand in normatively significant relationships with one another, even when we are at great distances. Drawing especially on the literature on valuing and special relationships, I argue that there is a basic membership relation that exists between human beings simply as fellow human beings, and that our valuing of this relationship gives rise to responsibilities. In developing the view I expand on Samuel Scheffler’s account of special relationships and argue that part of what it is to value our membership in a community of fellow human beings is to non-instrumentally value other members. Doing so requires recognizing a framework of experience largely shared by our fellow human beings that has social, agential, biological, and historical components. These components, in turn, later help us identify the content of human rights.

Chapter 3: Valuing Our Membership

The third chapter considers why we should value our membership in a community of human beings. I argue that we already do, in fact, value our membership in that valuing our own particular projects, relationships, and memberships entails that we also value the broader web of human relationships that give them their meaning. Further, because valuing our humanity
requires us to value other human beings, we also have a responsibility to regard one with another with respect and as beings with dignity. In making my case, I draw on several figures in the history of philosophy who, despite vast differences in their theories, share a commitment to making sense of the special connection we see ourselves as bearing not merely to fellow rational agents, but specifically to fellow human beings.

Chapter 4: Invoking Rights and Communicating Wrongs

The fourth chapter focuses on the act of claiming human rights, and it raises a question about how the act of claiming human rights is distinct from other ways of flagging a wronging. I make my case by offering two examples and extrapolating from them the contexts in which invoking human rights is necessary. In particular, I argue that in unhealthy relationships, be they personal or political relationships, we need to draw on human rights in order to effectively articulate that a wronging has occurred. What we do when we invoke a human right against someone is flag that they have failed to regard us as fellow human beings. They have failed to give us the most basic kind of respect and care due to us based on our shared humanity. An upshot is that the distancing and coerciveness of invoking human rights against someone can have the consequences of creating space for reflection and for the adoption of new, thicker concepts that are better able to articulate the wronging.

Conclusion

Finally, in the conclusion I begin exploring how this relational account of human rights links back to the states and institutions that I have discussed here. I show how a relational account of human rights is able to account for the frequency with which we make appeals to
institutions when we are concerned about human rights violations. In doing so, I emphasize the limitations in our relationships with group agents, and the greater need that we have in these contexts to invoke human rights against one another in order to flag wrongings and draw attention to failures to fulfill human rights. While in our interpersonal relationships, we have a wider range of options for communicating what has gone wrong, when engaging with group agents, we often need to turn to rights claims.

Since this approach distances itself from a commitment to states as primary human rights duty bearers, the conclusion also begins to explore alternatives. In doing so, I begin considering NGOS, multinational corporations, and other groups as bearing responsibilities for not merely failing to violate, but also for fulfilling human rights. I look toward features such as the relationship between those in need and agents with the potential to fulfill, the capacity of the agent to fulfill the right in question, the proximity of the agent, and the agent’s publicness. Since on this account all human agents have responsibilities to fulfill human rights, these additional considerations become a means by which to determine which particular agents are best suited for fulfilling which particular rights. This approach is dynamic and responsive to changes in the world around us while being simultaneously able to recognize human rights as universal.

In expanding on this project moving forward, I am interested in thinking both about particular human rights related challenges, such as environmental migrants, and about the kinds of attitudes and practices that we can cultivate in our individual lives and in our communities in order to best ensure the fulfillment of human rights. With regard to the latter, I am especially interested in exploring the role of social trust in realizing human rights.
CHAPTER 1:
A Relational Approach to Human Rights

I first motivate philosophical inquiry into human rights. That is, I ask the preliminary and basic question of what philosophy can add to discourse about human rights at all. In laying out my reply to the question, I flag the challenge of sufficiently keeping in view human rights practice while engaged in theoretical inquiry. In effect, my own approach is deeply shaped by this challenge: I take it that a compelling account of human rights must capture the role that human rights and the appeal to human rights play in our normative lives. A prominent example among the features of our social and political practice that I have in mind here is in the preamble of the 1948 Universal Declaration of Human Rights, which speaks of the rights of “all members of the human family.”¹ As I mentioned in the introduction, it is a core contention of my approach that human rights theorists ought to make good on this. When we invoke human rights, it is one of our strongest intuitions that these are rights all human beings have. And yet, standard human rights theorists cannot accommodate this thought. My relational account of human rights improves on the existing theories in several ways. However, the most obvious advantage is this: I depart from standard theories of human rights by taking seriously that human rights should, indeed, be rights of all human beings.

I situate my approach, which I call a relational approach to human rights, within three prominent approaches in the human rights literature. I refer to these as naturalistic, political, and integrative approaches. Naturalistic accounts of human rights, in brief, claim that human rights are rooted in human nature. There are many variants of this view, including ones that move away

from earlier proposals that are perceived as invoking a suspect notion of human beings qua biological species. In these more contemporary versions, naturalistic accounts locate the source of human rights in a feature or property of humans that is distinctive. Most frequently this feature is taken to be agency, or the capacity for agency. Political approaches to human rights depart from any such proposals. The existence and normative force of human rights, the thought is, depends solely on our political and legal practices. Integrative approaches aim to make room for both sets of ideas. The integration can go both ways, depending on which set of ideas is given priority. Some integrative theories focus on the merits of a political account and refer to foundational normative matters only by way of supplementation. Other versions start from foundational normative matters and supplement their theories by conceding that the political approach too captures ideas that are necessary for articulating a thorough account of human rights.

The relational account of human rights that I lay out and defend in this dissertation is non-naturalistic. It provides an alternative foundation of human rights, namely, the nature and existence of human relations. It departs, further, from the political approach insofar as I employ a broader notion of the political, where our social relations count as political. My relational approach gives pride of place to foundational normative questions and nevertheless concedes some of the insights of the political approach, in particular with respect to the function of human rights in international political and legal discourse. In doing so, I also preserve the second-personal appeal inherent in invoking a right. A conception of rights is, at best, counterfactual if there is no one else to whom to make reference. Thus, in beginning a conversation about human rights we are beginning a conversation about what we can ask and expect of one another, not merely asking questions about value. Human rights are also often viewed as imbued with a
heightened moral status. They are deemed to warrant protection not just because they strike people as good or as part of a good life, but because there is some deep sense in which individuals are wronged if other human beings make no effort to protect their access to them.

In addition, and to situate my approach further, this chapter offers a survey of prominent examples of each of the classic approaches to human rights, unveiling gaps with which these conceptions of human rights leave us. From there, I go on to discuss the strengths of a relational approach and make a case for how turning to the literature on special relationships and on valuing can deepen our understanding of the distinctive role that human rights play in our interactions with one another. My discussion aims to explore how far a relational account of human rights can take us: how it fares in addressing well-known problems in the philosophy of human rights, and moreover, how it helps us deepen our understanding of our social and political practices. Of course, much of what I say here will require more detailed analysis in later chapters. For now, my aim is to locate my approach within a range of existing options and to offer a preliminary summary of my reasons for thinking that these existing options are insufficient: a novel, relational account of human rights is needed if we are to ascribe human rights to all human beings, and if we are to make sense of our practices of invoking human rights.

Motivating the Project

To what extent and in what ways can philosophers contribute to practical debates about human rights? How can engagement about human rights contribute to philosophical debates? Both anthropogenic and environmental threats have brought about famines, displacement, torture, and a curtailment of civil and political rights. The ongoing refugee crisis and the Syrian
Civil War, for example, make vivid the pressing need for human rights protections. They further highlight the complexity involved in mitigating immediate and long-term threats to the ability of human beings to live, at the very least, minimally good human lives. Under these conditions a philosophical analysis of human rights might strike policy-makers and activists as detached and incapable of offering any guidance for responding to the tangible needs of real human beings. How can having a clearer conceptual understanding of human rights provide effective assistance or recourse for those on the ground who need help now? They might suspect that the attention could be better put to resolving legal questions about human rights, or to working out the most effective means by which to distribute goods to people presently in need.

Even worse, one might think, many theorists argue that human rights are not especially philosophically interesting. Their objections tend to fall into two main categories: 1) metaphysical skepticism about human rights, including objections about redundancy, and 2) normative skepticism, which acknowledges human rights but suggests that even if they do exist, human rights do not necessarily enhance the well-being of human beings. Those who raise metaphysical objections to human rights maintain that there are no such things as human rights that exist as moral rights over and above legal or potential legal rights. Jeremy Bentham’s description of rights as “nonsense upon stilts” is a classic articulation of this skepticism.

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2 This question also raises a concern about what the priorities should be when responding to human rights violations. Should the first priority be human beings whose rights are currently being violated, or on reworking institutions that perpetually contribute to or fail to effectively respond to the violation of rights? Of course, one would ideally do both, but what one takes to be the theoretical foundations of human rights has consequences for which approach is more morally and politically pressing.

3 Of course, one might hold both views. If one is a metaphysical skeptic about human rights, she is likely to also be a normative skeptic. An exception to this pattern would Richard Rorty, who, while denying that they can berationally justified, maintains that human rights are still socially valuable. See Richard Rorty, “Human Rights, Rationality, and Sentimentality,” in *Truth and Progress: Philosophical Papers* (Cambridge: Cambridge University Press, 1998), 167-185.

Bentham’s image is powerful at conjuring up an impression of rights as lacking stable foundations and substance and as giving the illusion of something of stature that does not exist. Instead, a metaphysical skeptic about human rights would likely conclude that the concept of human rights is either a political concept that has emerged over time as a way of articulating social goals or shared values, or as a purely legal category.

Conservative political theorists like Edmund Burke take the objection further by arguing that appeals to abstract moral rights are not merely “nonsense”; they are downright dangerous. His account offers us an example of normative skepticism. According to Burke, an emphasis on abstract moral rights leads to the degradation of tradition without offering a substantive alternative. In doing so, it generates a situation in which “all the decent drapery of life is to be rudely torn off.”5 Though both were writing in reaction to the French Revolution, the anxieties about moral rights expressed by Bentham and Burke align with contemporary critiques of human rights as well.6 It is worth noting that their objections are not to the role of legal rights in mitigating relationships between states and their citizens or that between fellow citizens. It is to the assertion that there exist independent moral claims with the structure and force of rights that these cases of legal recognition are taken to be codifying.

The way that Burke and Bentham articulate their objections concerns the way in which the concept of moral rights and the practice of appealing to them influence the beliefs and

5 See Edmund Burke, Reflections on the Revolution in France (New York: Oxford University Press, 2009), 77. While I disagree with Burke’s claim that there are not abstract moral rights to which we can appeal, I think Burke is right that their invocation can feel like the “drapery of life” is being ripped off. Chapter 4 discusses how unpacking this reaction can help us articulate what is distinctive about appealing to human rights in contrast to other values, needs, or interests. In doing so, it can help us identify when we can best appeal to human rights.

attitudes of individuals in the relevant societies. Bentham expresses what is prima facie a metaphysical concern, that moral rights are treated as coherent when they are not and as having a status that they do not warrant. Burke’s objection reflects a broader social unraveling, a warning about how attempts to step outside of the social fabric in which our practices exist is fraught. He argues that these abstract moral appeals serve as ultimatums and lack the finesse that would allow their content to even be met. Appeals to moral rights oversimplify complicated social and political relationships, or so Burke would have us think.

Not all normative skeptics regarding human rights, of course, are politically conservative like Burke. One might also be skeptical that recognizing values or aspects of a good life as having the status of human rights helps ensure their fulfillment. In this case, the worry would be that the concept of a human right is too rigid and curtails the range of permissible actions for responding to a wrongdoing. Due to the absolute nature that human rights are taken to have, compromise about the content of rights or with human rights violators no longer appears to be an option. On the international scene, while recognizing a particular act as a human rights violation acknowledges that a wrong needs to be righted, it also places constraints on the negotiating parties. A 2006 report by the International Council for Human Rights Policy, a human rights think tank, explored the tension between justice, understood as repercussions for wrongings, and peace, understood as a ceasing of fighting. They were especially interested in examining how a human rights framework influenced the negotiations for peace, and in identifying the balance between peace and justice most likely to have a positive lasting effect. They were concerned that prioritizing justice, including rectification for human rights violations, could have the consequence of delaying peace.

Likewise, with regard to the positive fulfillment of rights, if human rights are seen as bearing the status of trumps or identifying values that cannot be weighed against other values and social interests, there is no guidance for moving forward and prioritizing among rights. Everything is identified as being equally weighty. While ideally the content of all human rights would be met, the reality is that choices need to be made about where to begin. Thus, one might suspect that describing too wide a range of values as human rights would inhibit the ability to secure all of them rather than increase the likelihood of doing so. As a result, the recognition of certain values as bearing the status of human rights does little beyond lip service to contribute to their fulfillment. The role of mobilizing public attitudes is also often cited as a way to put pressure on states, corporations, and the international community to respect human rights. Local recent examples of this would be ethical divestment and boycotting products produced by companies known to use unethical practices, for example, clothing made in sweatshops. The more values that are recognized as human rights, one might worry, the more complacent the public will become to charges of human rights violations or to arguments that we ought to be fulfilling human rights. The demandingness of the responsibilities will lead to a shutting down of public support rather than to action.

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8 See James Nickel, “Rethinking Indivisibility: Towards a Theory of Supporting Relations Between Human Rights,” *Human Rights Quarterly* (2008): 984-1001. In it, Nickel offers an effective response to this criticism by pointing out that even if human rights are indivisible in the sense that any particular human right cannot be completely fulfilled unless all of them are, that does not mean that choices cannot be made along the way about how to best fulfill human rights in a particular society. Nickel advocates for considering which rights serve as necessary conditions for the fulfillment of other rights as well as identifying rights that can only be fulfilled in conjunction with other rights. He also notes the importance of paying attention to what resources and infrastructure presently exist and can be built upon when prioritizing among human rights. Alternatively, Daniel Whelan argues that the origin of the indivisibility discourse was an attempt to ensure compliance with both the International Covenant for Economic, Social, and Cultural Rights (ICESCR), promoted by the USSR, and the International Covenant for Civil and Political Rights (ICCPR), promoted by the US. See also Daniel Whelan, “Indivisible Human Rights and the End(s) of the State,” in *Human Rights Protections in Global Politics: Responsibilities of States and Non-State Actors* (New York, NY: Palgrave Macmillan, 2015): 69-89.
Beyond these political questions, and even without deep metaphysical skepticism, one might simply be puzzled about the metaphysical status of such rights: what are they, and what does it mean to say that they exist? This kind of puzzlement is analogous to more general puzzles in metaethics, where philosophers aim to understand the nature and existence of norms, reasons, and values. Moreover, these problems relate to basic questions that, though they are not my focus, loom in the background of human rights debates: the extent to which appeal to empirical features of the world can add to a justification and normative account of human rights. This issue, given its generality, is by no means relevant only to views that express a given political agenda. My relational account has a distinctive status in this respect, insofar as I appeal to our relations and responsibilities qua social beings. I do not employ a biological notion of human beings. In this respect, I am not on the side of traditional naturalism. But I also do not invoke a rationalist notion of agency, the will, autonomy, and so on. In effect, I hope that my account—developed throughout this dissertation—can refute the metaethical skeptic about human rights. All I need to get my argument off the ground is that relations between human beings can be normatively significant. Though much hangs on how precisely this thought is developed, I hope that it can be a starting point for a human rights theory that responds to the metaethical and metaphysical skeptic who asks what it would mean for there to be human rights at all.

Given this skepticism on both the side of the human rights activist and on the side of many a philosopher, it is worthwhile to make a case for taking a philosophical approach to human rights. Doing so requires both saying more about the ways in which human rights are conceptually interesting and identifying ways that our philosophical inquiry can provide insight for those engaged in human rights practice. First, consider a defense of the concept of moral
rights as a distinct category worth examination. In her famous essay, *The Trolley Problem*, Judith Jarvis Thomson writes:

> As is plain, then, my hypothesis as to the source of the moral difference between the cases makes appeal to the concept of a right. My own feeling is that solving this problem requires making appeal to that concept—or to some other concept that does the same kind of work. Indeed, I think it is one of the many reasons why this problem is of such interest to moral theory that it does force us to appeal to that concept; and by the same token, that we learn something from it about that concept.\(^9\)

At this moment in the text, Thomson grapples with articulating the morally significant difference between the *Fat Man* case and the *Bystander at a Switch* case. She has gone through a series of examples to determine what was doing the work in shifting intuitions about the cases. Thomson finally settles on the notion of a stringent right. We might consider stringent rights to be ones that we cannot infringe upon even for morally good reasons. To use her examples, the Fat Man has an especially stringent right to not be pushed off the bridge; thus, even if doing so would prevent the trolley from killing the five, it would still be impermissible. However, crossing someone’s private property or even breaking through their fence in order to pull the lever to divert the trolley that already poses a threat against the five toward the one is permissible.

In working through these examples, Thomson demonstrates a case where, even when an agent makes a morally permissible choice, others are wronged. Likewise, she aims to work out what kind of principled distinction might underpin choices that appear to have similar net consequences. While the third personal stance she takes in putting her hypothetical agent in the stance of a bystander able to intervene is at times critiqued, it is valuable specifically when we enter into a conversation about rights. Often conversations about rights concern third parties. For instance, a politician or legal body making a decision about how to proceed in responding to a particular challenge ought to be attentive to these kinds of distinctions. While she does not

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discuss the notion of stringency with regard to human rights or natural rights, we might suppose that the most stringent rights are human rights. They are rights that cannot be infringed, even with the aim of bringing about a morally good set of consequences.\(^\text{10}\) The concept of a right gives us a way of disentangling morally permissible choices from the consequences that those choices have in the lives of individual human beings. For this reason, the concept of a right further serves as a way of affirming the value of particular individuals. A deontic model gives us the ability to articulate wrongings and to capture that particular individuals are subjected to them. I take Thomson’s point here to make a strong case for thinking that, even if we reject the language of moral rights, we need a concept that serves a similar function to communicate the range of dynamics that exist between human beings.

In addition, the concept of a right allows us to capture the way in which recognizing oneself as a human rights bearer can be empowering, especially for members of disenfranchised groups. The ability and moral standing to claim rights against others gives one the space to recognize and assert her own value in a public forum. It offers communal language for doing so in non-negotiable terms. This empowering function of human rights should be attended to as well. Part of what distinguishes human rights from other kind of values, interests, or needs, is that in virtue of what they are, they place demands on us. They require us to perform particular actions and to regard ourselves in particular ways.

While Thomson’s argument responds to the objection that moral rights are not a distinct or normatively basic category, there are still lingering questions that operate at the intersection between the criticisms of scholars and activists. Namely, both parties are interested in (or

\(^{10}\) While this way of framing the challenge most easily accommodates negative rights in the sense of rights that correlate with duties to not intervene, it can also capture positive rights. If I have an especially stringent right to life, this requires not only that you not murder me, but also that if you can save my life with little effort on your part, that you ought to do so, and that you will have wronged me if you do not.
skeptical about the possibility of) identifying which particular rights exist and how to protect them, and identifying who has which particular duties to ensure that they are met. Responding to these objections in an effective way requires engagement with both theory and practice if human rights are to retain their status as especially high values that cannot be infringed without wronging someone. Thus they warrant not merely avoiding violation, but also protection against threats. These observations all give us reason for thinking that human rights are of philosophical interest, and worth taking seriously. Likewise, the widespread influence that they have in everyday moral and political discourse gives us reason for thinking that stronger and clearer theoretical foundations can ultimately lead to greater protection of human rights.

In response to the skepticism stemming from politicians and activists, philosophers of human rights can make valuable contributions to human rights practice by offering ways to conceptualize human rights and to evaluate our human rights practices. This work can take on many different forms. For instance, one might offer necessary and sufficient conditions for status as a human right. Likewise, one might identify the conditions of rights holder status. The former become relevant when questions about, for instance, whether or not access to the Internet counts as a human right, or the latter when those advocating for the well-being of animals argue that the realm of human rights ought to be expanded beyond the species to include all beings who possess certain capacities.\(^\text{11}\)

James Griffin, for one, argues in favor of this approach. He claims that at least one way that philosophers can helpfully intercede in the discussion is by increasing the clarity of the

concept of human rights. In making his case, Griffin further highlights the difference between which particular human rights and human rights practices have well-articulated theoretical justifications versus which ones might be appropriately classified as human rights in the context of international law and international human rights instruments. He argues that the difference derives from practicalities. According to Griffin, there might be good reason for recognizing something as a human right at a particular political moment in time, though there may not be independent, universal, or timeless reasons for doing so. For example, on his account the primary ground of human rights is normative agency. The secondary appeal to practicalities is how he accommodates the human rights of those who as of yet are not normative agents, such as young children, and those who were previously normative agents, such as those with dementia.\(^{12}\)

The international human rights instruments that Griffin and others refer to include, among others, the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights, the International Covenant for Economic, Social, and Cultural Rights, and the European Human Rights Convention. These instruments themselves have differing legal status. While the Universal Declaration of Human Rights is one of the most commonly referred to human rights documents, it is, as its name lays out, a declaration. It is not a legally binding convention or treaty.\(^{13}\) Thus beyond the issue of whether moral human rights exist over and


above legal human rights, the challenge of protecting human rights both through legislation and opportunities for judicial redress still remains. There is an important further question about how human rights can be protected in everyday life. Beyond determining what adequate legal protections look like, fulfilling human rights also requires individuals to treat one another in ways that recognize shared status. For reasons such as these, I take it that working out the relationship between theories of human rights and human rights practice is one of the more interesting and complicated considerations facing human rights theorists. The criteria for rigorous theoretical justifications might not translate well to concrete challenges in the world faced by those looking to protect human rights. Likewise, too much adherence to the demands of a particular political moment might give way to formulations of human rights that fail to generalize in the ways that theories of human rights do.

For these reasons, inquiry in the foundations of human rights is valuable for both conceptual clarity and rigor in practice. While we need not take the details of current human rights practice to fully constrain the content of our concept, our philosophical inquiry into human rights must take seriously the robust human rights practice that presently exists. That is, our theory need not preserve every aspect of the practice, but it must preserve at least some central aspects of it. After all, we want our theory to be able to offer a critical lens for evaluating our practice. However, if our conception of human rights goes too far afield of our practice, there comes a point where it no longer provides an analysis that is in any way useful. Radical revision of our practice would require additional justification.
Prominent Theories of Human Rights: Naturalistic, Political, and Integrative Approaches

The questions that I have raised about motivations for philosophical inquiry into human rights align well with many of the fault lines in the literature about the foundations of human rights. A brief survey of prominent recent debates in the philosophical tradition of discussing human rights will help to situate my project. It will further clarify what I take to be the most pressing topics in human rights, and it will reveal that much of the difficulty in engaging in philosophical debates about human rights is the lack of agreement regarding the primacy of central questions. For example: who has human rights? On what grounds? What is their content? What is their function? The question taken to be primary has further implications for the range of options available in responding to the others.

Discussions about human rights throughout the 1970s, 1980s, and into the 1990s, was dominated by the will and interest debate. The question driving this debate concerned the justification of human rights. According to will theorists, including H.L.A. Hart, Henry Shue, and Alan Gewirth, the value of human agency grounds human rights. What is distinctive about human agency is the capacity for freedom, and the primary substance of human rights on this view, then, ought to be the protection of human freedoms. While each theorist accounts for how this freedom gives rise to responsibilities in a different way, they all locate the capacity for agency, and, as the category of the camp suggests, the capacity to exercise one’s will as necessary for status as a rights bearer. This account tells us who count as human rights bearers:

16 Of course, the idea that human beings have a special value, or even that that value could justify their status as rights bearers does not begin here. The imago dei and Aristotle’s characterization of human beings as a zoon politikon, a political animal, offer examples of the former, and the natural rights tradition of the latter. Nonetheless, as part of the aim of the project is to keep human rights theory meaningfully connected to practice, and there is still much to be said about these more recent debates specifically about human rights, I begin us here.

those who possess human agency, and what count as human rights: that which is necessary for the protection of the human capacity for freedom. With regard to justifying the duties generated by human rights, Gewirth goes so far as to argue that we logically cannot recognize our own agency without recognizing that of others. He refers to this as the principle of generic consistency.

The interest-based approach, advocated for by scholars including John Finnis, Neil MacCormick, and Matthew Kramer\(^{18}\), argues that human rights are justifiable based on the role that they play in securing the conditions that are necessary for human well-being. Thus the content of human rights is that which is practically necessary for securing that well-being, including a combination of the kinds of freedoms that are highlighted by the will-based approach, including socioeconomic rights, which are taken to be of equal importance. This approach does not restrict who count as human rights bearers, though given that the interests proposed are those taken to be necessary for human well-being, we might presume that it can include all human beings. In terms of the rights that it recognizes, it is those that are necessary for human well-being, and that are sufficiently pressing to place duties upon others. The justification for the duties stems from a more self-interested picture like that in social contract theories. We all need to have our own basic interests recognized and protected, and acquiring a commitment to this requires agreeing to recognize those of others as well. While more human beings are included non-derivatively as human rights bearers on this view, that justification comes at the expense of an account that focuses on prudential reasons.

While both views are able to accommodate many of the same rights, there are some notable differences in who is readily recognized as a human rights bearer and on how the rights are understood in relation to one another. For example, a will-based account accommodates socioeconomic rights by reference to their necessity for an individual to exercise her will. A human right to sustenance on a will-based approach is thus grounded in the necessity of sustenance for the exercise of agency. An interest-based account can accept pluralistic grounds for human rights. As a consequence, socioeconomic rights have a more derivative justification on a will-based account than they do on an interest-based account. Further, interest-based accounts have been criticized for including too many rights, and for not offering a principled guide for differentiating between rights and interests. Which basic human interests warrant this additional level of protection such that they are sufficiently distinct from all others? Despite these differences, however, both approaches take it as a given that some feature(s) of human nature are necessary for grounding human rights and for giving an account of who has the correlative responsibilities. For this reason, those working in the will and interest tradition of human rights can still be classed as naturalistic conceptions of human rights.

Over time, the will/interest debate evolved into what I have characterized as a debate between naturalistic, political, and, more recently, integrative approaches. Naturalistic approaches often take as their jumping off point some aspects of the natural rights tradition, including an emphasis on negative liberties, the connection between the establishment of civil society and the protection of natural rights, and human nature as a ground for human rights.

19 What I refer to as naturalistic accounts, some scholars have referred to as orthodox accounts. Likewise, I have grouped together both political and practical accounts. The two differ in that political accounts focus specifically on political arrangements; the latter take into account a broader net of human rights practices, including more grassroots efforts to promote human rights. I group them together because both approaches identify what human rights are by reference to their role in international human rights practice, and thus are subject to the same objection of contingency. Charles Beitz would technically be an example of someone who adopts a practical approach.
James Griffin offers what I take to be a particularly strong version of a naturalistic account, and one that in some ways picks up on a will-based approach. Rather than focus on a more rigid notion of rationality or agency, however, he embraces normative agency as the relevant capacity that qualifies one as a human rights bearer. On Griffin’s account, normative agency itself is taken to be of such high value that it warrants protection. Ultimately, for Griffin, human rights have two grounds, normative agency and what he refers to as practicalities. These practicalities aim to get at what we might conceive of as the non-ideal part of the theory. It concerns, for instance, who are recognized as human rights bearers. While based on the ground of normative agency, young children would not qualify as human rights bearers on Griffin’s account, for the sake of practicalities, he argues that they ought to be included. However, this style of approach offers merely derivative justifications for their inclusion. As noted earlier, that human rights focus on the particular individual who possess them is a strength of human rights. To put too much emphasis on normative agency, however, runs the risk of focusing on a property that human rights have to greater or lesser extent. In effect, it focuses on a narrower set of beings than ordinarily we think have human rights. From my point of view, derivative rights for those who may need them most—those with less agency—are insufficient.

To test out an example, consider someone who has been tortured, subjected to a quintessential human rights violation, and as a consequence has found his agency to be compromised. Surely we do not owe less to this individual than we did to the person he was pre-torture, though the content of the responsibilities might need to shift in order to fulfill his rights. In the case of children, we do very often realize their rights in different ways than we realize those of adults. A human right to political participation requires, for example, developing the skills necessary for being able to contribute, the ability to reason, to learn about the relevant
political systems, to live without fear of imprisonment for articulating a political position contrary to that which is most popular. Of course, this does not translate into a five-year-old having the vote. Nonetheless, she retains the right to have her interests taken into account in the political process. Relatedly, for an individual human being it might be the case that particular human rights are more pressing at a given moment than others, and there are likely patterns to be found that track human development itself.

Naturalistic accounts focus on the degree to which particular individuals possess the relevant capacities in order to be recognized as human rights holders. The motivation for this approach is strong. In grounding human rights in capacities, naturalistic approaches locate the source of value in the individual. At times this has been a historically powerful strategy for responding to racism and misogyny. Recognition that individuals who have been othered possess the same valuable capacity of agency or reason shifts the burden of proof onto those who would claim that these individuals ought to be excluded as human rights bearers. This is opposed to an alternate were individual human beings are forced to make a case for their own humanity. Likewise, skeptics of human rights altogether are given an identifiable source of the source of human rights.

Nonetheless, I argue that this model locates the source of rights in the wrong place. It gives too much ground to the skeptic, and in doing so it carries with it the uncomfortable suggestion that were we to go around conducting a capacity search we could identify who is in and who is out. Likewise, this approach locates the source of human value in only one aspect of human life. The very presumption that there is a singular capacity to which the value of human life can be tied requires further justification. While individual human beings possess human
rights. I argue that it is their relationships with other human beings that give rise to both human rights and human responsibilities.

The contemporary alternative to the naturalistic approach is the political approach. Unlike the naturalistic approach, the political approach does take seriously human relationships. However, accounts in this tradition focus on one particular kind of human relationship, a contingent political relationship, as one of being citizens of states that comprise an international political world order. Nonetheless, in doing so they also take as a given the existence of a particular political order. In the case of a world state, for example, human rights would no longer exist because they would not longer play the role of placing constraints on the sovereignty of member nations that fail to respect these rights.

Political accounts of human rights often frame human rights as though they are protections of individuals from the behavior of their governments. While states are frequent violators of human rights, the ways that domestic laws and policies protect them are not explicitly referred to in terms of human rights. I suspect that this is good thing. That states are able to incorporate human rights priorities into their laws and practices, and to fulfill them in a format that is most amenable to the values and practices of that particular state, reflects respect for the self-determination of those groups. The state’s responsibilities are already at a secondary level in the sense that they require not merely negative responsibilities to refrain from violating human rights, but also positive responsibilities. For example, these include positive responsibilities to help create the conditions that both ensure that human rights are fulfilled and that there is recourse if any violations do occur. Each individual has a primary responsibility to respect human rights, and states are responsible for putting the conditions in place such that they are respected. This process involves states themselves respecting rights, having clear and
effective repercussions when they are violated, and taking proactive steps to create the conditions that make the respecting of human rights more likely.

John Rawls in *The Law of Peoples* is credited with first developing this approach. In it, Rawls argues that there are very few human rights and that the primary responsibility to ensure that they are protected belongs to peoples, as organized by their governments. For Rawls, human rights are grounded in the ability of individuals to meaningfully engage in social cooperation. Failures to respect human rights should be understood as placing responsibilities on the international community to respond. Though short, Rawls’ list includes both positive and negative rights, including, “the right to life and security, to personal property and the elements of the rule of law, as well as the right to a certain liberty of conscience and freedom of association and the right to emigration.” These rights are of such importance that they prima facie justify overriding sovereignty. One reason for thinking that he offers such a short list of rights is that the means of intervention that he typically references is severe. Modifications of this approach have largely loosened the presumed emphasis on military intervention and sanctions, pointing toward the work of NGOs and other kinds of political pressure as means by which individual states or international organizations and institutions might respond to identified cases of human rights violations.

One common thread throughout theories of human rights is that rights are possessed by individual human beings and that they offer protections to those individuals. In the words of Charles Beitz, human rights recognize individual human beings as “subject[s] of global

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21 Ibid., 57.

22 Ibid., 59.
While Beitz takes this to mean that as a global political community we ought to ensure that governments do not violate the rights of their citizens, I suspect that it goes further. If rights violations are sufficiently serious to warrant a prima facie override of sovereignty, as Rawls and Raz suggest, they ought to hold against all human agents, not merely against states. We ought to be concerned not merely about cases where a state is itself violating the rights of its citizens, but also about cases in which states fail to offer sufficient protection from or response to rights violations.

Beitz’s account of human rights is broader than Rawls and Raz’s in this respect. It takes into account additional actors beyond states and international institutions. For example, Beitz considers the work of NGOs and grassroots operations as central to making sense of the role of human rights in international political practice. Beitz thinks that it is a mistake to focus too squarely on the legal institutions. He describes his approach as a bottom-up approach in that it aims to develop and flesh out the content of our concept of human rights by looking primarily at the practice. However, the lack of normative foundation as a result limits the degree to which his account has space for criticizing that practice.

Ultimately, each of these approaches has its strengths. In particular, from the naturalistic approach we ought to draw on its attentiveness to the fact that individual human beings are rights concern.”


See Aaron James, *Fairness in Practice: A Social Contract for a Global Economy* (Oxford: Oxford University Press, 2012). James’ focus is primarily on trade relations, but he is very interested in the conditions for state legitimacy and recognition in international communities, and locates respect for human rights as one of these conditions.


25 See Aaron James, *Fairness in Practice: A Social Contract for a Global Economy* (Oxford: Oxford University Press, 2012). James’ focus is primarily on trade relations, but he is very interested in the conditions for state legitimacy and recognition in international communities, and locates respect for human rights as one of these conditions.

bearers. By putting an emphasis on capacities, these accounts highlight the importance of each particular individual rather than place an emphasis on the value of groups. This approach is often seen as a way of pushing back against the charge that human rights are speciesist, that is, that they without justification take a descriptive characteristic that lacks normative weight, one’s status as member of the species *homo sapiens*, as bearing moral weight. While I think the speciesist charge warrants a rejoinder, a real reply, however, involves far-reaching issues about the relation between descriptive and normative facts, which go beyond the purposes of my current analysis. For now, my contention is that the speciesist charge should make us cautious in invoking a biological category. But it need not push us quite as far as many philosophers assume. We need not give up on the notion of human beings, replacing it by reference to rights holder status as located in capacities. All we need, or so I argue, is to speak of human beings in a way that is not primarily biological-empirical.

From the political approach, we ought to take on the centrality of particular relationships in articulating the content of human rights and in ascribing responsibilities. This approach frames human rights in a dynamic way, as a concept that is best understood by considering its role in certain kinds of interactions. A political approach concerns how human rights can be realized in an imperfect political structure. I will take this idea on board, particularly in Chapters 3 and 4, by discussing the variety of ways in which our particular political relationships enable the fulfillment of human rights. In order to determine how we can fulfill human rights and what successful fulfillment might look like, we must look to existing political infrastructure. In the case of international human rights, this includes grappling with the kind of pressure that international law and the international community is capable of generating. In what ways are our international political institutions able to respond to cases of violations and sufficiently pressure
states to prioritize human rights fulfillment? Where the political approach falls short is in locating human rights too narrowly in the context of a contingent political practice. I argue that we need to go broader than that, and instead look to the invocation of human rights in the context of basic moral relationships between human beings in order to best make sense of it.

Despite their strengths, both fail to accommodate central aspects of human experience, and they provide accounts that are unable to offer a sufficient response to prominent critiques about the universality of human rights. With regard to the criteria I laid out in the introduction, naturalistic accounts fail the first criterion, and political accounts fall short of the second. I argue that we need an alternative account of human rights that takes more seriously the degree to which human beings are embodied social beings who stand in dependence relations with one another. I take this to be crucial for offering a satisfying account of human rights.

One way to take seriously the insights of both political and naturalistic accounts is to consider how they might complement one another. Approaches that take this route, I refer to as integrative approaches. In “Political and Naturalistic Conceptions of Human Rights: A False Polemic,” Matthew Liao and Etinson argue that philosophers writing about human rights are often up to one of two projects: giving a moral account of human rights, or giving an account of human rights as they exist in our present political contexts. They then go on to argue that while these accounts are often presented as alternatives to one another, they can be integrated to offer a

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27. A common and fraught strategy for responding to human rights violations is to place economic sanctions on states taken to be human rights violators. Sometimes these sanctions are more symbolic and are tied to particular individuals rather than to a state at large. Other times, however, they create significant economic pressure, which has the consequence of worsening the day-to-day lives of the very individuals whose rights the sanctions are geared to protect. Of course, the intention of the sanctions is to generate sufficient political pressure such that the actions of the state change and better protect and fulfill human rights. Nonetheless, there is something uncomfortable with a solution that in one sense worsens the problem. Are long-term strategies for human rights fulfillment permissible if in the short-term they increase the distance to fulfillment for specific living human beings? While I will not grapple with this challenge here, our theory of human rights ought to offer a way of thinking about these difficulties that places front and center the importance of particular individual human beings.

more thorough account. In making their case, Liao and Etinson refer to the first project as a project of human rights (HR) and the other as a project of international human rights (IHR). They argue that the project of IHR requires identifying an underlying moral justification. If IHR are to maintain the central motivating importance that they are taken to have over and above other legal rights, then it must be their justifying foundations that can account for that response. Thus an IHR project requires the kind of moral justification supplied by what is typically viewed as an HR project. I refer to their approach here as an integrative approach, one that posits that an adequate theory of human rights requires us to bring together both solid normative foundations and an account of how those foundations support our international practice of human rights. In doing so, they effectively draw attention to the many ways in which theorists on these issues often talk past one another, and they constructively point toward ways that considerable progress can and has already been made in human rights scholarship. In a later work, Liao argues that while naturalistic accounts tend to be substantive, offering accounts of the content of human rights, political accounts tend to be purely formal. For this reason, a substantive naturalistic account can be compatible with a formal political account.29

A Relational Approach to Human Rights

Having outlined prominent contenders in the field and argued for why we ought to consider an alternative direction, I pivot now to detailing how my relational approach to human rights differs from the previous approaches and is susceptible to fewer potential objections. In doing so, I aim to give human rights an alternative foundation and to show the ways in which it is far more continuous with our everyday life than we ordinarily take human rights to be. The

relational account, in brief, grounds human rights in a normatively relevant relationship between all human beings, a relationship which I will go on to explicate in further detail throughout the following chapters.

While sympathetic to the integrative approach, for reasons described earlier, I find the naturalistic approach troubling as a substantive normative foundation for human rights. My project then is to supply an alternative normative foundation for human rights. In that sense it is what Liao and Etinson refer to as an HR project, though it is not naturalistic account. Instead, I offer a genuinely different way of filling the gap between those thinking of human rights in its global context and those thinking of human rights as strictly moral rights. I further challenge the rigid division between the moral and the political. Even if human rights do frequently function in the international context in the way that Raz describes them, as placing constraints on the limits of state action and as offering prima facie grounds for overriding the sovereignty of violators, this is only one of the ways in which they function. It is one way of realizing moral rights in a global political context. We still need a foundation to justify their content. Further, the role in international law that they play is one that is subject to change over time as the international order and institutions restructure.

We must also look toward the variety of additional social relationships that we stand in and the capacity of those relationships to help fulfill human rights, and this is what my relational account offers. Governments on their own are incapable of doing all the work, in part because they also have conflicting political agendas. For reasons such as these, there is a good deal of skepticism about the effectiveness of international legal human rights as a way of actually fulfilling the content of human rights. Eric Posner makes this case in *The Twilight of Human Rights Law*. Posner offers several reasons for suspecting that human rights law is on the decline.
Nonetheless, a major through-line of his argument is that the lack of specificity and agreement on priorities makes it both extremely difficult to agree on what, precisely, constitute the relevant responsibilities and how to consistently enforce them even when those responsibilities are determined. He takes the United States’ adoption of enhanced interrogation techniques during the Iraq War and the failure of the international community to offer significant resistance as prime examples of the limitation of international human rights law. While these conditions give us reason to strengthen protection of human rights in our state and international institutions, it also helps motive looking for the fulfillment of human rights beyond the actions of the state.

These conditions also give us reasons to expand our everyday sense of what counts as example of a human rights violation, and who is capable of committing one. If all human agents bear human rights related duties, then a human rights violation occurs anytime a violent crime occurs, or a civil rights violation occurs. As I will later argue, this does not mean that we ought to make a point of invoking human rights more often than we do. However, it can help us determine what is distinctive about invoking rights and point toward the ways in which these attributes give us a framework for understanding why the invocation of rights in some cases seems mistaken. When human rights are for the most part protected, and there are sufficient responses to their violations, we do not need to draw on them.

The other component of rights related responsibilities concerns not merely their violation, but also positive responsibilities to ensure that these are fulfilled. Liao offers a suggestion on this front as well. These positive responsibilities might be thought of in a similar way to the capabilities approach as proposed by Martha Nussbaum, though Liao argues that his approach

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can accommodate a wider range of human rights than Nussbaum’s approach.\textsuperscript{31} In his Fundamental Conditions for a Good Life account, Liao argues that we have human rights to the fundamental conditions necessary for an individual to live a good human life, regardless of whatever else she aims to pursue. Here, and throughout my own account, there is an emphasis on activities, on what human beings are actually able to do in their lives rather than a focus on goods. Human rights to goods exist only insofar as they make possible the exercise of central human activities. In his account, Liao characterizes basic activities as those that “are important to human beings \textit{qua} human beings’ life as a whole”\textsuperscript{32} and states that “basic activities are ones that if a human life did not involve the pursuit of any of them, then that life could not be a good life.”\textsuperscript{33} Thus, while one need not pursue all of the basic activities in order to live a good life, one need pursue some of them. On this view then, human beings have human rights to conditions that enable the pursuit of the basic activities. Like in Nussbaum’s capabilities approach, individuals still have sufficient freedom to choose what it is that they want to pursue in their lives. The responsibility of our societies is to ensure that individuals have access to the conditions that allow them to choose which basic activities to pursue and the ability to pursue them.\textsuperscript{34}

The relational account of human rights recognizes human rights with similar content to that promoted by both Liao and Nussbaum. Specifically, all three accounts focus on looking at human life holistically and in recognizing pluralistic grounds for the content of human rights.

\textsuperscript{31} Liao, “Human Rights as Fundamental Conditions for a Good Life,” 91.

\textsuperscript{32} Ibid., 81.

\textsuperscript{33} Ibid., 81

\textsuperscript{34} Importantly, one does not have a human right for that pursuit to succeed. While this places a constraint on what duties human rights can generate, it raises an interesting question about what are permissible reasons for failure such that they do not warrant additional support. I have in mind here Elizabeth Anderson’s discussion of luck egalitarianism. See Elizabeth Anderson, “What is the Point of Equality?,” \textit{Ethics} (1999): 287-337.
This is in contrast to views like Griffin’s that identify a singular substantive ground, even a broad singular substantive ground like normative agency. Nonetheless, my view differs from theirs in placing both the source of human rights and the source of their correlative responsibilities in a different place. I further argue for a different relationship between the content of human rights and the source of human rights than we see on either Liao’s or Nussbaum’s accounts.

On Liao’s account, the source of status as human rights bearers is possession of the functional basis for agency. In his “The Basis of Human Moral Status,” Liao explains that he is not looking to provide an independent justification for the criterion, but instead to explain how the criterion works and why it is a preferable alternative. In making his arguments, Liao notes that defenders of many other criteria for rights holder status, such as sentience and agency, are also unable to offer independent justifications. Nonetheless, the genetic basis criterion is far enough removed from common intuitions that it seems in need of more defense than familiar traits like sentience or agency might. It is not clear how we would begin to answer a question such as “Is the genetic basis for moral agency valuable?” Questions about anything’s value are often difficult, but this one in particular is challenging because it is hard to isolate a case where what is of value is the genetic basis itself rather than the potential for or current realization of agency.

Looking at fringe cases can test our intuitions on this. Take the example of an individual who possesses the genetic basis for moral agency, but who has irreparable brain damage, and thus will never be a moral agent. Even if we think that this individual warrants human rights holder status, it is far from obvious that what is driving that intuition is recognition of the individual’s possession of an unrealizable genetic basis for moral agency. Thus we find

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ourselves unsatisfied with the possibilities of current normative agency, the potential for normative agency, and the genetic basis for moral agency as criteria for human rights holder status because they either fail to include all human beings or to offer sufficient justification for the criteria.

Nussbaum focuses less on offering an account of rights-holder status, than on articulating the relationship between human rights and the capabilities.36 She argues that we have human rights to the basic capabilities. Nussbaum offers a list of ten basic capabilities, which she characterizes as: life, bodily health, bodily integrity, senses, imagination, and thought, emotions, practical reason, affiliation, other species, play, and control over one’s environment.37 On her view, these capabilities are necessary for the functionings that are part of a good human life. Given their necessity for anyone’s ability to live a good life, a life worthy of human dignity, Nussbaum argues that our political institutions have a responsibility to ensure that individuals are able to develop these capacities. Ultimately, this places citizens in the position to be able to choose which valuable functionings they aim to pursue. On Nussbaum’s account, failure on behalf of political institutions to create the conditions that enable the development of capacities are not just.

A strength of Nussbaum’s approach is that it creates space for realizing rights in a variety of ways. As Nussbaum notes, a strength of the capabilities approach is that it allows us to take into account that what two individuals need to attain the same capability might not be the same. If one needs a wheelchair to get around and no public buildings have wheelchair access, that

36 Though she specifically presumes that human rights are claims possessed by human adults. See Martha Nussbaum, “Capabilities and Human Rights”, *Fordham Law Review*, Vol. 66, Issue 2 (1997), 272-300. Nussbaum writes, “In what follows, I shall understand a human right to involve an especially urgent and morally justified claim that a person has, simply by virtue of being a human adult, and independently of membership in a particular nation, or class, or sex, or ethnic or religious or sexual group” (292).

individual is not equally capable of engaging in public life. This aspect of Nussbaum’s approach, I take up in my relational account. Though not framed in terms of capabilities, the ability for rights to be realized in a variety of ways is centrally important.

Nonetheless, my relational account differs from Nussbaum’s for the same reason that it differs from Liao’s. It locates the source of human rights and their correlative responsibilities in a difference place. In doing so, my relational approach can make sense of a broader range of ways that human rights are regularly fulfilled in our lives and can make better sense of the ways in which our shared humanity as opposed to any other fact about us underpins a commitment to human rights. However, the complexity of ways that human rights can be publicly realized on their views, and their attentiveness to the experience of the rights bearer in the realizing of the right is significant. It matters not just that a resource has been made available, but that each individual human being is being regarded as equally worthy of dignity and respect.

The most straightforward reason for taking onboard a relational account is that it offers an alternative foundation for human rights that does not commit us to locating the source of human rights in capacities. Likewise, it is not subject to the same charge of being contingent on particular political arrangements. In this sense, it is an alternative to a naturalistic account, and it is compatible with at least some political accounts. However, the two criteria that I lay out in the introduction place constraints on which political accounts it can be compatible with. Likewise, the normative foundation that I offer is prior to any political accounts with which it might be compatible in the sense that political relationships are one kind of relationship that make possible the fulfillment of human rights. As particular political relationships shift over time, what political theorists typically think of as the function of IHR might shift too. The particular responsibilities that states and the international order have to protect human rights would shift to meet the new
order, but human rights would not cease to exist in the intermediary. The question is about how they can best be fulfilled.

My approach offers both a substantive normative account of the source of responsibilities, a basic relationship that exists between human beings as human beings, and an attentiveness to the practices of invoking rights as central to our understanding of how they can best be fulfilled. Luban refers to the following: “human rights are rights possessed in virtue of our humanity alone” as the foundationalist claim.\(^{38}\) We have good reason to preserve it. One consequence of thinking about human rights as a species of moral rights is that it gives us reason to think more about human rights in a broader context—both in terms of who is capable of violating human rights and who is responsible for fulfilling them. If the source of human rights is a relationship that we stand in with one another simply as fellow human beings, then both all living human beings are human rights bearers, and all human agents bear human rights related responsibilities. Though there are pragmatic reasons for why human rights are protected as rights through legal and political infrastructure, this is not the only means by which they can be protected. It is a consequence of our current political order that this model is the most efficient. Hence why linking together a foundation for the normative source of human rights with an emphasis on practice offers the greatest found that philosophers can offer with regard to the foundations of human rights.

The idea that I have just laid out, that all human agents have human rights related responsibilities, is counter to the way that human rights are often discussed. Because they are often relegated to the more traditionally political sphere, states are typically viewed as bearing the primary responsibilities for 1) not violating them and for 2) fulfilling them. The international

community writ large is then seen as bearing additional second-order responsibilities for ensuring that the first-order obligations of states are met. These are addressed in a variety of treaties and covenants. Likewise, many non-governmental organizations have stepped up and taken on responsibilities for facilitating human rights protections. Nonetheless, this means of facilitating the protection of human rights is just that, a way of helping bring about their fulfillment. The human rights related responsibilities fall to these groups because they are, in our current society, best capable of fulfilling them. Unlike in the social contract tradition, however, it is not a promise or compact that generates the responsibilities to fulfill human rights more generally. The contracts we might see the international community generating offer other ways of specifying and prioritizing the allocation and protection of responsibilities that already existed and are shared by all human agents. The fulfillment of these universal responsibilities, however, requires the effective functioning of institutional structures. The emphasis on institutions is necessary for the long-term securing of human rights, especially in cases where individual human beings fall short in fulfilling their own particular responsibilities.

In discussing human rights as ‘political,’ I mean the term to have a broader scope than it is often thought to have, to apply to conditions that are often referred to as social. This is not to detract from the very particular role that traditionally political institutions play in ensuring human rights so much as it is to push back against the perception that human rights are somehow only functional in that sphere, or that only certain kinds of agents, for example, large group agents like states or corporations, are capable of violating human rights or could bear responsibilities to fulfill human rights. One prominent reason for thinking that we need a broader conception of the political in order to address the fulfillment of human rights is that our institutions and states cannot, on their own, achieve the fulfillment of human rights. At best they
can create infrastructure and institutional responses that significantly reduce their violation or make their fulfillment more likely. However, complete fulfillment of human rights requires regard from one another as a fellow human being, not merely access to goods. Thus the discussion about human rights should be much broader, and we should regard ourselves as very regularly involved in the project of both working to fulfill our own human rights and working to fulfill those of others around us. A positive upshot of the approach is that we all have positive human rights related responsibilities and that they are genuine responsibilities.

While there is a significant amount of literature that aims to get clearer on the structure and content of rights, there is much less that considers what the practice of invoking human rights entails and how it fits into our broader practices of praising and blaming and holding one another accountable. This, I think, is an important part of our attempt to get clearer on what human rights are and how we should see the relationship of human rights practice to other values. This shift from the structure of human rights and the identification of their precise content to a focus on the role that rights claims play is, I think, an important part of the story. In the same way that in metaethics there has been a shift from focusing on values themselves to focusing on the distinctly human activity of valuing, I propose adopting a similar way of thinking about rights, moving from a focus on rights to a focus on the human activity of invoking rights.

The so-called “Argument from Asian Values”39 offers an additional reason for preferring a relational approach to human rights to other contender accounts. The argument is often framed as though the primary concern is about whether the content of human rights is truly universal, or, at least, whether it sufficiently overlaps with the values in a variety of different societies such

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39 Though the objection has been referred to as the Argument from Asian Values in the literature, it need not be about an East/West division. The objection is best understood as pushing back against the presumption that the values codified as human rights are globally shared and prioritized in similar ways.
that the charge of human rights as a form of imperialism can be rejected. However, we must also ask about the ways in which rights are met and appealed to, and whether the process by which that interaction occurs undermines other values, especially more communal ways of understanding one’s relationships with others. If this is the case, then one needs to say more than simply that the content of human rights is recognized cross-culturally. There are basic norms of human interaction and power dynamics underlying a practice of rights claiming. These must be addressed as well.

Julia Tao takes up this issue and looks at points of connection and divergence between human rights discourse and the Confucian tradition.40 She, among others, argues that while the concept of human dignity can be comfortably found in Confucian texts, the notion of rights is less present, and even the notion of duties is differently framed. Tao is particularly attentive to the way in which appeals to human rights have served as a political cudgel. This criticism has two parts. The first concerns the way that human rights have been used in international political practice. The second concerns the consequences of forcing a human rights framework for conceiving of our relationships with others onto cultural contexts that do not presently share the emphasis on individualism entailed by rights. While the first is beyond the scope of this dissertation, I can speak to the second part of the criticism.

Tao writes:

The major weakness of a rights-based morality is its moral individualism, which does not recognize intrinsic value in any collective good. Yet, in my own (Chinese) view, it is the collective goods such as membership of a society which provide the source of both personal goals and of the obligation to others.41

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41 Ibid., 126.
While any account of human rights, retains an emphasis on moral individualism, the relational approach to human rights that I develop throughout this dissertation takes seriously our connections to our fellow human beings. Our relationships with one another are sources of our responsibilities and they shape us. As a consequence, being a bearer of rights does not require always invoking them against one another as rights in order to ensure that they are fulfilled. The flexibility on means of fulfillment makes the approach more compatible with a wider range of traditions. Nonetheless, it does retain that rights are in the background of our relationships and in cases where our humanity is not recognized, we can rely on being able to appeal to them as a way of pushing back against established norms and as a way of publicly acknowledging when a wrong has occurred that requires action.

While I cannot fully refute her objection, the relational approach that I am putting forth takes it seriously, and it aims to offer a way of understanding rights that does not require the reader to adopt a more antagonistic view of human relations. As a result, it is better able to respond to the charge than other accounts of human rights. As I will go on to say more about in Chapter 4, I reject the view that a world where everyone is claiming human rights is an ideal that we want to move toward. Such a world would indicate that the content of human rights is largely unmet and social trust is sufficiently low that individuals feel disrespected and as though they need to appeal to human rights to be recognized as fellow human beings.

As I will argue throughout the dissertation, human rights invocations play an important role, but they play one that is intermediary. They allow us to move forward at times when our thicker concepts cannot do the work of communicating failures to regard one another as fellow human beings in social and political life. In these cases, appeals to human rights can powerfully flag the need for change. Rights claims open conceptual space and change a dynamic.
They allow us to assert a failure of recognition and acknowledge that more needs to be done, but they do not give us a clear-cut account of precisely how to fulfill them. That must be further filled out by looking toward the additional relationships that we stand in. They are genuine rights, and they place real responsibilities, but we must still use our moral reasoning and empirical information available to us at a given time and place in order to determine how they can best be fulfilled.

Throughout the following chapters, I go on to argue that there is a normatively significant relationship that exists between human beings simply as fellow human beings, and that valuing this relationship gives rise to responsibilities that correlate with what we commonly refer to as human rights. From there, I go on to describe what responsibilities fall out of valuing our membership in the human community, especially a responsibility to value fellow members as well. Finally, I pivot to focusing more explicitly on what we do when we invoke human rights. What is distinctive about invoking human rights? What is powerful about doing so? What are the limits of doing so? Ultimately, I aim to show that in order to preserve our central intuitions about why human rights are so important to us, we need a relational account of human rights.
CHAPTER 2:

The Human Community

This chapter develops the claim that a normatively significant relationship exists between human beings qua human beings and that that relationship can be appropriately characterized as shared membership in a community. What it means for shared membership in the human community to be a normatively significant relationship is that it is capable of generating reasons for action, emotions, and beliefs. This approach speaks to the intuition that we view ourselves as embedded in webs of relationships, and that those relationships shape our sense of self and both our normative and motivating reasons. The reasons that arise from these relationships are often referred to as partial reasons. For example, many people believe that a parent has reason for giving special attention to his own child, a friend has reason to be particularly concerned about the well-being of her friends, and a citizen has reason to prioritize the needs of his fellow citizens. Some argue that not only is it permissible to give special attention to our relatives, but also that, in at least some cases, we ought to do so and that we wrong our relatives when we do not. In these cases our relationships go so far as to generate relational obligations. In “Friendship and Moral Danger” Cocking and Kennett even claim that when there are conflicts between the demands of friendship and the demands of morality, at times we ought to “help our friends bury the body.”

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Because the literature on partiality often focuses on close personal relationships like friendships, parent/child relationships, and memberships in groups, relational obligations are often seen as contrasting with the obligations that we have to human beings who are at a distance or with whom we share no other obviously significant relationships. Nonetheless, I suspect that a relational framework is also useful for conceptualizing even these more distant relationships and that they can be best characterized by positing a foundational relationship that we stand in with other human beings qua human being. Similar to these other closer personal relationships, I argue that such a relationship is also capable of generating obligations. If I am right, this result has upshots for two significant sets of problems in moral and political philosophy. The first is the problem of marginal cases, and, more particularly, how to account for the obligations owed to individuals who lack certain agential capacities in a way that is not derivative, including infants or those with severe cognitive disabilities. The second set of problems concerns which conception of human rights we ought to adopt and how the duties that correlate with human rights ought to be conceptualized and allocated.

The task of this chapter then is to articulate what such a normatively significant relationship between human beings as such might look like. This gives us the groundwork to address both of these sets of challenges, and I will take them up in more detail in the next chapter. I begin developing an account of this relationship by turning to Samuel Scheffler’s account of partial reasons. Though Scheffler himself is skeptical that the relationship between human beings qua human being is anything more than “a two-place predicate,” he provides us

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3 By ‘non-derivative’ here, I mean that the obligations stem from facts about the individuals themselves rather than from references to negative consequences that would result for others traditionally recognized as agents if these individuals were not treated as rights bearers.
with a compelling starting point. Not only does his account characterize special relationships in a way that effectively conveys their centrality to human lives, but it also offers a justification for the existence of relational obligations. Nonetheless, there is a lacuna in Scheffler’s account. It fails to accommodate the responsibilities that we take ourselves to have to groups with less rigidly defined boundaries, and it leads to the conflation of project-dependent and membership-dependent reasons in important cases. This conflation is significant because it undermines the degree to which non-instrumentally valuing fellow members of our communities is a significant part of what it is to see ourselves as members of a community and of what we take to be valuable about that membership.

In the first half of this chapter I explain how we ought to respond to this lacuna, namely, by incorporating an additional category of normatively significant relationships, community relationships. In the second half of the chapter, I argue via analogy that the relationship between human beings can be conceived of as a community relationship and discuss how we can frame the contours of membership in the community of human beings. I conclude the chapter by beginning to discuss why valuing one’s humanity not only involves valuing one’s own human capacities, but also valuing one’s membership in this broader human community. What valuing one’s membership looks like and what particular responsibilities it generates is a topic I take up in greater detail in Chapter 3.

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4 In the background of this discussion is a further question about what constitutes a relationship. Scheffler’s view implies that relationships are by their nature specific. The mere fact that the term ‘special’ must be added before ‘relationship’ suggests that he is operating with a revisionist understanding of the concept. We need not start out with such skepticism about the claim that a relationship among all human beings is possible. Nonetheless, I take this starting point to be valuable both because it directly engages with the contemporary philosophical literature on relationships and because if we can make a case for why a relationship among human beings exists and is capable of generating reasons even according to this framework, it strengthens the proposal.
Part I – Communities and Community-Dependent Reasons

In “Morality and Reasonable Partiality,” Scheffler considers and rejects the claim that “just as it is possible to value non-instrumentally one’s relationships with particular individuals and one’s membership in various social groups and associations, so too, it is possible to value one’s membership in the wider human community.”5 Throughout our discussion, I will refer to this claim as the Membership Thesis. As Scheffler sees it, the relationships that we stand in with other human beings simply as fellow human beings lack the continuity and substance of interpersonal relationships. They also lack the goals and norms that characterize group memberships and that shape the partial reasons that valuing one’s membership generates. As a result, Scheffler concludes that membership in the human community lacks substance, is not a true membership relation at all, and thus does not generate partial reasons.

However, Scheffler’s categories of partial reasons are limited. Unnecessarily restricting ourselves to relationship-dependent, project-dependent, and membership-dependent reasons leads to the conclusion that there is no normatively significant relationship between human beings qua human beings. And as Scheffler himself notes, his list of relationship types capable of generating partial responsibilities “may not be exhaustive.”6 My claim here rests on an analogy with further significant groups that, on Scheffler’s account, fail to be normatively relevant for the same reasons why he does not admit that the relationship between human beings is normatively relevant. And yet we are strongly committed to recognizing these partial reasons.7 Moreover, I shall point to what I see as a conflation between membership-dependent and project-dependent

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6 Ibid., 56.

7 Even if we are able to imagine membership without non-instrumentally valuing our relationships with others, it comes at a cost. It is a dangerous kind of individualism that has negative consequences for human well-being.
reasons in Scheffler’s account that obscures responsibilities that we have to group members with whom we lack individual personal relationships. In response, I propose that we recognize an additional category of normatively relevant relationships, community relationships, as well as, correspondingly, community-dependent obligations.

Scheffler’s Account of Partial Reasons

Scheffler distinguishes among three kinds of partial reasons: relationship-dependent reasons, membership-dependent reasons, and project-dependent reasons. In keeping with the literature, by partial reasons I mean reasons generated by personal relationships, projects, and memberships. Likewise, by partial actions, emotions, and consideration, I mean the actions, emotions, and consideration to which partial reasons give rise. Though the particular reasons generated by projects, memberships, and relationships differ, for Scheffler our valuing of those aspects of our lives just is the exercise of seeing them as providing partial reasons. On his account, valuing is an active process involving a judgment that the object of our valuing is valuable, emotional vulnerability regarding the object of our valuing, a disposition to regard our emotional response as merited, and a disposition to take the object of our valuing into account in deliberation. In addition, he claims that our valuing of them is non-instrumental. By this I take him to mean that our valuing of a relationship, membership, or project derives not from a further good that we view it as generating, but from the relationship, membership, or project itself. To

8 Though in common parlance the term “partial” often indicates unfairness of some kind, for instance, when a judge is accused of showing partial treatment toward a defendant, here it lacks that connotation and means something more akin to agent-relative.

9 For Scheffler’s more detailed account of the criteria for valuing, see: Samuel Scheffler, “Valuing,” in Equality and Tradition: Questions of Value in Moral and Political Theory (Oxford: Oxford University Press, 2010), 19. Also worth flagging is that for Scheffler, valuing and judging something to be valuable are distinct. For him, we can judge something to be valuable without valuing it ourselves. I will maintain that distinction throughout my discussion.
take the example of friendship, though our friendships often do provide greater happiness in our lives and the security that comes from feeling supported and loved, we do not value our particular friendships for these reasons alone. Indeed, if we were not to value a friendship non-instrumentally or inherently, we might not genuinely be friends. After addressing these three kinds of partial reasons, I will pick up on the idea of non-instrumentally valuing our memberships once more and suggest that Scheffler’s account is missing a dimension of what this entails, namely the non-instrumental valuing of group members.

The first kind of partial reasons that Scheffler discusses, relationship-dependent reasons, derive from valuing particular interpersonal relationships. For Scheffler, the kinds of relationships that provide relationship-dependent reasons are robust and are characterized by “ongoing bonds between individuals who have a shared history that usually includes patterns of engagement and forms of mutual familiarity, attachment, and regard developed over time.” Paradigmatic examples of these kinds of relationships are friendships and romantic relationships. The demands that our close relatives place on us are extensive. They provide us with reasons for partial actions, emotions, and special consideration during practical deliberation. On Scheffler’s account, valuing a relationship involves not only being concerned with the well-being of the relationship, but also being concerned about the well-being of one’s relatives.

Membership-dependent reasons arise from participation in a group and hold even between members who lack personal relationships with one another. In “Relationships and

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10 One reason it is necessary to emphasize this distinction is the fungibility problem. If we value a relationship or membership purely for the positive net effects it garners for us, we should be equally happy to replace it with another or to upgrade if another relationship or membership seems capable of offering us more. While in some cases, perhaps this is the right course of action, for many others it seems to miss the mark by failing to capture the deep connection we experience to the particular objects of our valuing. Though one might have been part of any number of groups that would warrant her valuing them, the reality that she is a member of one particular group as opposed to another does not undermine her responsibilities to that group.

Responsibilities,” Scheffler gives the example of the John Travolta fanclub. He argues that though members of the fanclub do not share individual relationships with John Travolta, they share relationships with one another in virtue of their shared membership with other fanclub members. Membership-dependent reasons, “[i]n general…are reasons for doing one’s share, as defined by the norms and ideals of the group itself, to help sustain it and contribute to its purposes.”\textsuperscript{12} This description of the content of membership-dependent reasons implies that groups capable of generating membership-dependent reasons generally have identifiable norms, ideals, and purposes. Further, it implies that membership-dependent reasons extend only to the promotion of these norms, ideals, and purposes, though there might be individual fan club members to whom I also have additional relationship-dependent reasons. To go back to Scheffler’s example, we might say that I lack membership-dependent reasons to take a fellow member of the John Travolta fan club on a vacation or to pay off his debts. Nonetheless, assuming that one of the group’s purposes is to increase the popularity and appreciation of John Travolta movies, I do have reason to advertise new John Travolta movies and organize fan club events, and, perhaps if I have an extra ticket to a John Travolta event, give it to a member of the fan club rather than to someone else.

Unlike the other two kinds of partial reasons, project-dependent reasons lack a distinctively social component. Project-dependent reasons arise from extended participation in a project that one values, which may or may not involve the contributions of others. For example, someone might value running and see it as shaping her reasons for action and the situations that make her emotionally vulnerable. It matters to her not only that someone runs a marathon or laps in the park every morning, but also that that person be her. While breaking one’s leg would be upsetting to anyone, it would be particularly upsetting to her because it thwarts her ability to

\textsuperscript{12} Ibid., 51.
make progress on her project. In the case of projects that involve other people, say developing an Alzheimer’s drug as part of a research team, the participation of others is merely instrumental. It allows us to successfully complete our projects. One might also have membership-dependent or relationship-dependent reasons that develop after interacting with other team members, for example, one might become friends with a collaborator. However, project-dependent reasons themselves do not provide us with reasons to non-instrumentally value other collaborators.\(^{13}\)

*The Need for Additional Normatively Significant Group - Communities*

Despite their distinct treatment, Scheffler’s emphasis on the goals and norms that characterize group membership muddies the difference between membership-dependent and project-dependent reasons. We should be concerned about preventing this conflation because if membership-dependent reasons collapse into project-dependent reasons, then the value of being part of communities and collaborating with others becomes merely instrumental. It would just so happen that the successful completion of some of our projects depends upon the cooperation and participation of others, and thus that while we ought to enhance and promote the ability of group members to succeed in their work, our reason for doing so is simply that the project will be completed more efficiently and thoroughly with their participation.\(^{14}\) The difference between the

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\(^{13}\) Another noteworthy feature of project-dependent reasons for Scheffler is that unlike relationship-dependent or membership-dependent reasons, no one has a claim on us when we fail to fulfill them. Any cases of claims that others possess would have their source in a different kind of moral reason. For example, if I am the best cancer researcher in the world, am close to finding a cure, and decide to give up my research and instead paint landscapes, others might object, but their objections would not stem from project-dependent reasons. Instead they might be based on utilitarian calculations, or those who invested money in my work might argue that I have contractual obligations to continue my research, etc.

\(^{14}\) Group actions or shared projects further complicate Scheffler’s model and involve a unique relationship between actors. Large-scale projects that require the participation of several people could not exist without the participation of all members. The very existence of the project is dependent on the shared intentions and actions of the group. This suggests a deeper relationship between members and the project than just speeding up the process or contributing independent parts toward a common goal. Playing in an orchestra offers an example of this
two cases is tied to the non-instrumental valuing of membership in contrast to the non-instrumental valuing of a project. We regularly show concern and interest in the well-being of other group members as well as in the well-being of our groups themselves, and it does not seem that that concern and interest reduces to a concern about the projects that their well-being promotes. I take this as evidence that the non-instrumental valuing of one’s membership differs in that it involves not only valuing the existence of the group and our participation in it, but also valuing other group members qua group members.

Scheffler begins to address the difference between valuing membership in a group and valuing its members by using the example of a party. Specifically, he claims that conviviality is a feature of a party that we value, and yet it cannot be reduced to a quality possessed by individual members or achieved merely by adding together the qualities that they independently possess. At best, it supervenes on these qualities, is a feature of the party itself, and thus offers a way of conceptualizing how valuing the party itself comes apart from valuing the particular party-goers. However, Scheffler’s emphasis on working toward and abiding by the group’s purposes and norms does not fully capture how valuing our membership often involves both of these features—valuing the group itself and valuing other members qua member. In order to avoid having membership-dependent reasons collapse into a species of project-dependent reasons (namely those that involve others), we must emphasize that group membership generates reasons not only for abiding by group norms and for contributing to group projects, but also for valuing other group members.

While the significance of distinguishing between valuing members and valuing their contributions to shared projects might not be as apparent for groups organized around one phenomenon. In such a case, creating a certain kind of musical experience is only possible through collaboration with others.
concrete and specific mission, for those with more amorphous goals its stakes are easier to identify. For example, compare a short-term fundraising committee with a support group for survivors of violent crimes. Though the first group has a more clearly defined objective, the ways that the latter could generate partial reasons are more wide-reaching. In the latter case, being able to connect with others who have undergone similar experiences is part of the goal of the group, but successfully engaging in the group also requires being genuinely concerned about each other’s well-being. We can imagine a case where a group member becomes seriously ill, and the members, even ones who have never met her, donate toward her medical costs. While there are many people with illnesses who could use financial assistance, their shared membership provides the support group members with additional reasons to contribute to her as opposed to others. One might argue that it is among the group’s goals to help its members rebuild stability, and thus that the assistance the group provides is simply furthering their particular goals. However, this position undercuts the genuine emotional bond and mutual respect that group members often have, even when they do not personally know one another, and the ability for that bond and concern to motivate actions. While they might be promoting the group’s norms and goals through their actions, they are motivated to act by something else, namely by their valuing of one another. This valuing of one’s fellow members often goes beyond anything that the group’s norms and goals requires. In the case of the fundraising committee, the membership-dependent reasons generated are more limited, for instance, to compliance with the norms that allow for the successful completion of the fundraiser. Achieving the goals of the group rather than genuine concern for the well-being of a member of their group is the source of the motivating reason. Thus the two groups and the reasons that they generate seem to be qualitatively different.

15 For the purposes of this discussion, I am using ‘goals’ to mean something akin to Scheffler’s use of ‘purposes’.
The goal-oriented structure of the fundraising committee mimics Scheffler’s description of the John Travolta fanclub. Both groups are capable of generating limited membership-dependent reasons directly tied to the specific purposes of the groups. However, neither of these cases serves as a good paradigm for thinking about groups like the support group, groups that lack clear-cut goals. Nonetheless, many groups that match this description have great normative significance in our lives. While the example of a family most strongly demonstrates this point, the analogy extends to cases like cultural and religious groups. While individual members of a family have close personal relationships with one another qua sister, brother, parent, etc. they also share a membership relation as members of the same family. Membership in a family provides them with reasons to at times put the interests of their family above their own and to consider how their actions will affect the well-being of other family members. It also provides them with reasons to be emotionally moved both by the successes and set-backs of individual family members, and also by the successes and set-backs of the family as a whole. In addition to the interests of individual members, family members also take the interests of the family as a whole into consideration during deliberation. The combination of consideration in action, deliberation, and affective responses all exemplify partiality toward one’s family and individual family members.¹⁶

Nonetheless, it seems mistaken to characterize families as groups pursuing particular goals, unless those goals are simply to enhance one another’s well-being, strengthen familial relationships, and live well together. Rather than merely being inaccurate, thinking about one’s

¹⁶ See Margaret Gilbert, *A Theory of Political Obligation: Membership, Commitment, and the Bonds of Society* (Oxford: Oxford University Press, 2006). Gilbert’s account of plural subjects offers a similar discussion of the distinctiveness of family relationships and defends the claim that there are genuine social groups that might lack “an overarching goal or aim” (165). On Gilbert’s account it is “because they [a group of individuals] constitute a plural subject that they constitute a social group” (165) and a plural subject is constituted “by virtue of having a single joint commitment” (167).
membership in a family in terms of achieving particular objectives could even be damaging to one’s relationships with other group members on the grounds that doing so prioritizes the objectives rather than the members. To borrow a turn of phrase from Williams, there is “one thought too many” if, in order to be motivated to act, one needs to consider improving the well-being of her family members and her relationships with them as objectives. Instead, like Ann in Williams’ example, we want our family members to see us as supplying them with reasons. This is, of course, not to say that families never identify goals. After all, a family might plan a vacation, and the members might divvy up saving, researching attractions, and buying plane tickets. It is to say, however, that thinking about valuing one’s membership in a family in terms of working toward particular goals and abiding by group norms feels unsatisfying. It leaves out much of the richness of shared life that characterizes what we value about being part of a family.

One might object that families are a unique kind of group, and thus that they do not provide a good model for thinking about group membership more generally. However, a lack of clearly defined functions, purposes, and norms, as well as strong affective ties, is characteristic of other groups as well. Take membership in a cultural group as an example. While each group might have some internal similarities, for instance, shared cuisine, language, stories, and practices, identifying precisely what defines a particular culture and what activities count as promoting it is challenging at best, impossible at worst. Furthermore, there are many reasons to think that it would be a mistake to insist that we should aim to precisely define the boundaries and goals of the group. Members of a cultural group might have overlapping experiences and beliefs about what is central to their culture, yet not possess the same set. Thus selecting one set

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17 Of course, families are also a form of social institution that plays a particular role in our broader social and political networks. Thus the point is not that families must have any particular kind of structure, nor that families are necessarily a domain exempt from legal and political constraints. Instead, it is to point toward a particular group that plays a shaping role throughout human beings’ social, personal, and intellectual development and that it is difficult to fully capture using Scheffler’s set of distinctions.
of beliefs and experiences as the characteristic one unjustifiably privileges the perspectives of some over those of others. Likewise, they might have different attitudes about the preservation, integration, and innovation of cultural traditions, which radically affects their objectives regarding how to promote the well-being of the group. While members can recognize one another as a part of the same community, it need not be the case that what is held in common between any two of them is the same, or that the boundaries be viewed as static or settled. To visualize this phenomenon, we might imagine a series of overlapping concentric circles. Individual members beliefs about what is essential to group membership will overlap with those of some other members, but necessarily all of them.

If one is willing to bite the bullet and accept that these groups fail to provide membership-dependent reasons, the force of this objection to Scheffler’s characterization of membership-dependent reasons is blunted. However, we have good reason to find this approach undesirable, and Scheffler himself maintains that we do very often take memberships in groups such as these to generate responsibilities. People take their membership in cultural, religious, and political groups very seriously, and it would be hard to describe what they are doing as different from valuing their memberships and regarding them as reason-giving. They believe

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18 To consider why this result is problematic, think about controversies surrounding what gets included in a literary canon or, to mention a recent case, in American high school history textbooks. Which perspectives are acknowledged? What is stated as though it is fact without any considered alternatives? As has been extensively discussed, this has led to the privileging of white, wealthy, male voices in much of academic and historical discourse, and part of the justification for modifying the canon and textbooks is that the perspectives that they previously included were not sufficiently representative of the population.

19 See Kwame Anthony Appiah, “The Case for Contamination,” *The New York Times Magazine*, Jan 1, 2006, accessed on July 20, 2017, [http://www.nytimes.com/2006/01/01/magazine/the-case-for-contamination.html](http://www.nytimes.com/2006/01/01/magazine/the-case-for-contamination.html). Appiah’s essay raises a thought-provoking question about what preserving a culture entails, and he challenges the notion that cultures must be protected from outside influence in order for meaningful preservation to take place. To what extent efforts should be made to restrict the degree of external influence is an open question about which members of a cultural group might have deeply conflicting views.

that their groups are valuable, are emotionally vulnerable to the groups’ successes or failures, judge those emotions to be appropriate, and take their membership into account while deliberating about what they ought to do. Seeing themselves as members of the group places constraints on certain possible actions and draws salience to a certain set of possibilities. These are precisely Scheffler’s own conditions for valuing. It is possible that individuals are just mistaken about valuing this kind of membership. Nonetheless, if that is the case, a further argument is needed to explain why these groups offer the false appearances of providing membership-dependent reasons to so many people.\(^{21}\)

Another option for a proponent of Scheffler’s account would be to claim that what people value are their cultural identities, and to reinterpret what I have said in terms of valuing one’s identity. On this reading, what they are valuing is not membership in a group, but instead a life project that they have adopted, and thus that the project-dependent reasons model is appropriate. That response might go something like this: Because individual members conceive of the group in different ways, they view their ongoing participation more as a personal project than as a membership relation. Their identification as an X, where X could stand for any normatively significant amorphous group tells us about how their identification shapes their attitudes, actions, and beliefs without saying anything about their relationship to others who also identify in the same way. Like in the case of working on a project with others, we might instrumentally value their collaboration, or develop other kinds of relationships with them, but shared membership is not doing the work in generating partial reasons.

While prima facie this response is plausible, it ignores the social component of these identities. In fact, it is difficult to make sense of what adopting identities of this type would

\(^{21}\) Of course, membership in a particular group might not be worth valuing. For instance, one has good reasons to not value her membership in a white supremacist group. In Chapter 3 I say more about why membership in the human community is worth valuing.
mean without making reference to others who share them as well as your connection to those individuals. For example, what would it mean to identify as Polish without making reference to others who do the same or have historically done the same? Moreover, if we saw this attitude in someone—some kind of self-centered focus on one’s cultural identity—we might argue that this person is missing the core of what she claims to care about, namely concern for those with whom she shares a history, a way of life. The very act of identifying involves identifying with something or someone. The substance of the identification is muted if there is no valuing of and acknowledgement of its connection to others. In the case of social identities, one has a relationship with a group and with the individuals who comprise the group. Conceiving of oneself as standing in those relationships affects what one takes to be salient and worth considering during deliberation.

As these examples demonstrate, Scheffler’s conception of what valuing group membership entails is incomplete. It leaves out many paradigmatic cases of group membership and fails to effectively distinguish between membership-dependent reasons and project-dependent reasons. As I have argued, allowing membership in groups with amorphous goals to fall under the blanket of project-dependent reasons fails to capture the noninstrumental importance to us of other group members. It fails to capture the widespread influence of that membership on what we take as salient in deliberation and on the choice and development of new projects. In order to account for these lapses, we must either broaden Scheffler’s conception of what valuing group membership entails to include valuing the well-being of one’s fellow group members and being non-instrumentally concerned for their well-being, or add an additional category of partial reasons. I advocate for the latter option because there are significant differences between being a member of a cultural group and being a member of the
John Travolta fanclub. We might here expand on Scheffler’s view by distinguishing between membership-dependent reasons and community-dependent reasons. Membership-dependent reasons can retain the more limited notion of group membership and partial reasons to which it gives rise, and community-dependent reasons can accommodate the groups that are more identity-oriented and that have more amorphous goals. I suspect that most groups that we do not enter into voluntarily—for example, families or cultural groups—will fall into the category of generating community-dependent reasons. To flag the difference, from this point on, I will refer to groups that better fit into the latter category as communities.

Michael Sandel’s constitutive conception of a community brings out the ways that membership in communities has a shaping effect not merely on what we value, but also on our self-understanding. Thus his account is helpful for fleshing out our conception of community membership and how it differs from membership in other groups. Sandel argues that being bound as members of a community entails:

> conceiv[ing] their identity—the subject and not just the object of their feelings and aspirations—as defined to some extent by the community of which they are a part. For them, community describes not just what they have as fellow citizens but also what they are, not a relationship they choose (as in a voluntary association) but an attachment they discover, not merely an attribute but a constituent of their identity.

One might even argue that valuing membership in a community in the deficient ways sketched in the example above—where a person values her identify, as she defines it, rather than valuing other people with whom she stands in social relations—are distinctive and recognizable failures.

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22 In “Relationships and Responsibilities,” Scheffler rejects voluntarism as a necessary condition for relational responsibilities, arguing that while some of our responsibilities have this character, for example, promises, not all of them do. It is possible to participate in relationships that one has reason to value even if one never elected to join those groups. In the discussion of groups with amorphous goals and more narrowly circumscribed groups, I support and expand further on this point.

Racists and other extremists who use community and identity-based vocabulary often work with narrowly defined notions of what makes someone an X (that as which they identify); and everyone who is not X is viewed with hostility and disrespect. Here it may seem that people are very much concerned just with themselves and their own presumed identity, rather than actually caring about other people who too are part of the social contexts in which they live. While I take the suggestion that no community memberships can be voluntarily chosen to be too strong²⁴, the sense that part of what separates communities from mere groups is this deeper shaping effect on members seems to get at something right, and something very much compatible with the experiential approach of thinking about valuing. It emphasizes that we should distinguish between the kinds of groups by looking toward the stance of a deliberative agent acting in the world and the scope and degree of influence that the membership has on the individual’s self-conception rather than on metaphysical features of the groups themselves. As a consequence, some kinds of groups might be both. We cannot know for sure whether or not a group is a community by simply knowing that it is a religious group or that it is a work group, though certain kinds of groups will more frequently be communities than others.

Take the example of a friend helping another select between two jobs options citing the fact that “it seems like there’s a real community at job X” as a reason for preferring it over the other position. This kind of colloquial use of the term ‘community’ still emphasizes the degree to which a community is comprised of individuals who take one another’s well being seriously and into account. These kinds of features are what differentiate the work environment at job X from

²⁴ By voluntary here, I simply mean that one is a member of the community without actively having chosen and made efforts to become so. One might opt-out of a family by moving across the world and never again speaking to any relatives, but these are generally communities that we have entered into without active effort on our own part, and that it could be legitimately disputed whether or not we are still a member of or have obligations to the community after having made efforts to separate ourselves. The same cannot be said for fan club membership. Of course, one can also join a community. For example, one can join a community by moving to a new city and integrating oneself through joining local groups, participating in local politics, attending local events, etc.
the work environment at the other job even if both are otherwise part of the same industry and have the same formal goals of promoting profits. In a case like this one, one work environment might generate community, membership, and project-dependent responsibilities while another might merely generate membership and project-dependent responsibilities.

Thus at this point, the set of features that are typical of communities are as follows: (a) they are often entered in a non-voluntary way, (b) they have a broad shaping influence on members both in terms of scope and in terms of degree of influence, (c) being a member entails recognizing that one’s membership is deeply tied to that of others who identify or have identified in the same way, and (d) part of what it is to value one’s membership in a community is to noninstrumentally value other members. As I have said, these are not meant as a set of necessary or sufficient conditions, so much as they are meant to offer us some rough guidelines from recognizing the kinds of groups that we value our membership in and thus that are capable of generating responsibilities. Attending to these kinds of features can help us to further articulate the kind of influence that membership in these groups has in our lives even when we are not always attending to it.

Communities are normatively significant groups, and for the reasons I have described so far, they are often also characterized by generating amorphous goals rather than clearly defined goals and norms. These amorphous goals are akin to the broad shaping influence that they tend to have. Because the groups lack clearly defined goals and norms, valuing one’s membership involves identifying as a community-member, and seeing one’s membership as influencing deliberation and affective vulnerability in a wide range of cases. Membership in a group in Scheffler’s sense gives rise to partial reasons, but these reasons are restricted to the promotion of the group’s goals and norms. The kinds of partial reasons that communities are likely to give
rise to, on the other hand, will be wider ranging and more varied because they must also take into account the individual well-being of one’s fellow group members. As a result one can still value one’s membership in a community even when one disagrees with prominent views advocated for by other group members, including views about the group’s goals and norms. Though ultimately it might be more expansive than the everyday notion, the notion of community that I am employing here is still very much in that spirit.\(^\text{25}\)

Having now posited communities as a distinctive kind of group and community-dependent reasons as a distinctive kind of partial reason, it is worth our while to consider how communities might give rise to partial reasons. For that task, I turn to Niko Kolodny’s account of resonance. Kolodny argues that we share a kind of group membership with others when our personal experiences resonate with theirs, regardless of whether or not we have a personal shared history with another person. Though this initial description bears some similarities to Scheffler’s account of group membership, Kolodny’s examples are more akin to the kinds of communities that I have focused on. In one case, Kolodny argues that recognizing someone else as a member of the same minority group, particularly when that group has faced discrimination, provides one with reasons for solidarity that one would otherwise lack. Kolodny’s claim is that the way these individuals should respond to one another is similar to how they should respond to the history itself, but that “reflects the distinctive importance of sharing a history or situation with another person.”\(^\text{26}\)

Putting aside whether or not resonance has the explanatory power that Kolodny

\(^{25}\) As I understand it, the everyday usage of “community” emphasizes individuals who stand in relationships with one another in virtue of something they share. The paradigm case often seems to involve sharing a space. For instance, a neighborhood community shares a physical space, as does a school community. The creation of digital spaces raises interesting questions about the outer boundaries of spaces that plausibly generate community membership. While I will not take up this issue here, I think there is interesting work to be done on this front.

argues it does, we can still find an important characteristic of community in Kolodny’s account that is lacking in Scheffler’s. That is, the role of recognition and connection in generating the affective and motivational responses characteristic of valuing members qua member rather than merely valuing the group itself.

Part II: What is the Human Community?

Now that we have described why we also need a conception of community-dependent reasons in order to accommodate groups with amorphous goals, let us apply these distinctions to the Membership Thesis and to our initial question of whether membership in the group of human beings is a legitimate community membership relation, and thus if it is capable of generating partial reasons. To tackle this question, we must first more clearly explicate what some of the characteristics that we take to be distinctive of the community are and, relatedly to whom the group “human community” refers. As should be clear from my discussion of cultural communities, I do not expect this task to be transparent or admit of a simple solution. After all, as Aristotle counsels us, we should “look for precision in each class of things just so far as the nature of the subject admits.”27 As such, my aim here will be to make plausible the existence of such a community and to sketch a picture of how that community might be characterized.

In taking this approach, I also offer some suggestions about where we might see vague boundaries of the community drawn. Having vague boundaries on community membership accurately reflects the difficulty of borderline cases, for example, fetuses, the presumably permanently comatose, and, as technology advances, potentially some forms of artificial intelligence. These borderline cases will be located at further extremes than they would be on an

account that identified membership by reference to possession of a particular capacity. Instead of counting individuals who are undoubtedly living human beings, such as infants and people with impaired cognitive capacities as borderline cases, this kind of account sees the borders drawn at whether or not someone is a living human being. In addition, it reflects the possibility that the human community might change over time.

Thus, one way into the challenge is to consider it from the stance of a member of the human community: what is the community like? and in what ways is one’s identity and means of engagement in the world shaped by recognizing oneself as a member? Cora Diamond’s description of “having a human life to lead” in “The Importance of Being Human”28 gestures at how we might conceive of an answer to these questions. Diamond writes:

We, who share in this striking thing—having a human life to lead—may make in imagination something of what it is to have a human life to lead; and this imaginative response we may see (and judge and learn from) in the doings and words and customs of those who share having a human life to lead.”29

She emphasizes our use of imagination in constructing an understanding of and responsiveness to the lives of others. The kind of imagination that I take to be important for our account is that of sympathetic imagining of the interests, needs, and values of others, and recognition of others as mutually engaged in this activity. Diamond also flags that differences mark individual ways of leading a human life and that we frequently learn from one another; we do not sketch our conception of being human in isolation. What her framing helpfully adds is a shift in how we


29 Ibid., 43-44.
answer the questions, to the perspective of we, and it calls back to the constitutive conception of community that we find in Sandel. Who is this we? What do we share?30

In fleshing out this view, I propose that the human community can largely be characterized as the group of individuals who share a paradigmatic framework of experience. This experience is constituted by biological, social, agential, and historical dimensions that are central to most human lives. In calling it a paradigmatic framework, I offer it as a description of elements that are central to our ways of engaging with the world and that shape the kinds of values that we develop. We recognize other community members as also engaging with the world from this same rough vantage point, and their doing so influences our own perspective. The approach is not intended as an essentialist account, and it is not the possession of the capacity to experience the world through all aspects of the framework that justifies one’s membership in the community. Instead, it gives us a lens for reliably predicting the kinds of considerations that are meaningful for everyone who is part of the community and for realizing the ways in which we have the potential to and regularly do shape one another’s experience and values.

Being part of the human community is similar to being part of a cultural community in that the boundaries of the community and characteristic experiences, beliefs, and norms are not rigidly defined. Though there is significant overlap in the experiences, beliefs, and norms shared by members, there might be different pockets of overlap between members. Perhaps A and B share significant overlap, B and C share minimal overlap, and C and D share significant overlap. Though individuals might be capable of participating in particular characteristic activities such as

30 The conception I have in mind is one that is open-ended and, if anything, more expansive than traditional views, rather than one that is more limited.
reasoning or empathizing to varying degrees, they are still regarded, and, I maintain, rightfully so, as part of the community and share in many other common experiences.

Articulating the Framework

What does it mean to talk about a framework of biological, social, agential, and historical experiences? And why suppose that these particular elements are the ones that we ought to appeal to for describing the characteristics of the human community? I appeal to them because they shape our values and means of engagement with the world. In the section that follows, I will offer an initial sketch of what I mean by each of these elements and why I take each of them to be part of a multifaceted framework that captures the substance of human community membership. In articulating the kinds of responsibilities that valuing one’s membership in the human community is able to generate, I will return to each element in more detail in the following chapter.

Because these elements are reflected in empirical patterns of human action and valuing, there is the potential for change in them over time. I take this flexibility to be a strength of the account. It allows me to resist making a claim about timeless human nature while still acknowledging significant similarities in human lives over a course of time. While I offer a defense of the particular elements that I have selected as the starting point, there might be other elements that could be added to the framework. Similar to Martha Nussbaum’s characterization of her list of capabilities\textsuperscript{31}, the list of elements of the framework need not be exhaustive in order for it to give us a helpful way of conceptualizing membership in the human community.

\textsuperscript{31} Nussbaum, Creating Capabilities: The Human Development Approach, 33-34.
Biological Considerations

Members of the human community are creatures with a common biological form that affects both the stance from which we perceive the world (with our senses, as creatures of a certain rough size, in danger of similar threats of disease and injury, as creatures who live primarily on land, etc.) and the interests that we have as a consequence of this stance. We need oxygen, water, sustenance, shelter, and we need it in the degrees that we do as a result of being the kind of embodied creatures that we are. It is hardly controversial to say that these needs inform how we interpret the world around us, as well as the kinds of resources that we desire access to, and the kinds of activities that we engage in with one another. While there are of course differences in our embodied experiences, many others aspects of that experience remain shared.

Further, human lives have a characteristic shape of development that aligns not merely with transitions in our agency, but with transitions in our bodies. This progression of our embodied experience and the ways in which those changes correspond with heightened awareness of our mortality. Generally, we move from being dependent children to independent adults and then to greater degrees of dependency again in our oldest years. These shifts in independence map onto physical, emotional, and agential growth. Even if others are at different stages of their development, we still recognize them as human and their experiences or the anticipation of them resonates with us. Though all creatures are embodied, the particular way that we are as well as the characteristic shape of a human life adds similarities to our experiences with one another that we lack with other creatures, even if we share some biological needs with them.
Social Considerations

Human beings are social creatures. The relationships that we form as well as the groups and communities that we are a part of fundamentally shape our lives, emotional growth, and self-understanding. Thus, consistent attention has gone into making sense of relational obligations and accounting for the perceived contradiction between them and the demands of impartial morality. We see a variety of ways of accounting for this fact throughout the history of philosophy. Just to name a few, we have Aristotle’s claim that human beings are political animals, and that a flourishing human life is only possible within the context of a certain kind of community, Hume’s claim about sympathy in shaping human motivation, and Hegel’s claim that we need others in order to recognize ourselves. The groups that we are part of, the particular social structures and institutions that shape our lives, and the particular individuals with whom we stand in interpersonal relationships differ, but the centrality of these connections to the stance in the world that we take in our lives does not.

To return to a point Scheffler makes, “Each of us is born into a web of social relations, and our social world lays claim to us long before we can obtain reflective distance from it or begin making choices about our place in it.”\(^{32}\) We do not come into the world without attachments. We are the children of human parents and are born into communities. Regardless of our own capacities, the relationships that we stand in with other community members help account for our inclusion as part of the community and are not trivial. Though they might not be capable of rich symmetric relationships, even individuals with more limited rational capacities often stand in relations of care in which they demonstrate affection for their relatives.\(^{33}\)

\(^{32}\) Scheffler, “Relationships and Responsibilities,” 106.

sense of how and why we are inclined to see them as part of the community. We already have ready models for engaging with human beings who possess different degrees of agency and experience in the world. The norm is not that the vast majority of human beings we encounter in the world are at that moment full-fledged autonomous rational agents.

Agential Considerations

Though there are many conceptions of agency, the notion that I take to be most relevant here is a minimal conception of agents who view themselves as capable of making a difference in the world, and who thus identify, form, and pursue goals. These goals are often related to our relationships and communities, as well as our projects and ideals, and they reflect the limitations of our biology. While agency can be exercised individually, the goals we adopt are socially influenced. What seems to us worth pursuing gains its value from the context in which we shape our goals. Some goals are more complex and their successful completion involves several other sub-goals. For instance, having the goal of becoming president of the United States typically also involves having sub-goals of being elected to other positions, becoming knowledgeable about politics, and learning to be a successful fundraiser. Others are not nearly so nuanced or long-term. We can have the goal of getting to bed at a reasonable hour on a given night, or of restricting ourselves to a single glass of wine at a social event. The successful articulation and execution of more complex goals might require significant cognitive skills, and perhaps most goal formation involves some degree of deliberation or weighing of options.

Carol Rovane offers an interesting account of agency that maintains that agents, or persons, should be individuated by reference to deliberative perspectives. On Rovane’s

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account, there is the possibility of group agents, i.e., single agents who are comprised of multiple human beings, as well as the possibility of multiple agents in the same human being, such as we might see in the case of dissociative identity disorder. Agents of this type might come into and go out of existence with some regularity, and they would not necessarily be tied to any particular human being or human perspective. Her account is helpful to note in this context as it makes clear that the question of whether human beings have obligations to one another is distinct from asking about what obligations agents or persons have to one another. The two groups might at times be discontinuous. While the agential perspective is certainly an important component of human experience, it cannot tell the whole story.

*Historical Considerations*

Finally, by the historical dimension of the framework, I mean to draw attention to the temporality of our experience. In addition to being born into particular present social groups and communities, we are also born into particular generations with all the baggage and accomplishments of past generations affecting both our position in the world and what is salient to us. On this front I am sympathetic to Alan Sussman’s claim that the possession of historical memory is distinctive of human beings. Sussman characterizes historical memory as “the memory of what we have done to each other.”35 By this I take him to mean having an awareness not only of our own personal actions and their effects on other people, but also of the actions of other human beings toward one another at various moments throughout history.

Our sense of ourselves as human beings is tied to a sense of ourselves as historically situated. Reflecting on the question of what we owe to future generations as well as on what

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obligations we owe to current human beings as a result of the injustices of past generations makes clear that in practice we do not see ourselves as isolated or indifferent to the people who have come before us and who will come after us. Consider, for example, the case of some American universities seeking to make reparations for the ways in which they have benefitted from slavery. Further, attending to the historical injustices that have been committed by adopting too narrow a conception of the human community, say in the American South in the 1800s or in Nazi Germany, provide us with compelling practical reasons for seeing how inclusive a conception of the human community we can make sense of. Human beings share a common history that extends beyond the relatively recent and still fluctuating borders that construct our identities as the citizens of particular nations and cultural groups.

Why Conceive of the Framework in Terms of Membership?

None of the dimensions that I have discussed will sound especially surprising, nor should they. They are attempts to get at something that we do every day; conceive of the world as agents through the filter of our biological, social, and historical situatedness. Though this discussion offers only an initial explication of the framework, I take it to make plausible the notion that there is a human community, and that appeals to biological, social, agential, and historical components are necessary to articulate the structure of how members interact with one another and of what is distinctive about being part of that community.

Like valuing membership in other kinds of groups, valuing one’s membership in the human community gives rise to partial reasons, and doing so entails noninstrumental valuing of other members. Encountering others who we recognize as sharing certain biological, social,

agential, and historical experiences gives us reason to respond to them in a way that is reflective of the fundamental centrality of each of these ways of engaging with the world in our own human lives. An additional benefit of adopting this attitude is that it makes us more inclined to respond with the compassion and empathy that is indicative of dignity by leading us to view one another as equally part of the community.

The Genetic Account and the Morality Account

In thinking about to whom membership in the human community extends, I want to rule out what I take to be two limited accounts. One might suspect that when thinking about the community of human beings, we are really just thinking about individuals who happen to be members of the human species or about the moral community. We can refer to the first as the Genetic Account. Just as it sounds, the Genetic Account holds that only those who are members of the species Homo sapiens, and thus have the relevant DNA, are included in the community. The first reason to reject this conception as insufficient is that it misses the point. Even if as a result of possessing the same kind of DNA human beings share certain physical features, biological processes, and dispositions, for example, to flee in the face of danger, what seems to be relevant for recognizing one another as community members are these shared characteristics and experiences, not the DNA that preconditions their development. Likewise, if DNA possession were doing the work, human animal chimeras would warrant membership in the human community, regardless of whether or not they take on any human traits or relations. While the set of individuals who possess human DNA might be co-referential with most, if not all, of those whom we regard as part of the community, at best human DNA possession provides a useful criterion for classifying most members rather than one with any explanatory or
justificatory force. However, given the ongoing debate among biologists about how to identify and classify species, we should be leery of using it even for this purpose.\(^{37}\)

Scheffler’s use of the phrase “human community” rather than “human species” suggests that he too has something different from the Genetic Account in mind. This brings us to the second possibility, which I will refer to as the Morality Account. It is worth noting that something along the lines of this account is likely what Scheffler had in mind given that his discussion of the Membership Thesis came in the context of an assessment of the plausibility of a relational conception of morality.\(^{38}\) On the Morality Account, “human community” refers to the moral community. The most prominent possibilities for demarcating membership in the human community on the Morality Account are as follows: members would either (1) all be moral agents, (2) all be moral agents, potential moral agents, or former moral agents, or (3) all be moral agents or subjects who place moral demands on agents.\(^{39}\) I will rule out the last possibility as too wide for equating the moral community with the human community as on most moral theories, moral agents have obligations to subjects that we readily agree are not human. For example, moral agents have obligations not to torture sentient creatures like rabbits or puppies, yet holding these beliefs does not make anyone think that rabbits or puppies are part of the human community. On an account of this type, the human community and the moral community would clearly be distinct.


\(^{38}\) Scheffler, “Morality and Reasonable Partiality,” 56-68.

\(^{39}\) Of course, there are ways to nuance these categories, but I think the general descriptions are sufficient for demonstrating why the Moral Account is insufficiently compelling as a way to designate membership in the human community.
The other two options require further discussion. Option (2) is more inclusive than Option (1) in that it rules in individuals that Option (1) leaves out. For example, Option (2) would accommodate young children as future moral agents and the elderly with dementia as former moral agents. However, even the more inclusive Option (2) leaves a gap between those we generally acknowledge to be part of the human community and those that this conception accommodates. For example, Option (2) leaves out those with severe congenital cognitive disabilities and young children with terminal illnesses. It rules in non-human rational agents who may bear few similarities to human beings. Take a rational alien species whose physical, social, and psychological needs and experiences scarcely resemble those of most humans. Even without addressing borderline cases such as the permanently comatose or McMahan’s Superchimps who possess agential capacities, there is clearly a gap between whom in practice we recognize as a part of the human community and who count as members of the moral community on most moral views. One reason that differentiating the moral community from the human community is worth pursuing is that the distinction allows us to ask the question of whether we have obligations to one another simply in virtue of our shared humanity.

Thinking about the answer to this question in the framework of relational obligations allows us to entertain the possibility that in addition to the moral obligations we have to humans and non-humans alike, we have further responsibilities toward other human beings. Drawing this distinction can help prevent us from fixating on identifying a particular capacity that is meant to demarcate moral status, which I suspect sometimes comes at the expense of a more nuanced account of the sources of obligations. I rejected the Genetic and the Morality Accounts

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40 If this distinction can be successfully made, I think it will be valuable for justifying the inclusion of all and only members of the human community as human rights holders while holding steady the claim that other subjects, particularly high functioning animals and rational aliens also place significant moral demands on us. However, the source and content of the responsibilities that these beings place on us will differ from that generated by our fellow human beings.
on two fronts. Both are issues of scope. The first concerns the scope of individuals ruled in as members of the community. The two accounts rule out individuals who are undeniably human beings and include individuals who are not. While we might opt for a revisionist account of the human community, it is worth first attempting to see if there is a way to accommodate our everyday conception of human beings. Doing so is necessary in order to develop a philosophically robust account of human rights that is compatible with the aspect of human rights practice that includes recognizing all living human beings as human rights bearers. The second is a problem of the scope of justification. Neither an appeal to the possession of human genetic material nor to status as a member of the moral community is able to offer a justification for particular responsibilities to fellow human beings. Thus one feature of the positive account that I develop is that it allows us to both identify human beings and only human beings, and that it points toward normatively significant features that are able to both inspire individuals to see themselves as a member of a community and that shape our ways of valuing the world.

The more globalized our world becomes, the more plausible the existence of a human community seems. Our actions do very regularly have a measurable effect on human beings across the globe. The governments that represent us and the foreign policies they adopt, the companies whose products we purchase, and the NGOs that we support all directly affect the well-being of others. Thomas Pogge, for one, argues that we all have a responsibility to offset the harms that the institutions we participate in generate, and, where possible, try to alter those institutions.\footnote{See Thomas Pogge, “Are We Violating the Human Rights of the World’s Poor?,” \textit{Yale Human Rights and Development Journal} (2011): 1-33.} Though we do not always come into contact with everyone who is affected by our actions, it is a mistake to suggest that we do not already stand in the kinds of relationships
capable of making a difference to the lives of human beings with whom we might stand in no other relations.

What these connections bring out is not the creation of a new community, but ways in which the community membership that already exists be deepened, ways that the particular responsibilities that we have to one another have their content more specifically fleshed out. Likewise, the possibility of at least some broad-scale collaboration seems necessary for tackling problems like climate change that have measurable consequences for the well-being and continuity of the human community as a whole. These encounters give us reason to suspect that the language of “community” is not misplaced.

Conclusion

To conclude this chapter, I hope to have gone some way toward demonstrating the need for identifying community relationships as capable of generating relational obligations. I also hope to have begun to show that the shared framework for human life with its biological, social, agential, and historical components is fundamental to the manner in which we engage in our other relationships, projects, groups, and communities. I suspect that this, in itself, is a reason for valuing membership in the human community, which I will take up in greater detail in the next chapter. I will go so far as to say that we ought to value our membership. In particular, I will go on to say more about what responsibilities valuing one’s membership in the human community might generate. Separating the human community from the moral community does not detract from the moral status of other creatures or limit our obligations to them. Instead it suggests that there is enough recognizable commonality in the shape of human lives and a sense of recognition and connection in those experiences to give rise to additional obligations.
CHAPTER 3

Valuing Our Membership

Much in my argument hinges on the claim that we do value our membership in the human community and that we have reasons for doing so. Though one may not readily conceptualize her valuing relations as such, valuing the majority of our particular relationships, projects, and memberships entails valuing that we are human beings in a network of other human beings doing the same. To do so is to recognize the links and parallels between our lives and those of fellow human beings that are built into our other valuing activities. The particular projects that we adopt and the relationships that we stand in gain their meaning through the social contexts in which they have evolved and in which they exert lasting significance.

I propose that the responsibilities that we have to one another in virtue of our shared humanity are best conceived of as those that correlate with human rights. On this view, then, the source of human rights-related responsibilities is our basic community membership relation that exists between fellow human beings simply as fellow human beings. It is a basic membership relation in that it is among the most general relationships that we can have, and in that it shapes the range of permissible kinds of relationships that can exist. All other relationships with fellow human beings lead to further articulating and deepening the responsibilities that we have to one another in virtue of our shared humanity rather than overriding those responsibilities.

Violations of human rights and failures to fulfill human rights are comprised of failures to recognize one another as fellow human beings. One violates a human right when she acts in a way that infringes upon someone’s rights; for example, when she inflicts bodily harm upon someone or imprisons her. One fails to fulfill a human right when she acts in a way that fails to take others’ basic needs as a human being into account, or fails to take steps to inhibit others
from violating a human right. While this does not require one to put her own life at risk by, say, stepping in to stop a potential murderer, it does require calling help, or more generally, promoting policies that lead to the fulfillment of human rights and that articulate effective repercussions and protocols in cases of violation. For example, when one advocates for political policies that deprive others of access to food or shelter one fails to help fulfill the human rights of those in their political community, one is failing to fulfill the human rights of those around her.

The content of human rights derives from the four elements of the framework of experience that I introduced in the previous chapter. To the extent that human rights are universal and timeless, their content will be thin and abstract. Nonetheless, the framework allows us to home in on the kinds of features that are most relevant. The content of these particular rights can be further specified by reference to additional more specific relationships that we stand in with one another. While the relationship between human beings is the source of our responsibilities to one another simply in virtue of our shared humanity, the content of those responsibilities depends on basic interests that human beings have. Thus there will also be some flexibility in what the contents of human rights will look like—though their abstract versions will be universal, what it looks like to fully realize them might differ at different times and in different places.

Further my relational approach gets at the egalitarian impulse that is at the heart of many human rights accounts. It is egalitarian in that human rights are cached out as equally possessed by all members of the human community, and in that the attitudes that we convey toward one another in the fulfillment of rights make a difference to whether or not a right is fully realized. Mere access to goods is insufficient if one is not regarded as a social equal. Accounts that locate
human rights as protections of agential capacities, such as we see in the work of James Griffin, struggle to be fully egalitarian in this way because they exclude human beings who lack agential capacities below a certain threshold, and because they make reference to an individual’s capacities rather than to a social dynamics that best enable the exercise of those capacities.¹

One might wonder what we gain by making the pivot to the concept of rights rather than confining the discussion to responsibilities that we have to one another in virtue of shared humanity. One reason for bringing in the concept of rights is that referencing responsibilities owed in virtue of membership in the human community offers us a way of interpreting the assertion that human rights are held “in virtue of our humanity alone” that is located in the preamble of the Universal Declaration of Human Rights.² Other attempts are often too narrow, pointing toward capacities not possessed by all human beings or toward contingent political relationships. Though human rights, on my account, are a fundamental dimension of our responsibilities, it is us who conceptualize this fundamental dimension in terms of human rights. In a sense, though, this is neither here nor there, for it is bound to apply to normative vocabulary across the board. We come up with ways of categorizing duties, rights, and norms of all sorts. This does not make these claims and commitments any less valid. To say that these are human rights, then, is to say that they generate claims that we can place on another simply in virtue of our shared humanity. Human rights are uniquely able to capture a particular kind of responsibility that we have to one another, and they provide us with a political and pragmatic

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¹ In *On Human Rights*, Griffin distinguishes between moral and legal human rights. He argues that in the case of, eg. infants, they would not possess moral human rights, but they would possess legal human rights for practical reasons. Likewise, legislation against discrimination might warrant legal human rights protections but would not be justified as a moral human right. The additional consideration of practicalities helps account for the gaps between the moral and legal conceptions of human rights.

language for articulating it. In Chapter Four, I go on to discuss the dynamics of claiming rights and how they differ from other ways of flagging a wronging.

To prepare the ground for this; however, the present chapter is comprised of two main parts. In the first, I develop the argument that in valuing our other relationships, projects, and responsibilities we also value our membership in the human community. In doing so I argue that the primary reason why it might seem less obvious that we value our membership in the human community than it is that we value our membership in other groups is the salience of our identity as human beings. Our identification as human is so fundamental to our sense of who we are as particular individuals and the kinds of beings that we are that we hardly need consider it in most ordinary contexts. Nonetheless, it shapes how we deliberate and act. A wide range of disparate philosophical traditions aim to capture this experience of seeing ourselves as one among many human beings, and these connections as making a difference to our sense of ourselves and to our responsibilities. I discuss examples from several different traditions in order to strengthen the claim that we do in fact value our membership in the human community and the consequences in cases where we fail to do so.

In the second half of the chapter, I consider in greater depth the move from responsibilities to rights. Specifically, I consider what is gained by conceptualizing membership in the human community as a relationship and what kinds of responsibilities we see this relationship as giving rise to. While the formulation of these responsibilities will be abstract, it reflects that the relationship between human beings is a thin, but nonetheless important one. In order to identify the content of responsibilities in greater detail, we need to turn to more details about further relationships that the relevant individuals stand in. In articulating the responsibilities that correlate with human rights, I return to the four elements of the framework
of experience from the previous chapter and offer an example of the kinds of rights and responsibilities that can be generated by each.

**Part 1 – Conceptual Underpinnings**

*Why Suppose that We Value Membership in the Human Community?*

The last chapter considered the many ways in which we do value our relationships, projects, and memberships, as well as how that valuing entails a number of responsibilities. The central claim here is that in doing so we also value our membership in the human community. In the pursuit of our particular projects, relationships, and memberships, we also must value our membership in the broader human community and we regularly do so. These particular sources of value in our lives are shaped by the human context in which we pursue them. The objects of our valuing would cease to possess some if not all of their value were they to be separated from their context. Further, I argue, in valuing our own humanity, we must also value that of other human beings.

Samuel Scheffler’s “Death and the Afterlife”\(^3\) explores the connection between our present values and our implicit assumption that human beings will continue to exist into the future. To test the intuition that we would not continue to value the many things that we presently do if we were not to assume the continued existence of human beings, Scheffler poses a thought experiment. He first asks his readers to imagine that after their deaths and the deaths of those to whom they are closest, humanity would come to an end. He then asks them to reflect on what would seem worth pursuing in this world if one were to have that knowledge. Scheffler argues that many of our projects, relationships, and memberships would no longer seem worth pursuing; they would lose their value to us. Without the continuity of humanity, we would not

have a reason to search for a cure for cancer, devote ourselves to creative projects that depend upon an audience, or, perhaps more controversially, invest our emotional and mental energy into the growth and development of particular relatives who we know will soon perish.

Though he hedges around whether it is the continuance of persons or human beings that would so deeply alter our values, in a footnote he does write:

> My own view, as should be clear from the text, is that most of us do hope that future generations will share our most important values, but that the survival of humanity also matters to us in a way that is not exhausted by this concern. It is important to us that human beings should survive even though we know that their values and cultures will change in ways that we cannot anticipate and some of which we would not welcome.⁴

I flag this passage because it exemplifies that for Scheffler our ability to be valuers is tied up with the continuity of humanity, and not just with the continuity of the individuals in our smaller networks, nor with the continuity of personhood more generally. We desire to leave a legacy, to play a shaping role in the future even if we will not be physically present to see its effects. Our projects would come to look much more like counting blades of grass; that is to say, meaningless, if there are no human beings who we can anticipate benefiting from them in the future. In some sense, our fates hang together with those of all other human beings.

One might suspect that this example is too straightforward; that the value of a project like curing cancer obviously depends on the existence of future human beings who can benefit from its result in a way that many of our projects do not. However, looking at a few more cases will help build plausibility for the claim that our projects do very regularly depend on a belief that others will benefit from them or, and this is to take us beyond Scheffler’s discussion, that their value derives from the context in which they have evolved. Scheffler’s line of thought is not new. The way we relate to generations that come after us is, for example, a core theme in Plato’s

⁴ Ibid., 49.
Symposium, and prior to that, in Homer’s Odyssey. The thought is, in both cases, that human motivation is shaped by the generational nexus, that we are mortal and others come after us, and that the projects we typically take up reach out beyond our own lives. In wanting to be a baker, for example, one submits to norms of making bread and cake that is nutritious and good to eat for others. In having children, one submits to norms of living up to the task of raising them well. In these ways, our projects impose norms on us that relate to other people; and the motivations of these projects inherently carry us beyond concern with our own lives narrowly conceived.⁵

Now turn to cases of memberships in particular groups. Would we still value these memberships were we not to believe that there would be additional human beings who might benefit from them? Consider, for example, valuing one’s membership on a sports team. In this kind of example, it might seem that little connection to a wider net of human beings is indicated. One must, at minimum, value that there are enough other people on one’s own team and on opposing teams to offer continuous challenges. To a certain extent this is likely right, that the endorphins generated through exercise and the particular friendships forged while on the team are individually valuable but not so in a way that requires positing others beyond those involved in the sport. However, even in this case, there is linking of oneself to others who have participated in the sport before, to the history of the sport, to the culture of playing that sport in a particular place, etc. These all extend beyond the particular group of human beings playing on a specific team now. While the activity need not become meaningless, the nature of what it is and what one values shifts in this context.

Even particular relationships between human beings are socially situated in a way that shapes how we value our relatives. When I love one particular person, how I express that love,

⁵ See Katja Maria Vogt, “The Nature of Pursuits,” in Desiring the Good (Oxford: Oxford University Press, forthcoming 2017) for a discussion of how our motivation is shaped. In this text Vogt also argues that that we would not in practice cease valuing our present attachments if Scheffler’s thought experiment were to come to pass.
the ways that we interact, and the ways in which we enhance one another’s well being all require looking outward from the relationship as well to the other aspects of my beloved’s life. Thus my connections and responsibilities to my beloved, in turn, are linked to many further projects, relationships, and memberships. While the relationship itself might still be intrinsically valuable even in Scheffler’s apocalyptic scenario, the activities that demonstrate my valuing of the relationship require also valuing the webs of additional relationships that my beloved stands in. In this way, we end up with many interlocking webs of valuing. My responsibilities extend beyond the bounds of my own relationship and into helping facilitate the ability of my beloved to engage in a broader range of projects and relationships that he takes to be valuable.

While Scheffler’s account focuses on implications of the thought experiment, we can expand on it to make a more general claim about our valuing activities. I argue that valuing our humanity entails valuing our membership in a broader human community—we cannot value our own humanity without valuing other human beings and our relationship in a broader community with them. One might take the view that we are hard-wired to pursue aims, and that while recognition of the terrible fate of humanity would be disruptive, it would not have consequences as deeply pervasive as those that Scheffler or I ponder. The argument might go, as demonstrated through a wealth of psychological research, human beings are highly adaptable. One persistent example from the philosophical literature that already takes this point for granted is that regarding adaptive preferences. Even if it is true that we would not cease to value everything, I still maintain that the content of what is valued would be lesser and dramatically changed. In addition, under these conditions it would also be rational to value our projects, relationships, and

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6 This literature engages with the question about who can ever be in a position of sufficient authority to tell someone else that their preferences are mistaken. See Serene. J. Khader, *Adaptive Preferences and Women’s Empowerment*, (New York: Oxford University Press, 2011).
memberships less. This is sufficient to get off the ground the claim that the meaning of our projects gains much of its shape from a belief in the continuity of human beings.

An immediate difference that one might draw between the human case that I have described here and other relationships and memberships is the degree to which the individual is constantly aware of that relationship or membership and the influence that it has over how she makes decisions and engages with the world. I argue that the reduced salience of one’s humanity is a marker of its pervasive influence over our lives rather than a marker of its lack of significance. It is not an empty relation. When something is its most pervasive, we often do not even realize we are taking it into account, or how deeply it has shaped how we experience the world around us. Consider long-term partners taking one another’s concerns into account when decision-making. It becomes second nature after a time and, at least for everyday purposes, easy to predict what one’s partner’s preferences will be and to weigh them along with one’s own. While one can recognize that this is part of her practice upon reflection, she likely is not even actively thinking about that action. It is an ingrained habit that influences how she sees the world. The same might be said for practicing a particular discipline for a number of years. One often comes to see the standard questions of one’s field as the obvious first questions to ask and ceases to reflect on alternative ways of responding to the same set of information. Compare, say, the obvious question to the historian with the obvious question to the philosopher. Again, while on reflection one can recognize this influence and the shaping effect that it has, in one’s day-to-day life the relationships and projects that shape us the most are often ones we in some sense to take for granted as our standard way of engaging in the world.

In the case of the community of human beings, it is rare that we are forced to consider our humanity. It is taken as a given such that only in extreme cases are we forced to think about
it. Nonetheless, it completely shapes how we encounter the world; the dimensions of the framework that I introduced in the previous chapter aim to get at these central elements. There are cases that bring out the salience of our humanity, the widespread influence that it has on us, and the degree to which we experience it as a community membership relation. Science fiction offers us a range of storylines featuring alien invasions or advanced and threatening artificial intelligence that, among other things, do the work of making our own humanity salient. These stories raise questions about how recognizing whether or not someone else is a fellow human being influences our interactions with him or her. They help lay bare the degree to which humanity and our membership in it heavily shapes the choices that we make and what seems to us worthwhile. Of course, we need not turn to science fiction in order to make salient the extent to which our humanity shapes our means of experiencing the world. Though it allows us to helpfully imagine alternative possibilities, human history itself is rife with examples of cases where shared humanity must be made salient.

Our humanity is also at its most salient when there is a systematic failure to recognize some human beings as fellow human beings. This kind of dehumanizing treatment often brings out the similarities between us. The process of dehumanizing someone or some group involves making clear that they should presumably not be viewed as fellow human beings. A fissure and

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7 We might make a connection here to the presumption that being a cisgender white heterosexual male is the norm. One experiencing the world from this vantage point need not consider his identity because it is experienced as the standard. Efforts must be made to effectively communicate the ways in which it is different to experience the world from an alternate vantage point.

8 See Bernard Williams, “The Human Prejudice” in Philosophy as a Humanistic Discipline, (Princeton: Princeton University Press, 2006), 135-152. In it, Williams considers such an example as a way of challenging his readers to distinguish between cases of more pernicious –isms like sexism and racism and what is often referred to in the literature as speciesism, a prioritization of human beings over other species.

reclassification of individuals is taken to justify the move and to generate the psychological distance that makes the perpetuation of atrocities against fellow human beings possible. In this sense, while one might at first glance suspect that gross human rights violations like those committed during the Holocaust or during any act of genocide cast doubt on the belief that we see ourselves as part of a broader human community, I take these cases to offer evidence of the opposite. The extraordinary lengths that must be gone to in order to cast others in inhuman terms is a necessary step for creating the psychological space such that such drastic mistreatment is possible. In an ordinary case, it would be enough to know that the other was person was a fellow human being in order to know what basic responsibilities one has to her. In cases of dehumanization, shared humanity is rejected. This rejection need not entail rejecting someone’s capacities, so much as disparaging her character or deeming her lesser on the grounds of her membership in another group. Reiterating that membership in the community of human beings is a foundational relationship is to reiterate that in these cases, the failure that leads to vast atrocities is a failure to regard someone as a fellow human being and to take seriously the responsibilities that doing so entails. At a minimum, recognizing someone else as a fellow human being is to recognize that she experiences the world from, at least in some basic respects, the same framework that you do and participates in a community of fellow human beings. As such, we ought to respond by taking her basic interests into account in our action and in our attitudes.

Perhaps the point is an even stronger one. Valuing one’s membership in the human community is the most basic relationship for human beings to value. It is unlike many others in that we cannot opt out of it. Even our identification of negative features of the human community gives us reason to make changes, to strive to improve the community. This entails treating one
another better, and helping one another fulfill our human rights. On account of this, we must find ways to come to terms both with what we do and with what has been done in our name. As a community, human beings have committed innumerable atrocities toward the planet and to one another, and we have responsibilities to make amends for these. We cannot meaningfully opt out of membership in the human community in the way that we can meaningfully opt out of most of our other memberships.\textsuperscript{10} Even in the case of rejecting membership in a family, one can get further away than in the case of membership in the human community.

One might object that there are examples of human beings who opt out. Anyone who becomes a hermit, for example, by isolating himself from other human beings might be making an effort to separate himself from the human community. Nonetheless, even in this situation one has negative responsibilities to not violate the human rights of any human beings with whom he comes into contact. He might have fewer specific positive responsibilities due to standing in fewer additional relationships, but the basic community membership relationship remains. Likewise, even those who live in isolation are often dependent upon economic and social networks even if they do not directly engage with them on a daily basis. For instance, both Muhammad Al Ghazali and Henry David Thoreau describe the time when, after philosophical reflection, one must return to society.

\textit{Recognizing Our Own Humanity in that of Others – Reciprocity, Recognition, and Social Respect}

The idea that human beings are connected by shared humanity has a long history, though it has come to be shared across different approaches only fairly late, roughly, since the era we call

\textsuperscript{10} See Kolodny, “Which Relationships Justify Partiality” for examples of cases where membership in a group that has wronged others provides us with reasons to rectify the wrong and to modify our group norms and behavior.
“modern” ethics, which includes authors like Mill, Hume, and Kant. Prior to that, this idea played at times an important and formative role; but it was not as widely theorized and as deeply a part of political culture.

To name two well-known early instances, Aristotle in the *Nicomachean Ethics* says that when we run into a foreigner and complete stranger, there is a distinctive human experience of resonance, which signals to us that there is a kinship between us and this person, a kinship of being a fellow human being. Aristotle describes it as:

> And the affection of parent for offspring and of offspring for parent seems to be a natural instinct, not only in man but also in birds and in most animals; as also is friendship between members of the same species; and this is especially strong in the human race; for which reason we praise those who love their fellow men. Even when travelling abroad one can observe that a natural affinity and friendship exist between man and man universally.¹¹

A similar line of thought has been made foundational for ethics and political philosophy by Stoic cosmopolitanism, a position which Martha Nussbaum, Katja Maria Vogt, and others have done much to revive in today’s discussions about human responsibilities to one another¹², the relationship between human beings and animals, and human moral psychology regarding emotions such as love and hatred.¹³ In addition, Roman authors like Cicero deeply shaped our legal tradition up to the tradition of human rights that interests me.

Today’s discussions of revived cosmopolitanism, understood as the view that all humans are akin and fellow inhabitants of the world, share the kind of ideas that interest me with a wide

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¹¹ Aristotle, NE VIII, 1155a20-23.


range of Kantian and post-Kantian positions. The Kantian moral framework offers a model on which respecting our own humanity requires treating others in certain ways and seeing how we treat others as reflective of ourselves. Put another way, in failing to respect your humanity, I fail to respect my own. Kant’s discussion of punishment demonstrates this point. He describes ways in which respecting our own humanity places restrictions on the way that we treat others. In *The Metaphysics of Morals* Kant maintains:

I cannot deny all respect to even a vicious man as a human being: I cannot withdraw at least the respect that belongs to him in his quality as a human being, even though by his deeds he makes himself unworthy of it. So there can be disgraceful punishments that dishonor humanity itself (such as quartering a man, having him torn by dogs, cutting off his nose and ears). Not only are such punishments more painful than loss of possessions and life to one who loves honor (who claims the respect of others, as everyone must); they also make a spectator blush with shame at belonging to the species that can be treated that way.\(^\text{14}\)

I draw attention to this passage for a few reasons. For one, Kant’s discussion of the shame that a spectator feels suggests an important degree of connection between human beings. What happens to other human beings, the ways in which they are treated, communicates something about our own worth, about what are permissible ways to treat us. Not only is the shame caused by being part of a species that is treated this way, it is also the shame of being part of a species that treats one another in such inhuman ways. Being torn about by dogs that are set upon you by other human beings is fundamentally different from being attacked by wolves while traveling through the woods. The former is a rejection of your worth; the latter an unfortunate accident.

Second, what this Kantian image brings out is the interconnectedness of human beings, of the ways in which our treatment of others also reflects something about our own value. This point is linked to the idea of human dignity. While for Kant dignity is inherently tied to one’s

capacity for moral agency, we can consider alternative ways to articulate and account for it. At a minimum, human dignity flags an equal status shared by human beings such that when individual human beings are mistreated, that action can be meaningfully said to degrade us all. Kant puts it in terms of punishments that “dishonor humanity itself” and that “make a spectator blush with shame at belonging to the species that can be treated that way” (6:463). These passages bring out the ways in which our responses to the mistreatment of others also meaningfully says something about our own worth and about the way that it is acceptable for others to treat us. They lower us, and they lower the way that we see ourselves.15 Jeremy Waldron offers a status account of dignity which maintains that to possess human dignity is to possess a certain high status. In his discussion of the guillotine and the French Revolution, Waldron notes that the guillotine was an equalizer. The death penalty was handed out and executed the same way for nobles and commoners alike.16 Equality in method of execution was taken to be a marker of equal dignity.17

The robust literature on reciprocity and recognition stemming from this Kantian tradition further accounts for the ways in which we are connected to one another and conceive of our actions as requiring justifications from the community. Stephen Darwall’s discussions of the

15 It is also worth thinking about why these punishments in particular are the ones that Kant maintains are shameful. What his examples all seem to have in common is significant desecration of the body. This suggests that treating someone as a fellow human being requires not merely attending to his agency, but also attending to aspects of his physical being.

16 Accounts that connect punishment and dignity are especially interesting for thinking about how to ensure that punishments and treatment during incarceration are consistent with human rights. Consider especially the differences between norms in the US and in Europe. For example, there are significant differences regarding the death penalty, life without the possibility of parole, and the kind/degree of effort that must be placed into reducing recidivism through rehabilitation. See James Q. Whitman, Harsh Justice: Criminal Punishment and the Widening Divide Between America and Europe (Oxford: Oxford University Press, 2003); Eva S. Nilsen, “Decency, Dignity, and Desert: Restoring Ideals of Humane Punishment to Constitutional Discourse,” UC-Davis Law Review, Vol. 41, No. 1 (2007): 111-175.

second-person standpoint and recognition respect serve as strong examples of this approach. Darwall’s account of the second-person standpoint helps us make sense of the idea that human rights ought to be regarded as in some sense pragmatic from the get-go, as concerned with interactions between human beings. We cannot talk about the formal structure of rights without immediately talking about them as relevantly addressing a dynamic between human beings. In our thoughts and actions we are always appealing to one another. I am interested in how can most thoroughly incorporate this into the account of human rights that we give.

One might link this discussion to human dignity and claim that being recognized as a fellow human being just is to have one recognize your human dignity. This view is consistent with Jeremy Waldron’s status conception of human dignity, and similar to Darwall’s status conception of respect. While there are important differences in their accounts, the relevant shared core is the notion that a certain kind of treatment is warranted to one’s fellow human beings simply because of that shared high status. That treatment is a form of respect that takes its shape from recognizing, I argue, not merely the shared agency of others, but their shared humanity. We go about demonstrating respect for our shared humanity by fulfilling responsibilities to one another as human beings, and those responsibilities can best be understood by considering our shared framework of experience.

Darwall’s distinction between recognition respect and appraisal respect can do some further work for us here. In drawing this distinction, Darwall makes the case that a certain kind of regard is due to us simply in virtue of our humanity, and this regard is something that we

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18 See Stephen Darwall, The Second-Person Standpoint: Morality, Respect, and Accountability (Cambridge, MA: Harvard University Press, 2006). In addition to the Kantian influence that comes through here, Darwall also describes Adam Smith’s Theory of Moral Sentiments as a significant influence on his philosophical thought.

cannot lose. Nonetheless, of course, we do regularly talk about earning or losing respect. A new employee might describe herself as striving to earn the respect of her boss. A politician caught in the midst of a scandal might be described as having lost the respect of her constituents. The concept of recognition retains room for the many ways in which we do regularly assess one another and ourselves, and yet acknowledges that there is a certain kind of regard that cannot even strip from ourselves, no matter how heinous our actions. This notion of respect is also important for flagging that recognizing one another as fellow human beings and valuing this shared membership entails having some degree of positive regard toward one another. We cannot value humanity and yet be indifferent to particular human beings.

This connection between ourselves and others even applies to positions that define themselves by disagreeing with the Kantian tradition, such as existentialism. In *The Ethics of Ambiguity*, Simone de Beauvoir highlights the ethical challenges posed by Jean Paul Sartre’s account of existentialism. In arguing that in recognizing our own freedom, we must also recognize that of others, she speaks about the many ways in which we need other human beings. She writes, “One can reveal the world only on a basis revealed by other men. No project can be defined except by its interference with other projects.”\(^{20}\) This passage speaks to the ways in which our projects gain their meaning through our engagement with others, and not just our projects, but our very existence. “Thus, we see that no existence can be validly fulfilled if it is limited to itself. It appeals to the existence of others.”\(^{21}\) While she does not argue that we must see ourselves as in a community of human beings, this mutual reliance and the recognition that


\(^{21}\) Ibid., 67
we are all engaged in such an endeavor gestures at the same idea.\textsuperscript{22} To return to the Cocking and Kennett essay on friendship that I referenced at the beginning of the previous chapter, Cocking and Kennett describe friendship as a mutual drawing of one another. They argue that we come to see ourselves through our friends’ eyes and our friends to see themselves through ours. I think we can say something more general about this approach; about the ways in which what the human community is and what it means to be a part of it is something that we continuously sketch together.

The ethics of care literature\textsuperscript{23} offers yet another alternative to the Kantian tradition that effectively highlights the social embeddedness of human beings. In doing so, it draws attention to the difficulty of disengaging our own particular experiences in the world from those of others. The perfectly independent, self-sufficient rational human agent simply does not exist. We must understand our own agency as in part socially constituted. The webs of particular human relationships that we engage in as well as our more general relationships with other human beings qua human beings are part of this experience. Our identities and sense of ourselves are in part shaped through our interactions with fellow human beings, and the potential for us to engage with particular others.

Both the development of our capacities to exercise rational agency and our identification of the particular projects, relationships, and memberships that we take up get their shape only through these social practices. A.I. Melden offers an account of a concept of a person in Rights

\textsuperscript{22} Discussions of intersubjectivity in the continental tradition also examine these ideas. See Hannah Arendt, \textit{The Human Condition} (Chicago: University of Chicago Press, 1958).

and Persons that I take to also relevantly get at this understanding of human interaction and experience. He writes:

Our concept of a person applies to a being who is born helpless; completely dependent upon those who have prepared for its birth and who nurse and care for it; reciprocating the love and affection it receives from them as it is brought increasingly into the life of the family; learning first in this context and, later on, as its moral educations progresses, in the wider community of which the family is only one small part, how within the limits imposed by concern with and respect for others, to conduct itself in various sorts of enterprises in many of which it counts on others for the successes with which, as it grows in stature as a responsible agent, it pursues its affairs, first within the family circle and later with friends, acquaintances, and strangers.  

The Melden quotation effectively communicates the variety of human networks in which we engage and the ways that our particular networks shape us. Though he focuses on the ever-expanding webs of relationships in which we interact rather than on a more general relationship between human beings, he highlights the inherently social aspects of our engagement in the world and the degree to which human vulnerability and the typical progression of a human life is shared and requires us to rely on others. This is not an unhappy accident on the way to the full humanity of rational adulthood, but a central and necessary component of human lives that equally warrants regard and protection. Likewise, the degree of social situatedness of the development of our values offers further support for the claim that much of what we value is dependent on the social context in which it has emerged.

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25 I take this method of moving from very close social networks to broader ones to also be helpful for thinking about developing the kind of social trust that can ultimately allow us to better tackle particular political problems.
Elizabeth Anderson uses the phrase a “society of human beings” in her essay, “Animal Rights and the Values of Nonhuman Lives,” to get at a similar idea. Though she does not fully flesh out what it means to be part of human society, she argues that membership in it is sufficient to warrant certain kinds of attention. These accounts all emphasize the ways in which our webs of valuing and the ways in which we value our own humanity requires recognizing that of others. Part of what it is for us to see ourselves as human is to recognize that we share a way of life with others and that our values gain their content only in the contexts of our relationships. Peter Baumann, in “Persons, Human Beings, and Respect” argues that the need for human dignity derives from a need for recognition from fellow human beings. Part of what it is to recognize someone else as a fellow human being is to recognize that she, like you, has certain fundamental needs that must be met in order for her to have the possibility of a flourishing life. In this sense, the content of the responsibilities that correlate with human rights takes on a similar shape to Martha Nussbaum and Amartya Sen’s capabilities approach. However, unlike their approach, the source of the responsibilities is particular relationships, and the content is tied to what they describe as the capacities necessary for relevant functionings. The kinds of functionings that are relevant are those tied directly to the fundamental framework of human experience that I point toward. The framework I offer does not aim to provide an account of human nature. I am not making claims about the way that human beings necessarily behave or about what they are like at


their core, but instead pointing toward similarities in the way that we human beings typically encounter the world.

To reiterate, for my purposes we need not demonstrate that all traditions and all approaches in ethics articulate versions of the idea that all human beings stand in a normatively relevant relationship. We can emphasize, on the contrary, that in spite of some ancient ancestors, this view—understood not merely as some philosopher’s theory, but as an instinct that informs our legal tradition—is a very significant achievement. Nevertheless, throughout a wide range of more recent positions, the core idea that interests me is shared. In one way or another, philosophers and legal theorists aim to capture the intuition that all human being share a normatively relevant relationship just on account of being humans. Literature, movies, and so on, also share and explore this idea. Though the idea of sharing fate or mortality in some ways seems like a cliché found in film and literature, it does get at an influential feature of human experience that shapes the way that we approach our lives. Human vulnerability and our ability to recognize, comprehend, and identify ways to respond to human vulnerability is in part a consequence of valuing our own humanity. While the argument about vulnerability can be appropriately extended to non-human animal species as well, we are uniquely situated for being able to appreciate that of fellow human beings, and this heightened awareness positions us best to responding to that vulnerability.

The concept of moral luck can help further articulate these intuitions. To get a feel for how moral luck matters in this context, let us return to my discussion about development over the course of a human life. Though the ways that developing and aging manifest from individual to individual are different, there is a shared range of possibilities that we all might experience. Any one of us might suffer a catastrophic injury or find our mental faculties failing us far earlier
than we ever anticipated. There is a sense in which we can recognize ourselves in other human beings who have suffered injuries that inhibit their cognitive faculties, as well as the nearness of this possibility for ourselves. The possible world in which we or someone that we love find ourselves struggling with these challenges offers some support for the intuition both that part of what it is to live a human life is to be faced with these possibilities, and as such we should no less regard them as members of the community, though they way in which our responsibilities to them can best be realized will likely look different than it would for someone at the peak of their mental capacities.

The traditions that, on my account, share a core instinct nonetheless differ in any number of ways, and I do not want to overstate their commonalities. Let me mention just one difference here. Some positions, notably Stoic-inspired cosmopolitanism and ethics of care, invoke what they take to be descriptive or empirical facts about human beings and the world. They point to relations in which, in fact (as they see it), we stand, as part of how the world is: human beings are related to each other via the generational nexus, via relations of caring for the young and the old, as fellow-inhabitants of regions and ultimately the world, as sharers of responsibility for the place in which they live, and so on. Other theorizers think of our shared humanity in ways that intentionally move away from empirical conditions, putting forward an account of how qua reasoners we are to relate to other reasoners, creating the kingdom of ends, as Kant puts this. That is, the relation between empirical and normative facts is viewed rather differently across the approaches I mentioned; and this is only one of the fundamental ways in which theorizers may disagree. Nevertheless, and this is the minimal and yet weighty point I wish to make, these

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29 In “Kant and Stoic Cosmopolitanism,” Martha Nussbaum aims to find middle ground, or rather, aims to combine key features of Kantian and Stoic cosmopolitanism; in effect, this also involves the attempt to combine Kantian rationalism and the more empirically inclined Stoic position.
different theorizers share the instinct that our common humanity is foundational for ethics, for the law, and for political thought.

**Part 2 – Examples and Implications**

*What kinds of responsibilities does valuing one’s membership in the human community generate?*

As I argued in the previous chapter, valuing membership in a community also entails non-instrumentally valuing other members of that community. This non-instrumental valuing of our fellow human beings can take on many forms. At a minimum, it is to demonstrate concern for the well-being of others who are part of the community, to be motivated to take their needs into account, and to be vulnerable to their successes and failures. Of course, there are points where we might err and in our practice fail to demonstrate valuing our membership in the human community or non-instrumentally valuing other human beings. This failure entails not treating other human beings in ways that reflect that they are fellow human beings, such as by showing disregard for the basic interests that all human beings possess.\(^{30}\) In a large-scale case this disregard might look like torture, or a more everyday case, like refraining from offering support to those suffering from a famine when one is able to do so. If these lapses were not possible, then failures to fulfill our responsibilities would also not be possible except in cases of mistakes in identifying what those responsibilities are or to whom they are owed. While these cases are also common and help account for many failures to fulfill our responsibilities, there are many

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\(^{30}\) The use of economic models in response to the refugee crisis has been critiqued on the grounds that they fail to regard refugees as human beings and instead treat them as tradable commodities. For an example of economic policy regarding refugees, see Jesus Fernandez-Huertas Moraga, Hillel Rapoport, “ Tradable Refugee-admission Quotas and EU Asylum Policy,” CESifo Economic Studies, 61 (2015): 638-672. According to these critiques, this very approach to solving the problem is disrespectful even if it results in all refugees being relocated.
other cases where the failures are intentional, or perhaps even taken to be justified by those committing them, as is sometimes argued in cases of torture.

On this view, in order to value ourselves as individuals embedded in a series of meaningful relationships and projects, we must value our role as participants in wider communities. In addition, in order to value our own humanity, we must value that of others, and doing so goes beyond merely valuing them as rational agents. This is the stronger version of the claim. If one remains skeptical of this stronger framing of the claim, a weaker version is also available to us, namely, that without valuing our fellow human beings the content of what we value would be far more muted. While it might be possible to value at least some of one’s particular projects, relationships, and memberships without also valuing the human community more broadly, life would be far less rich. There is no point in being a baker if one does not want others to eat the goods one bakes and no point in having a family if one does not care how the lives of one’s children, siblings, parents, and so on, go. Whether we consider highly sophisticated occupations such as research in neurosurgery or more ordinary projects such as organizing a weekly volleyball evening for the neighborhood, we do care deeply about sharing our lives with others. Thus even if it is possible, it is not something to be advocated for. It is to accept an existence with much less vibrancy.

Further, the more globalized our world becomes, the clearer it becomes that our actions do very regularly have a measurable effect on individuals across the globe. The governments that represent us and the foreign policies they adopt, the companies whose products we purchase, and the NGOS that we support all directly affect the well-being of others. Thomas Pogge, for one, argues that we all have a responsibility to offset the harms that the institutions we participate in
generate, and, where possible, try to alter those institutions.\textsuperscript{31} Though we do not always come into contact with everyone who is affected by our actions, it is a mistake to suggest that we do not already stand in the kinds of relationships capable of making a difference to the lives of human beings with whom we stand in no other relations.

Having argued that valuing our humanity entails valuing other human beings, let us consider what responsibilities that valuing generates. On this view, the basic human relationship gives rise to abstract responsibilities that correspond with the elements of the framework of experience that I previously introduced. These responsibilities have both positive and negative components. They require human agents refraining from violating them and through human agents making positive efforts to bring them about. They gain more specific content in particular contexts and as a consequence of further more specific relationships. These more specific responsibilities are the correlate of particular human rights we see, such as those included in United Nations instruments like The Universal Declaration of Human Rights. They are articulations of the conditions that allow those more general rights and responsibilities to be exercised and fulfilled. Though the responsibilities and the corresponding rights at this level are abstract, they are realized as specific rights in the particular communities.\textsuperscript{32} These conditions all leave room for individuals to pursue their own conceptions of the good as long as they do not inhibit the ability of others to do the same, and also for there to be shared social and cultural conceptions of the good that might vary from place to place. In taking this approach to human rights, there is still genuine room in the theory to account for these variations.

\textsuperscript{31} See Thomas Pogge, “Are We Violating the Human Rights of the World’s Poor?”

\textsuperscript{32} See James Nickel, “Rethinking Indivisibility: Towards a Theory of Supporting Relations Between Human Rights.”
Life and engagement in the human community are valuable and we value them. Human rights on this model include both goals and constraints. In the section that follows, I discuss each dimension of the framework, identifying the more general type of responsibilities to which it is able to give rise, and then consider example of the ways in which more general responsibilities might be realized in the context of particular relationships.

(A) Social Considerations

Out of the four components of the framework, human sociality plays the most central role in the account by getting at how intrinsic our community memberships are to understanding ourselves. It helps explain why our valuing references that of others, and why it gets its value from beyond our own particular encounters and relationships. It captures our need to engage in relationships, groups, and communities for both their own sakes and because they deepen our other projects as values. Given these interconnected webs of valuing that are made possible by or, at the very least, enhanced, through our social relationships, we all have a vested interest in opportunities to forge meaningful connections with other human beings. At a minimum then, we have responsibilities to create the conditions that enable these relationships to develop, and to not inhibit the ability of others to be able to do so.

A human right tied to sociality would be a right to pursue a variety of relationships and group memberships, and the opportunity to engage within those as a valued and respected participant. It is right in the sense that it a basic need that all human beings have in order to have the possibility of a good life. In the context of a particular society, it might take on many forms. For example, a right to engage in social relationships could place many responsibilities on other individuals in one’s life and on the society as a whole. For example, it might require the society
to be structured such that no one has to work such excessive hours in order to make minimal subsistence such that they are incapable of forming or maintaining meaningful bonds. Likewise, it might entail legal protections for certain kinds of relationships, for example, the right of a spouse to not have to testify against her partner in the court system. Another example would be what Matthew Liao describes as the right of children to loved, which requires a social set-up where children typically live in settings that provide stable, close, and loving relationships in which adults take on responsibility for their well-being.\textsuperscript{33} While these rights are not themselves human rights, they are legal and civil rights and institutional choices geared toward the fulfillment of human rights that we have, that take seriously the idea that as fellow human beings we all have a need to engage interpersonal relationships.

\textit{(B) Agential Considerations}

The kind of agency relevant for articulating our responsibilities to one another in virtue of shared humanity is our ability to see ourselves as capable of making a difference in the world and as having opportunities to work toward achieving our aims. This part of the framework covers the most classic components of the liberal tradition, the focus on liberty rights and on autonomy. The kinds of responsibilities that we have to one another as a consequence of being agents are responsibilities to respect one another as fellow human beings. Relatedly, the conditions that enable us to develop our agency, such as education, are also those that we have rights to and that others in our particular communities have responsibilities to help ensure.

In terms of kinds of rights that derive from agency, we might think of civil and political rights, such as rights to free speech, rights to influence on political participation, etc. While this way of framing it puts the emphasis on what the relevant kinds of legal rights might look like,\textsuperscript{33} See Matthew Liao, \textit{The Right to Be Loved}, (Oxford: Oxford University Press, 2015).
there are also many ways in which we help one another fulfill our rights. In the context of a family, we have responsibilities to help one another develop our agency. This suggests another link to the capabilities approach in that it provides a helpful way for thinking about how particular human rights might manifest in a specific context.

**(C) Biological Considerations**

Having one’s basic physical needs met makes pursuing more complex agential activities possible. Accounts that focus on agential capacities or, in the context of the older will and interest debate, that took the will to be what warranted rights holder status, tend to subsume socioeconomic rights, and even rights against something like torture, under an account of how it would inhibit our ability to act as agents in the world. In these cases, our agency is regarded as the thing that is valuable, and everything else is part of what enables us to develop, enhance, and exercise that agency. This view is too narrow, however. It undercuts the degree to which health or wellness are valuable for their own sake separate from their ability to enable us to do more.

In terms of which rights an emphasis on basic biological needs translates to, these will unsurprisingly be rights to things such as sustenance, shelter, and clean air. While the phrasing of the UDHR’s right to healthcare is frequently maligned for its lack of specificity, framed as a right “the highest attainable standard of physical and mental health,” the spirit behind it, that medicine, vaccines, and access to healthcare should be available to all human beings is worth preserving. It might be that the most general versions will be difficult to offer a hard and fast

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35 With regard to a human right to healthcare, there is an interesting question about how primary it is. One might wonder if instead access to clean water and air, nutritious food, a safe environment, and other conditions that promote good health are more basic. Nonetheless, if one has a life-threatening illness that could be cured with an inexpensive medication, I find it hard to justify that one does not have a right to access that medication.
account of what completely fulfilling the right would look like, but that is in part because it would vary in different times and different places. While for the purposes of holding individuals and institutions accountable for failures requires having more clearly articulated bars for violations, there might be a range of ways in which rights can be fulfilled.

(D) Historical Situatedness

Of the four conditions, historical situatedness generates the fewest responsibilities on its own. However, it offers context for the ways in which rights and responsibilities generated by the agential, biological, and social elements of the framework manifest, for what it looks like for particular rights to be realized in the context of a particular society. In doing so, appealing to it offers further support for the conceptual argument that I raised in the first half of the chapter. Our sense of ourselves as temporally located shapes the ways in which we are able to exercise our agency. We can move in a forward-directed way alone, which influences the value of different projects, relationships, and memberships in which we take part. This point is consistent with Scheffler’s observations about ways in which our beliefs about the future shape what we experience as valuable in the present.

To return to the cultural example, part of what it is for us to see ourselves as having responsibilities as community members of particular cultural groups is to see ourselves as being able to positively shape the structures, norms, and values of our groups moving forward. Nonetheless, it can help us account for anti-discrimination rights by demonstrating the ways in which formal equality before the law may be insufficient at ensuring that human rights are fulfilled in a particular society. Further it captures the ways in which we recognize our lives as

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36 In the case of membership in a group that has historically wronged other groups, this might entail responsibilities to make amends.
temporally bounded. In prioritizing our needs and recognizing the prioritized needs of other, this shared limitation heightens the salience and importance of access to particular goods and treatment from one another.

**Objections and Conclusion**

One might worry that this way of talking about human rights makes the concept less useful, that giving an account of human rights that is more expansive complicates rather than sheds light on which particular human rights exist or have been violated in particular cases. Critiques of human rights approaches that identify a small set of abstract universal rights and a larger set of derivative rights tend to be twofold. According to one line of critique the problem with such abstract views is that they are not action-guiding. In being abstract, they fail to provide us with necessary and sufficient conditions that we could use for adjudicating new cases, or for responding to disagreement about present cases. The other related critique goes deeper. It is that abstract rights fail to spell out who has which duties, and for that reason, they lack the very structure of a right. The best that they can be are aspirations, assertions of the high status of particular values. So the background question remains: in what meaningful sense can we claim them to be rights? I maintain that they are rights in that they structure relationships and in that they generate responsibilities that give us claims on one another. The claims hold against all human agents; the challenge is determining who has which more specific, concrete responsibilities, and that requires knowing more about the context. The fact that it might take some work to figure out how to best allocate those more specific responsibilities does not undermine the fact that there are, in fact, relevant duty bearers.
However, I take it to be a strength of the account that human rights related responsibilities are not independent from the many other responsibilities that we have to one another. They are, to borrow from Tim Scanlon, part of what we owe to each other. The most significant upshot, perhaps, is that human rights are not merely reactionary or framed in negative ways. Instead they also offer opportunities for positively fulfilling rights, for being pro-active rather than reactive. This way of thinking about them suggests prioritizing not merely questions about who we hold responsible for failure to fulfill them, but about ways of positively moving topics forward. In this sense, Iris Marion Young’s account of forward-looking responsibility is a useful one to keep in mind.

Young argues that too often the concept of responsibility focuses on identifying who to blame rather than on identifying which responsibilities there are and on how each of us can best fulfill them. She is not suggesting that no one be held accountable in cases of great wrongings, but rather that too many of the conversations get stuck focusing on the wrong question. Much of the goal of this project is to further pivot the conversation with regard to human rights from one that emphasizes who can be blamed when something goes wrong to one geared toward determining what we can all do in order to ensure that they go right moving forward.

An additional theme of this project is continuing to think about rights not as nouns, but as a series of verbs, a series of interactions that take place between individuals. In Chapter 4, I will go on to focus primarily on the act of claiming rights and how it operates in the context of particular human relationships. That is relevant here because it ties into a question about why one might think that the responsibilities that I describe are properly conceptualized as rights rather

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than as shared interests or needs possessed by individuals that are identified through the shared frameworks that I characterize in the previous chapter. Their content is derived from these features of human engagement in the world because they get at conditions that are typically included in an account of human rights. Failing to recognize these responsibilities is to fail to recognize the other as a fellow human being. At the root of the project is the claim that respecting and fulfilling the human rights of others is the means by which we recognize them as fellow human beings.

One objection that some might raise to an account that emphasizes group membership as a source for norms is that along with the better treatment of in-group members that results, negative attitudes towards outgroup members develop. Results like this one help explain why it is so important that morality be impartial and not rely too much on our affect. Studies in social psychology indicate that in an experimental setting, even arbitrary classifications – identifying one team as the Red Team and the other as the Blue Team are sufficient to get participants to begin asserting the strengths of their group over the other – even when the participant had no preference before the classification was made and would have reacted in an equivalent way regardless of which group he had been assigned to. Here is another example to consider. Suppose that Jake plans to join a fraternity. He does not have a strong preference between two of the fraternities, but he knows that whichever one he joins will go on to significantly shape his friend group and college experience. He can know that he will judge that his fraternity is the best, regardless of which one he ends up joining. What this example brings up is an epistemic worry. In cases where our membership is, to a certain degree, arbitrary, our judgment about the

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value of the group is suspect. We know full well that had we been placed in the Red group instead of the Blue group or joined one fraternity instead of the other, our judgments would be different.

Given studies like this one, one might worry that pushing for a view that aims to recognize all human beings as ingroup members is dangerous, for example, because it has the potential to make our already questionable relationships with animals worse, and it could potentially generate hostility and distance toward outgroup members. This objection is one way of articulating the concern about speciesism; that is, the concern that to make human beings the ingroup is morally arbitrary and dangerous in the same way that racism and sexism are dangerous. However, this is not a necessary consequence. To argue that only human beings possess human rights is not to maintain that there are no further responsibilities that we bear to non-humans. Human rights do not capture all of moral life, nor do they capture all of our responsibilities. In addition, shifting our way of thinking about group membership could have significant moral benefits. First, expanding our understanding of the ingroup to include all human beings is likely to have the effect of fostering more positive attitudes toward fellow human beings, even those who are at a distance. Experiments in social psychology suggest both that human beings are more likely to help ingroup members in emergency situations and that the development of empathy can mitigate the effects of intergroup bias.

Let us return to the point I made earlier about approaches that think of ties between human beings as part of how the world is, rather than only as part of how the world should be,

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40 In addition, a relational framework of responsibilities has room for expansion. It can accommodate our intuition that there are more specific positive responsibilities that we bear to our pets, for instance, than to animals living in the wild.

approaches such as the ethics of care and cosmopolitanism. On such approaches a description of
the world will also say that we co-depend, jointly with fellow humans, on the natural world as
the place we inhabit and shape by political and cultural forms of life. Just as we stand, de facto,
in relationships with other human beings, we stand in myriad relations to other parts of the
world. If the world is our shared “home,” it would seem that this is not mere description, but
rather, it is normatively relevant.

Further, if one aims to eliminate the effects of our memberships, relationships, and
projects, we return to the points raised by Scheffler. What we are doing when we show partial
attitudes, consideration, or behavior is valuing, a centrally human activity that we cannot and
should not aim to eliminate. In an additional defense of this point, I return to our emphasis on
feeling empathy toward others both as a motivating force and as a step involved in the making of
moral judgments. Human beings become capable of making moral judgments through their
involvement in human communities. Williams’ description of thick moral concepts and the
difficulty of the insider looking in to fully understand a moral judgment is helpful here.\textsuperscript{42} Though
the outsider might be able to recognize when community members apply a certain concept, if she
lacks the associated affective responses, she fails to understand that concept. A contemporary
bioethics example on this topic would be the literature on psychopaths who can consistently
make the moral judgments that are generally taken to be right by ordinary human beings, but
who demonstrate no affective responses. There is a very real sense in which psychopaths simply
do not get a normative concept until they cultivate the kinds of attitudes that ordinary users of the
concept experience.

These examples aim to demonstrate the importance of developing one’s normative
framework within the context of human communities. To take this point one step further, we
\textsuperscript{42}I will go on to discuss the role of thick concepts in the account in greater depth in the next chapter.
might ask which conditions allow human beings to cultivate social relationships, to form the relationships and memberships that help shape human identity. In particular, I take trust to be a topic that is underexplored in the literature on moral philosophy. By trust, I mean an attitude of openness, a willingness to make oneself vulnerable through reliance on others. Nonetheless, trust seems essential to understanding our attitudes and behaviors in groups. Being part of groups and valuing our membership in them involves allowing ourselves to be vulnerable to others. It also involves an expectation that just as we will take their needs into account, so they will take ours. The ability to expand trust outward toward members of the larger groups of which we are a part is at least in part based on the development of the capacity to trust and the creation of other trusting networks. My ability to trust those in my broader community is in part possible because I know that I have an additional support network from those I am closest to. To get at more general moral relations without breeding cynical and self-serving moral attitudes, we need membership in other groups and relationships. These conditions make trust possible. The attitudes governing our relationships with fellow group members as described in social contract theory often indicate a suspiciousness toward one another, fear that others will treat one right, but these are dangerous and sad attitudes to rest upon if there are other alternatives. Our ability to have richer, more robust social lives is the result of close relationships.

In moving to the next chapter, the central transition is to move from one central human activity to another, that of holding one another responsible. In the next chapter, I consider the ways in which we invoking rights against one another, and how this practice is consistent with our others practices of praising, blaming, and holding one another to account. In discussing the activity of claiming rights, I discuss ways that our human rights related responsibilities,
especially those that are required for fulfilling rights, are shaped by our particular relationships and memberships.
Rights are often discussed when they are violated or are under threat of violation. A protestor at an abortion clinic declares that the doctors performing abortions are violating the rights of fetuses while those counter-protesting declare that the protestors threaten the rights of women to determine what happens to their own bodies. In debates about government surveillance, citizens invoke both rights of security and rights of privacy. This pattern of drawing on the threat of rights violations on both sides of prominent political debates is of course not unique to these cases. It is visible across the political spectrum about issues as varied as immigration, gun control, marriage equality, and private prisons. It is even more pronounced when the rights at stake are typically agreed upon as human rights, as this status carries with it a moral force that extends beyond that of merely legal or civil rights. Nonetheless, there are many situations in which even the content of human rights is implicated, but in which human rights themselves are not invoked, say, in close personal relationships or in criminal law. These cases present a challenge for us: why, if the content of human rights is relevant, do we not refer to these cases as examples of rights violations or rights fulfillments? One option (A) is to simply accept a gap between our discourse and our theory, a second (B) is to revise our discourse in light of our theory, and a third (C) is to consider whether any normative truths or insights about human rights are revealed by attending to these cases.

1There is often overlap between these categories, as some of the primary means of protecting human rights is by giving them the status of legal rights in particular political societies. Nonetheless, there may be some rights that are purely legal or civil rights. They are agreed to exist for prudential reasons or in order to ensure the promotion of particular values in a given society but are not themselves thicker versions of human rights.
This chapter takes route (C), unpacking two examples and considering what insights we might draw from them. In doing so I aim to identify what is distinctive about the act of invoking rights as opposed to other ways of flagging a wrongdoing. I propose a Background Account of Rights, according to which rights operate in the background of our relationships, characterizing expectations and responsibilities between members. When one invokes a right, one invokes a relationship, and when one invokes a human right in particular, one invokes a basic relationship that exists between human beings qua human beings. Whether one ought to invoke a right or not depends not merely on whether the content of the human right is relevant, but also on characteristics of that relationship itself and whether other, more specific and thicker concepts better capture the situation. It is an upshot of my proposal that though we often do not describe it in these terms, we regularly are working toward fulfilling the human rights of those around us. Human rights, then, are not only at issue once they are under threat. Human rights are also at issue when they are positively fulfilled, and that is often when it would not ordinarily occur to us to invoke them.²

This approach challenges the common portrayal of rights as adversarial³ and is intended to open up a conversation about both the many ways that rights operate behind the scenes in relationships and about what a society in which human rights are fulfilled looks like. Conceiving

² Throughout the chapter, when I refer to “rights”, I refer not merely to legally recognized rights but to moral rights that exist between human beings. One might take the view that only certain kinds of agents can violate human rights. States or other large group agents, like corporations, are often the primary contenders. As I discussed in Chapter 1, I take it that if human rights offer genuine protections of basic interests or capacities of human beings, there is no principled reason why they can only be violated by these kinds of agents. In this sense, my view plays a more similar role to the so-called naturalistic or orthodox conceptions of human rights (like those of James Griffin or John Tasioulas) than to practical or political conceptions (like those of Charles Beitz and Joseph Raz).

³ Human rights have been depicted as adversarial in both the philosophical literature and in popular discourse. In the philosophical literature, some argue that the concept of rights is applied too liberally, at the expense of both ‘real’ rights and the role of compassion and charity. For example, Onora O’Neill argues that specifying rights would highlight our ability to blame others for their failures rather than create productive avenues for ensuring that the content of rights is met. Mary Ann Glendon takes another angle, emphasizing that at times rights disputes stall conversations rather than move them forward and obscure other important details about a case.
of human rights in these terms allows us to better characterize the limits of discussions that invoke rights on both sides without appealing to either shared thicker concepts or to the source of those rights. It offers us alternatives for engaging more productively in conversations about rights violations and failures to fulfill without arriving at stalemates when rights are appealed to in conversation. An implication of the view I am putting forth is that in a community that best respects human rights, we would hear few appeals to them. Instead other thicker concepts—and by that I mean concepts that are more attuned to the specifics of a relationship—would more fully address any lapses. Likewise, appeals to these thicker concepts would be more effective at fulfilling rights than appeals to the rights as such would be. For example, when one sibling remarks to another that something was “uncool” in reaction to something that the other did, and both understand what is meant, or when one partner describes something to the other as “hurtful”, and the full accounting of why and in what ways it is so is dependent on their relationship.

The use of thicker concepts when communicating with relatives about unmet responsibilities reveals a history of shared meaning that makes further articulation unnecessary for communicating the concern. This kind of analysis extends beyond close personal relationships and is also applicable for broader social concepts like “racist.” Whether or not a particular comment or action is appropriately described as racist depends in part on the relationships between the relevant parties. For example, which groups is each a member of? What is the historical relationship between those groups? What is the particular relationship between those two individuals? Though in the cases of siblings or partners, the shared knowledge and history that gives substance to the thicker concepts is generated inside their particular relationships, in the case of concepts like “racist” the shared knowledge and history
derives from social and historical dynamics more broadly. On the model I am proposing, human rights claims ought to be made when these methods of drawing on shared thicker concepts are insufficient at communicating a basic wronging. This wronging is a failure to recognize another as a fellow human being or a failure to sufficiently take this fact into account in identifying and carrying out one’s responsibilities to another.

This chapter proceeds in two main parts. In the first, I argue that rights operate in the background of our relationships, and that turning to cases where they exist but ought not be invoked most clearly brings out this phenomenon. I proceed by considering an example from an interpersonal relationship. In doing so, I identify four features that often make rights claims, especially in response to failures to fulfill, inappropriate. I further build my case by adapting a distinction that arises from a recent debate in the theory of emotions. In the second half of the chapter, I continue developing the Background Account of Rights by expanding outward and arguing that what is distinctive about the invocation of rights at the personal level can be helpful for identifying the political contexts in which their invocation is appropriate as well. In doing so, I shift to a more explicit focus on human rights, and I draw on an additional analogy from debates about explanation. This analysis reveals that human rights claims best serve as stop-gaps for cases of failure to recognize the basic humanity of particular other human beings. Because human rights claims communicate limited content, they do not as clearly communicate the way in which the wrong should be amended. Instead, they indicate its seriousness and the type of wrong that is enacted. I conclude by considering two main upshots of the view.

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4 This does not commit us to the position that there is no fact of the matter about whether or not a particular act is properly characterized as racist, just that in order to determine whether or not it is, we need to know something about the relationship between the parties involved.

5 One might think of this as one way of capturing the idea that human rights are “held in virtue of our humanity alone”, rather than in virtue of other special relationships, characteristics, or contracts. This phrasing is often used to demarcate human rights from other kinds of rights.
1. The Background Account of Rights in Personal Relationships

On-Target and Appropriate Rights Invocations

I start by analyzing relevant cases in close personal relationships—those between friends, family members, or partners. The content of rights is often implicated in the ways that relatives wrong one another. For example, intimate partner violence and child abuse involve severe violations of bodily integrity, often taken to be a quintessential right. On the other end of the spectrum, our close relatives are often most capable of helping us secure our positive rights, such as rights to food and shelter. Yet though these relationships are often best situated for influencing the fulfillment of our rights, it is only occasionally that these wrongings and positive responsibilities are discussed by reference to rights. These patterns make close personal relationships ideal for considering what we are doing when we invoke rights, and for distinguishing the many ways that we work toward fulfilling them, even when they are not referred to as rights.

Take a commonplace example that most people would agree does not warrant an invocation of rights. Compare the case of John who explains to his wife Jane that she is failing to fulfill his rights by not caring for him when he is sick with Mark who explains to his wife Melanie that he needs her support and that he is disappointed and angry that she hasn’t been there for him during his illness. Both John and Mark aim to communicate to their wives that they have been let down and would like to see a change in the future. From the perspective of Jane,

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6 In this chapter, I maintain that both negative and positive rights are genuinely rights. An example of a negative right would be a right to freedom of expression, whereas an example of a positive right would be a right to food or shelter.

7 I use “wrongings” rather than “harms” to indicate that these instances involve unjustified actions of agents that cause harm. “Harms”, on the other hand, might result from non-agential or morally neutral circumstances. For example, one might say that I am wronged if I am pushed down a flight of stairs, and harmed by the fall. If you were to trip and fall down the stairs on your own, you would be harmed but not wronged. Likewise, if I beat you at a competition that you had a lot riding on, I may harm you without wronging you.
however, the appeal to rights and duties would likely seem inappropriate, the kind of reason that one would give to a stranger rather than to one’s partner. She might even be offended that John communicated with her in such an impersonal way.  

As agents actively engaged in and committed to reciprocal personal relationships, we rely on the knowledge that our relatives care for us and will be responsive to reasons concerning our well-being or the well-being of our relationships. We can be confident that our close relatives will aim to take our feelings and interests into account in deliberation even when they disagree with us. A foundation of mutual trust and care undergirds our interactions and influences the content of our appeals to one another. Philosophers such as Niko Kolodny and Samuel Scheffler draw on features of this type in their accounts of relational responsibilities. In this context, appeals to rights and duties seem to get the responsibilities generated by personal relationships descriptively wrong. Though not discussed as rights, we can see these as responsibilities generated by our valuing of our relationships, and their fulfillment as in part a fulfillment of our rights.

I take Jane’s response to reveal an additional worry that not only are appeals to rights and duties in personal interactions with close relatives inaccurate, they also encourage or reveal a lack of trust, care, and mutual vulnerability between them. Bernard Williams’ ‘one thought too many’ objection and Peter Railton’s description of John and Anne in “Alienation, Character, and Morality” similarly focus on the distinctiveness of our reasoning and motivation when engaging directly with our relatives rather than considering them from an agent-neutral perspective. See Bernard Williams, “Persons, Character, and Morality” in Moral Luck, ed. James Rachel (Cambridge: Cambridge University Press, 1981), 1-19.; Peter Railton, “Alienation, Consequentialism, and the Demands of Morality,” Philosophy and Public Affairs (1984): 134-171.

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9 See Samuel Scheffler, “Relationships and Responsibilities” and Niko Kolodny, “Which Relationships Justify Partiality” for discussions about valuing relationships and caring about one’s relatives. I draw most heavily on Scheffler’s account of valuing a relationship. See also Harry Frankfurt, The Importance of What We Care About: Philosophical Essays, (Cambridge: Cambridge University Press, 1998).
Consequentialism, and Morality” aim to get at a similar intuition – that what motivates our partners to act in ways that are central to the preservation of our well-being should not be general moral precepts, but instead their recognition that we are in need and that they care for us. Though these cases most often come up in the context of discussions about partiality, they are also helpful to consider here because they point to a disconnect between our justifications and our motivations. For example, it might be perfectly true that if everyone is attentive to ensuring the well-being of her partner, this brings about more good results in the world than a different distribution of attention. However, we are off-put to learn that this more abstract justification rather than her more immediate concern for us is what motivated someone with whom we stand in a more intimate relationship. It implies that her affection or recognition of our need is insufficient. Another motive was deemed necessary.

Of course, we need not simplify a conception of motives, as if human agents are motivated by either rights or by love and affection. Instead, it may be that true appreciation of what it means that human beings are rights bearers informs how we ought to feel toward those with whom we stand in close relationships. This may be illustrated, for instance, by the way in which parents of small children experience moments of being in awe of their responsibility for the being who is their child. They have great love and affection and also a deep sense of responsibility tied, at least in part, to the recognition that their child is a separate, distinct human being worthy of respect. That is, my proposal is not that caring would replace attitudes that are informed by rights. Instead, rights are ‘in the background’, and their appreciation is even part of
the feelings. They shape relationships and the kinds of attitudes that are appropriate to direct toward one another within relationships.\(^{10}\)

Rights characterize the context in which persons interact, whether or not these rights are appealed to and whether or not they ought to be invoked given a particular situation. They frame the normative terms of a relationship, providing both parties with reasons for action and limitations on the kinds of interactions that are morally permissible. This is the idea I aim to express by advancing a Background Account of Human Rights: human rights play a role in the background. Conceptualized in this way, rights play a shaping role regardless of whether they are appealed to as rights or invoked in another way. I argue that rights ought to be invoked specifically as human rights when A) their content is implicated, and B) other kinds of appeals fail to fully characterize the situation or to motivate others to act.

We can compare this approach with two other ways of framing the function of rights, Rights First Approaches and Division of Labor Rights Approaches. On the former, rights ought to be invoked when their content is implicated; other descriptions of the same situation that use a thicker normative vocabulary are additions and specifications, but they are secondary as compared to the invocation of rights. On Division of Labor Approaches, rights ought to be invoked when rights violations occur or when there is a likelihood that they occur; other normative vocabulary should be used for normatively different situations. There are also mixed overlap views. Those who are inclined to adopt a Division of Labor Approach might do so in part because they believe that if something is a right it ought to be appealed to as such, making it especially important to carve out separate spaces for rights and for interests and values. What matters for current purposes, however, is a schematic consideration about the ways in which

\(^{10}\) I take this relationship between rights and our feelings of sympathy to show that the two are deeply intertwined. While the attitudes do a lot of the motivating work, what helps shape and support those attitudes are underlying rights.
different approaches carve up the normative terrain. On the Background Account of Rights, there is extensive overlap between situations in which rights are implicated on the one hand, and situations that are adequately responded to in other normative vocabulary. On the Division of Labor Account, there is no overlap of this sort: the normative situations are thought to differ to the effect that different normative vocabulary is fitting. The Rights First Account is the type of approach that critics have in mind when they find rights-talk cold-hearted and adversarial: it makes the invocation of rights prior and pervasive. Ultimately, my approach shares more with the Rights First Account, for I agree with it that rights exist and are normatively relevant in a wide range of human interactions. The difference lies in a distinction I propose we ought to direct greater attention toward, namely that between the question of whether rights exist in a particular case and the question of whether they should be invoked.11

One consequence of this distinction is that the Background Account envisages agents as having choices between different methods of communicating moral wrongings, and normative reasons for and against one method versus another. In a range of cases, cases that are frequent in ordinary life, it is not only strategically unhelpful to invoke rights, but morally less commendable than other modes of interaction, even in cases where the content of rights is relevant. To some extent, the question of when to invoke human rights is on my account pragmatic. And yet I submit we should not consider normative vocabulary as purely instrumental in bringing about certain reactions. Instead I aim to shed light on what action we are performing when we invoke

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11 On this schema philosophers such as Onora O’Neill and Jeremy Waldron would fall roughly into the Division of Labor Camp. O’Neill argues that so-called socio-economic rights are not actual rights because they are not universal and they lack both clearly defined fulfillment conditions and clearly defined duty-bearers. Instead, a focus on human needs and interests might better capture these aspects of human life. Rawls, on the other hand, fits into both the Division of Labor Camp and the Rights First Camp. Though he identifies few human rights, and thus suggests a narrow scope for human rights, he also suggests that genuine human rights ought to be taken seriously as such. The Rights First Camp better mirrors what we often see in human rights practice, where human rights practice refers to the attitudes and actions of, for instance, NGOs and states with regard to rights violations. This schema is one that I take to be helpful for framing the debate.
rights and how that action fits into our broader practices of praising, blaming, and holding one another responsible. My approach captures a feature of our normative practices: invoking rights against others is continuous with these every day moral practices rather than in competition with them.

To get at the disconnect between John’s appeal and Jane’s responses, we must distinguish between cases in which the content of rights is implicated and cases in which one ought to invoke rights against others. Expanding on a distinction drawn in the philosophy of emotions literature and applying it to the case of rights will prove helpful for this purpose. In “The Moralistic Fallacy: On the Appropriateness of Emotions,” Justin D’Arms and Daniel Jacobson differentiate between whether an emotion is on-target—i.e., whether or not it matches its object—and whether or not it is good, or right, or all things considered the best response to a given situation. Take the example of envy. Envy is on-target when someone else possesses something that is desirable to you and that you lack. It would not be on-target, however, to feel envious if the person didn’t have anything that you wanted or if you possessed the same object. Nonetheless, even if it is on-target to feel envy toward a particular individual on account of a particular state of affairs, whether or not you should feel envious is a further question. To be clear, ‘on-target’ here doesn’t mean ‘good’ or ‘to-be-done’; it has a weaker sense. Namely, that a state of affairs is such as to be a ‘fit for’ a certain attitude, to be contrasted with a misfit of the sort that one would see, say, if someone got angry at being praised or jealous if in fact she gets all the attention. That is, whether or not we think it is ever good to be envious or jealous, we can identify the type of situations for which these attitudes are a fit, simply as part of our

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understanding of what envy or jealousy are. D’Arms and Jacobson aim to establish a distinction between an emotional response that matches a state of affairs in the world, and a morally good emotional response. We should make a similar move when thinking about how we respond to wronging. Thus, I propose a distinction between whether an appeal to rights is on-target on the one hand, and whether—in light of information about relationships, context, and so on—invoking it is morally appropriate on the other hand.

This difference tracks what I will refer to as a metaphysical and as an ethical question. Going forward, I will refer to the question of the existence of rights as metaphysical. I am using ‘metaphysical’ in a weak sense, not committing to any realist assumptions about the nature and existence of moral entities. Instead, that rights exist, in this dissertation, means nothing more than that a given situation is normatively characterized by rights. I will contrast the metaphysical question about rights with the ethical question of whether, in a given situation, one should appeal to rights. In these terms, the distinction I proposed above captures the difference between situations in which rights exist and situations in which all things considered one ought to invoke them. For example, consider the case of parents who work multiple jobs, have chronic health problems, and are overwhelmed by the attention that their children need, even for basic things such as to receive regular meals. Suppose social services are monitoring the situation, supplying support and ready to step in. If the parents are making their best effort, it may seem inappropriate for a case-worker to accuse them of human rights violations. Instead, we may find it appropriate to convey to the parents the severity of the situation in other terms. This response by no means takes rights out of the picture, however. On the contrary, it is because of the children’s rights that social services are involved. But our normative categories are attuned to such matters as whether someone makes their best effort, whether someone’s actions are impeded by illness, and so on.
The child’s right to sustenance still shapes the situation even if it is inappropriate to invoke. It helps flag which responsibilities are to be taken especially seriously and what one ought to care about with real urgency, even in situations where it is particularly difficult to do so. Even if it is inappropriate to invoke rights here, we would think that something had gone badly wrong if the parents didn’t take whatever steps they were capable of taking to ensure that the content of their child’s right was met. However, the child’s rights should not be thought of like a series of switches that only get activated when attentiveness to their content falls below a certain threshold, say in the way that a backup generator only kicks on when the primary power source fails. Instead, rights continue to flag the importance of the claim in an ongoing way. Thus if rights are on-target in a particular situation, then they are playing a background role. They are structuring the relevant normative features of that situation. If they are appropriate to invoke, then not only are they operating in the background. They must be explicitly invoked in order to ensure that their content is met.\(^{13}\)

To further clarify the Background Account of Rights, consider how it compares to Jeremy Waldron’s account of rights as fallbacks, which roughly falls into the category I referred to earlier as a Division of Labor Approach. On this view, rights serve as fallbacks for when other motives fail; they become, as it were, ‘activated’ only in situations when the resources of other normative claims are exhausted. Though Waldron focuses primarily on legal rights and expresses skepticism that the fallback account accurately characterizes human rights, he too considers the

\(^{13}\)I suspect that an emphasis on rights as trumps is in part responsible for this trend of thinking that if a right is in play, one ought to address it as such. Ronald Dworkin explores this dimension of rights. See Ronald Dworkin, “Rights as Trumps,” in *Theories of Rights*, ed. Jeremy Waldron (Oxford: Oxford University Press, 1984): 153-167.; See also, Jeremy Waldron, “A Right to Do Wrong” *Ethics* (1981): 21-39. Waldron’s discussion of how having a right to do something does not mean that one ought to do it is also a helpful parallel. For instance, having a right to free speech, which includes the right to say hateful things about someone, does not mean that one ought to say hateful things about others, or that others should not give you reasons to not do so. One might be at liberty to exercise a right and yet doing so may still be immoral. Likewise, there are some cases in which invoking a right might be on-target but inappropriate.
necessity of rights in relational contexts and the damaging effects that they can have when appealed to inappropriately.\textsuperscript{14} In “When Justice Replaces Affection: The Need for Rights” Waldron writes, “To stand on one’s rights is to distance oneself from those to whom the claim is made; it is to announce, so to speak, an opening of hostilities; and it is to acknowledge that other warmer bonds of kinship, affection, and intimacy can no longer hold.”\textsuperscript{15} Because claiming a right against someone has these serious effects, he maintains that standing on one’s rights unnecessarily is not merely a mistake, but a moral failing. Nonetheless, Waldron is stalwart in his defense of rights, and he heavily critiques communitarian accounts that reject their role on the grounds that such accounts are unable to provide the kind of security that human beings need to pursue their individual ends and to forge paths that differ from current group norms. He sees rights as necessary to ensuring our ability to change our societies as well as to protect the more vulnerable members whose interests do not always align with those of the more powerful.\textsuperscript{16}

On his account, rights serve as fallbacks for when other motives fail. They provide rights holders with shared public expectations and recourse if kinship, affection, and intimacy are insufficient in providing rights holders with reasonable protections. In making his case, he draws on the perhaps surprising example of Romeo and Juliet. In particular, he maintains that their untimely fates are in part the result of a lack of social structures that would have made their union permissible, or at least give them avenues to publicly pursue it. They had no other option

\textsuperscript{14} In the body of his text, Waldron expresses skepticism that the rights as fallbacks model is an effective one for thinking about human rights in particular. His concern is that human rights might be better captured by a minimum standards account. For reasons of space, in response to that point I will just say that I do not think that the two are necessarily in competition. While a fallbacks or Background Account focuses on the function of rights, a minimum standards account focuses on their content.


\textsuperscript{16} On this point, I think Waldron makes an important contribution and helps articulate why an account of human responsibilities is incomplete if it only includes interests, needs, and values in its normative vocabulary.
but to act in secrecy, which, as we know, led to dire consequences. According to Waldron, part of what is tragic in their case is that it didn’t have to be that way, that their tragedy reflects a failure of society rather than fate. Though he does not describe it as such, the idea that rights play an important role in providing the conditions that make moral progress possible is latent in this suggestion.

My Background Account departs from Waldron in proposing that rights are part of the picture even prior to situations in which it becomes necessary to invoke them. I suspect that, if presented with the distinction between ‘fallback’ and ‘background’, Waldron might even agree; for much of what he argues presupposes that rights characterize human relationships in deep and pervasive ways. Hence, depending on which features of Waldron’s discussion one emphasizes, my approach can either be taken as a genuine departure or as a friendly amendment, aiming to better capture intuitions that also figure into his analysis.

Let me sum up my account as I have so far presented it. All human agents have human rights related responsibilities. These include, at a minimum, a responsibility to not violate one another’s human rights. They also include additional, more specific responsibilities to help ensure that the human rights of their relatives are met. However, having their active motivation for not violating rights or for fulfilling them be immediately and primarily the recognition of rights is an unappealing outcome. It suggests that other motivations are ineffective and it misrepresents a rich and subtle set of normative practices.

Coerciveness, Relationship Types, the Nature of Wrongings, and a Paradox

In light of the distinction between on-target and appropriate rights invocations, consider four related reasons why rights claims are inappropriate to invoke in most relational contexts. (1)
They are coercive—they make a direct demand upon one’s relative rather than engage her in reasoning, and in doing so express distrust that appeals to one’s own well-being or that of the relationship will be motivating. (2) They invoke more general relationship types and in doing so fail to acknowledge the particularities of a given relationship. (3) They fail to fully characterize the wrongings that occur between close relatives. And (4), pursuing rights without a commitment to less stringent but thicker values may not even be possible—it may be a paradoxical undertaking. In sum, I take my argument to reveal why the concept of rights is insufficient for fully articulating particular wrongings, and yet also helps us identify what rights invocations add to the landscape of responsibilities.

Rights Invocations as Coercive & Public

In arguing that rights are coercive in a way that other appeals are not, I draw on a structural model of rights that conceives of them as paired with correlative duties. I take it that we need something like this structure in order to capture how rights differ from values. In this sense, my approach is loosely in keeping with the notion of a Hohfeldian claim right. On Hohfeld’s view, what it means for X to have a right is for others to have specific duties toward X. For example, for X to have a universal right to free speech is for all others to have duties to refrain from preventing X from speaking. If they lack those duties, X does not have that right.

See Wesley Hohfeld, “Fundamental Legal Conceptions As Applied in Judicial Reasoning,” The Yale Law Journal, Vol 26, No 8 (1917): 710-770. Two points are worth here emphasizing about Hohfeld’s approach: (1) His focus is on legal rights, not moral rights, so there are limits to its applicability to moral rights. Nonetheless, the model has wide appeal, and offers a formal way of distinguishing rights from other interests and values. Of course, there are still many who object to at least some components of Hohfeld’s analysis for legal rights, or at least suggest limits of its applicability to cases of moral rights. (2) Claim rights are only one component of Hohfeld’s juridical analysis. He also discusses privileges, immunities, and liabilities. Joseph Raz, for one, is a critic of Hohfeld. See Joseph Raz, The Morality of Freedom (Oxford: Oxford University Press, 1986). His own analysis of rights focuses on interests that are sufficiently important to warrant the imposition of duties on others, though in his account of human rights in particular, he adopts a political approach, focusing on the role that human rights play in international law.
Thus, in invoking her right against you, X is reminding you of your specific duty and demanding that you act upon it. She is not looking for a discussion. She is not describing what needs to happen, what you need to do. I argue that this is in part why Jane would be off-put by John’s appeal to rights, that this response indicates a lack of trust and intimacy. Even if one does not adhere to Hohfeld’s model of claim rights, the link between having a right and being able to make a claim upon others is thought to be central to what it means to have a right.18

For present purposes, one particular aspect of the coerciveness of rights is relevant: invocations of rights violations are outwards-facing, where here outwards-facing means directed beyond members of the relationship itself. In addition to indicating to one’s relative that he has failed to fulfill a duty, in making a rights claim against him, one is also asserting the specter of an external force, suggesting that if he fails to shape up, then others ought to step in and ensure that he meet his obligation. In this sense, in addition to being coercive, rights invocations are public. By ‘public’ here, I mean that they are directed beyond the relationship itself. The contrast between public and private is not necessarily one between keeping something private between two relatives and something like reporting it to the police; there are any number of intermediary individuals who might be implied instead, for instance, family members, trusted members of one’s community, etc. Regardless of who it is, however, a third party is implied. This is related

18 A recurring question in the philosophical literature concerns whether a particular right exists or is merely an aspirational goal if (1) the relevant duty-bearers are not clearly specified, (2) what it would take to fulfill the right is not clearly specified, or (3) though specified, what it would take to fulfill the right is practically impossible. On this view, if (1), (2), or (3) obtain, there might be reasons for establishing laws, institutions, and practices that would further specify and protect the content of the so-called right, but until those steps are taken, a right would not in fact exist. Adherents to the Division of Labor View might further argue that in at least some cases, one ought not aim to make a particular interest into a legal right, but instead realize it in a different way. See, again, Onora O’Neill, “The Dark Side of Human Rights.” A stronger version of this approach identifies not merely specifiability, but also enforceability as a necessary condition for the existence of a right. For an argument along these lines, see Susan James’ “Rights as Enforceable Claims,” Proceedings of the Aristotelian Society (2003): 133-147, or Raymond Geuss, History and Illusion in Politics, (Cambridge: Cambridge University Press: 2001). In arguing against it, Saladin Meckled-Garcia refers to this approach as the Enforcement View. See, Saladin Meckled-Garcia, “Neo-Positivism about Rights: What’s Wrong with Rights as Enforceable Claims,” Proceedings of the Aristotelian Society (2006): 143-148.
to the idea of enforceability and the belief that in order to ensure that rights are met, identifying those who have the primary duties is insufficient. There are also others who have additional duties of ensuring that rights are met, and for responding to violations. Invoking a right against someone can be seen as a call to action for these additional agents as well.

*Invoking the Wrong Relationship*

Not only are rights claims coercive and outwards-facing, they also fail to account for what is distinctive about particular relationships. We have rich shared histories with our relatives that provide us with many more personal ways of communicating as well as many more specific obligations and shared expectations. Appealing to rights and duties ignores these particularities and instead draws on a more general relationship type. In the example from earlier, Mark appeals to Melanie as his particular partner rather than to the husband/wife relationship or to the relationship between human beings. In doing so, he expresses trust in her ability to understand why he is upset, and in her willingness to respond. He treats her as someone who has lapsed in a particular commitment but whom he trusts will adequately take reasons about their relationship into account going forward.19

In a healthy relationship,20 like that described above, invoking the particularities of one’s own relationship—shared values, beliefs, history, etc.—effectively communicates expectations and harms, builds trust, and motivates relatives to respond in a concerned way. When this approach is insufficient for communicating with and motivating one’s relatives, one must appeal to more general relationship types that invoke rights, such as husband and wife, fellow citizens, fellow citizens,

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20 I am not offering a particular account here of what makes them healthy or unhealthy. Relationships can look very different from one another and still be either.
or the basic relationship shared between human beings. While the commitments that one has in
time of standing in these more general relationship types with one’s relative offer some forms
of recourse, none of these frameworks captures the particularities of the relationship. They will
seem like an uncomfortable fit when directed inward because they are inevitably too general and
incomplete. They leave out the detailed nuances that characterize that particular relationship, the
ways that having a history with another person can lead us to interpret and understand their
words and actions differently than we would those of a stranger.

**Giving an Incomplete Account**

The problem of inaccurately capturing the relationship is not simply that appeals to rights
miss particular features of an event within the relationship when directed inward, it is also that
they fail to fully capture the kind of wronging that has occurred when directed outward. In
particular, consider the ways that an agent’s relationship to us affects how we ought to
characterize her actions. Actions that are prima facie tokens of the same type have different
meanings when committed by a relative rather than by a stranger. For example, capturing the
wrongness of intimate partner violence requires pointing out not only that one’s rights have been
violated, but that the very people one ought to be able to trust and rely on are the violators. Talk
of a rights violation does not go far enough in accounting for the kind and extent of a wronging
of this type. Both an assault by a stranger and an assault by a partner are rights violations, and
yet the additional harms that they create are very different – for example, an inability to feel safe
in public spaces versus an inability to feel safe in private spaces.
A Paradox

At times, appealing to rights might even be counterproductive to ensuring that their content is met. Perhaps something like the paradox of hedonism is at play in these cases—that one cannot fully realize the content of at least some rights by invoking them directly. In discussing hedonism, understood as a way of life directed at maximum pleasure, Bernard Williams formulates a paradox: it would seem that one cannot pursue maximum pleasure directly; in order to gain maximum pleasure, one needs to pursue other things. By engaging in valuable activities only for the purpose of achieving pleasure, one fails to value them intrinsically, for their own sake. As a consequence, one experiences less pleasure than someone who doesn’t set out to achieve pleasure as the sole goal.

I think something similar might be going on with the case of rights. Suppose the declared goal is the recognition and preservation of rights. To make this one’s direct and only goal, however, may simply not work; in order to achieve the goal of having rights fulfilled, it may be the case that we need to intrinsically care about the varied norms and values involved in a rich set of human relationships. The invocation of rights for the sake of rights, rather than for the well-being of rights-holders, is empty: it does not refer to the content of what it is we ought to consider important and act upon. Instead, we need to be committed to the content of what rights are about—say, bodily integrity or physical sustenance—and we need to care greatly about this. Via these commitments, we pursue conditions in which human rights are fulfilled. In turn, this requires that the affective attitudes and commitments that are involved, say, when we care about the basic sustenance of children, inform also the urgency which we feel about human rights. The upshot of the paradox is that certain high level values—whether pleasure in the eyes of the hedonist, or rights in our eyes—cannot stand on their own feet: they need the undergirding of
other norms and values. And this is not a deplorable feature of rights. Rights need other, richer values to be ensured. And what is more, for all the reasons discussed in my examples about personal relationships, we tend to prefer states of affairs in which these more contextualized values effectively secure rights—even though there was no need to appeal to them.

An Objection

One might worry that I have overstated the case, that in some particular personal relationships, rights might not function in such problematic ways. Consider a generally healthy relationship in which one partner claims rights against the other, but in which it is not problematic or inappropriate to do so. For example, a teenager saying to his father, upon learning that he has been keeping tabs on his internet activity, “Dad, I have a right to privacy!” I take this to be an interesting case because it is one in which signaling a more general relationship type might do some work toward helping maintain the relationship. By asserting his right to privacy, we might take him to be implicitly saying something more along the lines of, “I am a person too, not just your child. See me as such!” It is a demand to be respected in a different way than he has been up until this point.

In this case, then, perhaps seeing rights invocations as a last resort when other means fail is to overstate the scenarios in which it might be appropriate to invoke rights. I suspect, however, that this might be a particular feature of the parent/child case, or at most, other relationships that involve significant transitions in dependency relations over a long course of time. The process of developing more mature parent/child relations is a complicated one, and it is one in which there might be some pushing and pulling on both sides as the relationship changes. The assertion of a right in this case might serve as a means toward flagging the need for such a transition. Similar
rights assertions may also occur when an aging parent feels that her children are no longer taking her views seriously, treating her as if she were no longer her own person. It is central to understanding the effectiveness of such assertions, however that rights function in the way that I describe: that the move be recognized as distancing and impersonal. These features explain why it is a frustrating response for the parent, or why an adult child may feel chastised by her aging parent’s insistence to be able to speak for herself. Even in this case, appealing to rights as a last case scenario does not seem far-fetched. If the parent regularly treated the teenager like a person able to think for himself, it would seem strange for him to make this kind of appeal. It is the fact that the relationship is undergoing transitions, and ones that many parents are likely to find challenging, that explain why rights are both more likely to be invoked and seem more appropriate during transitional times.

This point about transitional relationships might generalize. There are times when the terms of a particular relationship is in flux, and in those cases, perhaps both parties prefer to talk more abstractly, to draw on rights. Consider the case of an amicable divorce. Even if both parties agree that it is for the best and wish each other well, they might prefer to handle the discomfort surrounding the separation of their households and the terms of their initial split in more distant ways. Though they have an extended personal relationship, what the terms of their new relationship will look like are in flux, and their expectations of one another might vary. Perhaps in these cases rights invocations can be helpful for the establishment of new relationships, or new versions of those relationships. Here too rights can play an intermediary role. Similarly, if two relatives were to explicitly work out the terms of their relationships, and put matters in terms of rights, we would assume that antecedently something went wrong.
Consider a case in which two relatives have explicitly worked out the terms of their relationship and made a pact to address their concerns with one another by reference to said agreement. While such a scenario might be possible, I suspect that the meaning of rights in this context would be deflated or that there would be something wrong in the relationship. Because rights are public on the view I am offering, there are at least three people implicated. Otherwise it would merely be an agreement, a set of commitments or promises. A personal, private agreement between two individuals, even if they used the word ‘rights’, would not appeal to the more robust concept of rights. On the other hand, a more public assertion and expectation that others hold you to the contract between you and your partner places constraints on intimacy. It involves inherently keeping one’s partner at arm’s length—if only, as in the case of the teenager or the aging parents who assert their standing as persons, for the duration of the conversation.²¹

Having now framed four main reasons why right invocations seem inappropriate when a relationship is going well, we are better equipped to identify when rights invocations are appropriate or ought to be made. Namely, as a means of communicating the severity of a wrongdoing captured by a more general relationship type when one lacks other means of effectively communicating the wrongdoing. The very factors that make rights claims inappropriate in some cases are exactly what makes them necessary to invoke in others. In generating a sense of distance and flagging thinner, more general relationship types, we assert both the central importance and basic character of what we are claiming, and we indicate that we do not trust that it is being appropriately taken into account. We are calling for action. When a right is violated and there is no recourse, or there is little understanding of the wrongdoing communicated, claiming

²¹ It is worth offering the reminder here that not all duties correlate with rights. Thus a case in which one relative says to the other, “You have a duty to me”, does not necessarily imply that the other has a right in the way that the reverse conditional implies that the other has a duty. Appealing to rights in relational contexts is what typically seems out of place, not appealing to duties.
rights can do significant work that other appeals cannot do. In the case of human rights, the relevant relationship is that shared between fellow human beings. Invoking violated or ignored human rights flags this fundamental relationship.

2. Human Rights and Political Relationships

I believe that my proposal about the distinction between the existence of rights on the one hand, and when we should invoke them, on the other, holds in general for the theory of rights. Indeed, I think it is an inroad to the study of the nature of rights—their normativity and their role in our moral lives—to attend to this distinction. For the remainder of the chapter, I will argue for this larger point. Namely, I will propose a framework in which rights are always implicated within a relation, even if it is a larger-scope relation of being fellow-citizens, or the largest-scope relation of being fellow human beings.

*Extending the Background Account of Rights*

Appealing to human rights against someone involves a stripping away of your other relationships with them. It is a stripping away of rich texture, leaving only a normatively basic feature of a situation intact and thereby putting it in plain view. It is also why the less connected we are to a particular individual, the less that an appeal to rights seems out of place. For these very reasons, invoking rights can be more effective than continuing the discussion within an already established discourse. It creates dissonance. This dissonance makes it possible to step back and reassess the situation, and in doing so identify previously neglected features. It can also challenge our use of particular thick concepts, or, put another way, our adherence to a particular way of looking at a situation.
While the case of human rights involves a stripping away of many relationships, it too refers to a relationship, namely that which exists between human beings qua human beings. Human rights are thus analogous to the other cases that appeal to rights conjointly with appeals to the nature of the relationship. More specific rights attach to particular kinds of relationships: the rights of children, the rights of patients, spouses, etc. It seems hardly possible to appeal to these rights without, also, invoking the nature of the relationship and thereby affirming its normative significance. There will also be significant overlap in the content of human rights and the content of the rights of more particular kinds of relationships. Namely, this content will often help identify the many ways in which we regularly have responsibilities to help secure the rights of those with whom we stand in closer relationships.22

Accuracy and Context Sensitivity

To further our move from the personal case to the political case, consider another analogy, this one from the philosophical literature on explanation23 In particular I have in mind Bas van Frassen’s pragmatic account of explanation. While my application of the idea is far narrower in scope than what he addresses, the relevant point here is that when we give an explanation, we are answering a specific question set in a particular context. That context is central for determining how we ought to go about answering the question. This can also be put in terms of different levels of description. The idea here is that there are many ways that we can accurately describe something, but depending on who asks what question in which context, the

22 Unpacking claims such as this one can also contribute to conversations about the tension between justice and care in the family that are prominent in the ethics of care literature. For example, see Virgina Held’s The Ethics of Care: Personal, Political, and Global. In particular, I suspect that it challenges the dichotomy of the public and the private, instead pointing toward norms that govern individual relationships with human rights operative in the background and further shaping those norms.

way in which we should go about doing so differs. In the sciences, for example, explaining what happens at the level of physics when the interlocutor is clearly asking for a description of what occurs chemically or biologically is a mistake of the sort I have in mind. While the response is not inaccurate it fails to address the question and obscures some of the relevant details necessary to fully understand a particular phenomenon. This can go both ways. One can say ‘too little,’ in an extreme case not offering an explanation at all but merely a description; or one can say ‘too little,’ offering an explanation, say, in terms of basic physics when the question was posed on the level where we explain human agency. Consider an adult who enters a room where a young child stands over the remains of what was once a glass vase. The adult asks the child, “What happened here?” and the child replies, “It broke.” While the child’s answer is descriptively true, it fails to offer any new information. Similarly, if the child happened to be a physics wizard, if she explained the way in which glass behaves under certain circumstances, she again would speak truly and yet fail to reply appropriately.

In a situation where an individual uses the wrong level of description in a particular context, it is reasonable to talk about her having made a mistake, to have misgauged the situation, or to have given an inappropriate answer considering the question that was asked. What she said was not wrong – the problem is that she failed to engage with the question at hand, to recognize whom her interlocutor was and what the situation required. The same kinds of failures occur when appeals to rights fail to match the situation. I take this to be similar to my earlier point about on-target and appropriate emotions. In the same way that having an emotion

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24 One might suggest that the parent’s question in this case is not really a request for more information about what happened, but that it is instead an expression of frustration or aggravation about a particular state of affairs—the breaking of a favorite vase. While this might be part of what is going on here, at least in some cases the parent can be taken to genuinely ask, “How did it break?” It makes a difference to the parent’s response to know how the state of affairs came about. Did the child fall down the stairs and accidentally knock it over as she tumbled, and was she throwing baseballs in that direction? That the vase is broken is accepted, but how it came to be broken makes a difference to the response that is warranted.
can be on-target but inappropriate, so can one give a description of an event that’s on-target-qua-
true but inappropriate relative to the context, or claim a right that’s on-target but inappropriate.

Public responses to violent acts provide a good example of the kind of phenomenon that I
have in mind. Consider the case of Ariel Castro who, between 2002 and 2004, kidnapped three
women in Ohio. He locked them in dark, unsanitary rooms, threatened their lives, and sexually
assaulted them. They finally escaped in 2013. By anyone’s lights, their human rights were
violated. Nonetheless, in general, rights were not invoked in descriptions of the case. Instead
language like “gruesome”, “hellish”, and “depraved” was used. Castro was promptly brought
into custody and charged with kidnapping and rape, among other charges.

I suspect that appeals to rights violations were not generally used when talking about the
case because the depth of the wronging was better communicated by means of this richer
vocabulary. Like in the case of the broken vase, merely saying that their rights were violated is
insufficient to characterize what happened, though perhaps it is enough to call others to action.
Likewise, “kidnapping” and “rape” both carry significant normative weight. Throughout this
chapter, I have spoken of thick normative concepts, thereby using a vocabulary that Bernard

25 See Donna Leinwand Leger, “Ariel Castro Faces 977 Charges in Cleveland Kidnapping,” USA Today, July 12,
kidnapping-rape/2513199/; Greg Botelho, “Deception, Threats, and Abuse: Captives’ Hellish Life Inside Castro’s
castro-home/; Trip Gabriel and Steven Yaccino, “Officials, Citing Miscarriages, Weigh Death Penalty in Ohio
http://www.nytimes.com/2013/05/10/us/cleveland-kidnapping.html respectively. See also, Peter Krause, “Ariel
Castro Sentencing Memorandum Filed by Prosecutors,” cleveland.com, July 31, 2013, accessed on July 19, 2017,
http://www.cleveland.com/metro/index.ssf/2013/07/ariel_castro_sentencing_memo_r.html for the full text of the
sentencing memorandum.

26 While the media is not a good source for getting at the meaning of a philosophical concept, and certainly the
sensationalism of the media provides an additional motivation for characterizing the story in one way rather than
another, I do think it reflects much ordinary moral discourse about these issues. Further, the transcript of the
sentencing memorandum makes no reference to rights either. If our aim involves identifying when we should invoke
rights, then considering when people do is at the very least helpful for descriptively getting at when they seem
necessary and why. This, in turn, can help us nuance our account.
Williams introduced; my current point develops this line of thought further. In the same way that describing an action as “cruel” says more than merely describing it at as bad, describing something as a rights violation is to make a more general claim. Perhaps, as Williams suggests, concepts such as “cruelty”, “kidnapping”, and “rape” carry their full normative significance only for those who live within moral communities that invoke them. They are only completely grasped by those who are within a practice. Thus with regard to this particular case, within the current social-political context in the United States, there was generally no need to invoke rights with regard to their case; the thicker terms did sufficient work at communicating the wronging.

If, after hearing a detailed account of what happened someone were to add, “…and their rights were violated”, we might even be off-put and suspect that the speaker hadn’t really understood what had happened if this follow-up seemed like a necessary clarification, that they lacked a grasp on the thicker concepts.

In Castro’s case, the immediate police response and the horror of the public reflected recognition of the severity of the wronging and a commitment to devoting resources to preventing crimes of this sort. Rights were violated, but their invocation was not necessary for identifying and responding to the wronging. That said, they could become necessary to invoke at any point, and we should understand the situations in which we need to invoke them by use of the notion of healthy relationships that I introduced with regard to close personal relationships. We appropriately invoke rights violations in political contexts to flag ways in which our political

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28 Though, of course, we can come up with a particular situation where an individual or a group does not recognize the severity of the wrongings and needs to be reminded that they are rights violations.
relationships with one another are unhealthy or impeded, and thus they constantly operate in the background.

One important asymmetry between this case and the personal cases on which I focused earlier is the agent to whom the appeal is directed. In the personal cases the interlocutors were, in addition to whatever additional relationships they stood in with one another, victims and violators. In contrast, the Castro example focuses on observers who are part of the same community describing and responding to wrongings that were done to someone else. One might suspect that the particular norms governing the interactions between relatives who are the victim and violator will look very different from the norms governing a third party’s invocation of rights on behalf of someone else.

Despite the asymmetry, this example also points toward a parallel between the cases, and it makes salient the question about the context in which the discussion is taking place. If the aim is to communicate to someone else what occurred in a particular case, whether or not describing it as a rights violation is appropriate depends on several features of the situation. Namely, (1) to whom you are aiming to communicate it and what relationship you stand in with them, (2) what shared concepts are available to you, where sharing fewer concepts might make it more necessary to appeal to rights, and (3) whether the severity and nature of the wronging is unrecognized without an explicit appeal to rights. I take all three of these components to help account for why, in general, direct invocations of rights were not a necessary addition to the thicker descriptions of the Castro case.

Nonetheless, it is easy enough to adjust the scenario such that invoking rights seems necessary, or at least plays a much more distinct role. For example, if there were many

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29 Victim and violator are not static roles. They refer to the specific situation currently at hand between two individuals. At a past point or a future point the victim might become the violator and vice versa.
kidnappings of this type it might indicate a widespread social attitude towards women or the failure of the state to effectively both prevent and respond to such kidnappings. In this situation condition (3) becomes relevant. The thicker descriptions fail to tell the whole story because they focus on the wrongdoing that Castro committed and leave out additional rights failures. Invoking rights in this case points out that not only did Castro violate rights, but that other agents failed in their second order duties to protect those rights and to respond to instances of failure. In doing so, we are making a public and coercive claim here as well.

This latter point gives us reason to rethink whether the asymmetry is so great after all. The reason to invoke rights as rights even in this latter case is to point out an additional failure of rights related responsibilities and to push for a sufficient response and for changes that better respect that right in the future. Thus there is still something of the victim/violator dynamic at work here, though we are acting as a proxy for the victim. This proxy dynamic is not limited merely to cases of second order responsibility. In a case of a torture, for instance, the actual individual being tortured is likely in no position to advocate for themselves – to identify what is being done to them as a rights violation and to demand a response. We often must make these demands on behalf of those whose rights are violated. Thus while there is still a difference between the direct appeal of an individual victim to their violator, the structural difference between the cases is not as great as it first appears to be.

Claiming rights on behalf of ourselves and others can also be a step toward changing conversations. Social justice movements in particular are able to give voice to issues that are often overlooked and deprioritized. While our thicker concepts offer fuller descriptions, they can at times also leave out key details. In these cases, we might need to invoke rights to indicate that changing or adding to our thicker concepts is necessary. Doing so can challenge complacent
interpretations, point to patterns, and demand change. In part, this might involve the
development of more particular concepts to communicate the wrongings. For example, in her
work on moral progress Michele Moody-Adams discusses the coining of the term ‘sexual
harassment’. The concept gave individuals affected by it a means by which to more precisely
communicate the wronging that was occurring. Further, it offered a lens for those who had not
experienced sexual harassment to be able to identify instances of it and to appreciate its
pervasiveness and harmfulness. Identifying cases like these as instances of human rights
violations flags their severity and draws attention to a phenomenon. This example points toward
the role that rights invocations play in social contexts. The ideal is not that everyone is invoking
rights, but that rights invocations allow us to identify failures in our current concepts and
practices and to develop awareness of and response to those failures. Miranda Fricker’s model
of hermeneutical injustice offers one way of laying out the need for expanding our conceptual
resources. Appeals to rights can help lay bare instances of hermeneutical injustice and the
starting ground for filling gaps in shared understanding.

Conclusion

Appeals to rights have become a constant in political discussions, and unpacking the
concept a central part of many moral and political projects. Throughout this chapter, I aimed to

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30 See Michele Moody-Adams, “Moral Progress and Human Agency” Ethical Theory and Moral Practice, (2016),
print edition forthcoming.

Anderson argues that talk in terms of equality of recognition—even where other notions of equality might seem to
also apply—is preferable. She pushes us to think about why the value of equality is important, and to consider which
policies exhibit that value. On my account, rights invocations have a similar function. If one needs to claim one’s
rights, then someone is failing to meet them. The very need to claim them indicates that there are lapses in the
fulfillment of rights. The invocation of needs or interests less successfully addresses the question of equality than
appeals to rights is able to. This egalitarian feature of rights is one of its particular strengths in contrast to accounts
based on interests or needs.
shed light on the function that rights serve when invoked by the victim to the violator and to a broader community. In particular, I maintain that they are coercive, distancing, outwards-facing, and cannot always be fulfilled as rights. They correlate with general relationship types rather than with the particularities of any given relationship. This is why the content of rights, and especially human rights will be thin. It corresponds with the bare level responsibilities that human beings have to one another simply in virtue of shared humanity. However, since we also stand in numerous relationships with many other human beings, these relationships will often generate additional more specific responsibilities, and thus both the responsibilities and the violations can be described more richly. We invoke human rights when the only salient relationship we can draw on is that between human beings. In doing so, I seek to contribute to a conversation about what is particular to rights claims and to encourage conversation about both when they are most appropriately invoked and how they fit into a picture of human responsibilities.

I will close with two upshots: First, human rights figure pervasively in our ordinary ethical lives, and we regularly work toward fulfilling the human rights of those around us. In characterizing human rights in this way, my view takes seriously the idea that particular human beings are human rights holders, and that they hold these rights against all other human agents. Second, it is plausible and grounded in normative considerations that, despite this, human rights are most often invoked in political rather than personal contexts, especially when many people are affected, or when state agents are the violators. Rights are one part of our relational responsibilities, but as they are impersonal and fail to invoke reasons generated by a particular relationship or membership, they will often be beside the point or not capture relational harms as effectively as thicker and more specific descriptions.
CONCLUSION:

Human Rights Fulfillment

Taking a relational approach to human rights gives us a way of recognizing how the wide range of responsibilities that we have to one another as fellow human beings manifests in our lives. It offers us a way of focusing more proactively on the future and of responding to the demands of human rights even in cases where states lack the interest in or means to do so. Accepting that a basic membership relation between human beings as human beings generates responsibilities means that the answer to the starting question who has the responsibility to fulfill human rights is that we all do. The scope of human rights is much broader than it initially appears to be. The limits of the state system do not undercut the depth of the responsibilities that we have to one another. While political accounts that focus on respecting human rights as prima facie conditions of sovereignty offer one way of protecting them, this is only one way of doing so. Human rights infuse much of our lives, though, as I have argued, we have good reasons for not always appealing to human rights as such, especially within the context of our close interpersonal relationships.

One potentially unsatisfying consequence of this approach is that it does not give us a general formula for adjudicating in cases where there is disagreement about what particular human rights require us to do. For example, to return to the notorious example of a right to the highest attainable standard of health, merely appealing to human rights does not tell us how this should be achieved or what threshold is sufficient for the right to be considered met. I suspect that human rights at this level of specificity simply are not possible or would only spell out the barest bones of what we often take ourselves to care about when talking about human rights. The problem is: we cannot specify such things in a universal and ahistorical manner. What a right to
health care amounts to may change significantly across times, given specific health challenges, ways of life, and so on.

A relational framework of human rights recognizes both the universality of the responsibilities that we have to one another and that what it looks like to successfully meet them changes as our broader communities, technologies, and shared challenges change. The framework I develop here gives us a way of talking about human rights that is intended to open up a conversation about how they can best be met in the context of particular communities rather than shutting down those conversations. It acknowledges that genuine conflicts about how to best fulfill human rights do not serve as evidence that human rights fail to exist in particular cases. Instead these conflicts reflect the complexity of the world that we find ourselves in, and the difficulty of clearly and consistently communicating across social and cultural barriers. Assessing hard cases, for example, female genital modification or religious practices that mandate rigid gender roles, requires attending not merely to an abstract principle but also knowing more about the context in which a particular practice operates.

This is work that can be done using a human rights framework, but it requires us to look into many details about a particular context in order to determine whether or not a specific act constitutes a human rights violation in virtue of failing to regard another as a fellow human being. Nonetheless, for all of the hard cases, there are also many easy cases. Torture should be an easy case. Fighting against famine should be an easy case. There is much that can be done by recognizing a basic set of responsibilities to one another and seeing ourselves as having a commitment to help fulfill them through our actions and intentions. While it would be nice if we could come up with a perfectly consistent action-guiding principle for our conception of human rights, I suspect that there is not one. However, this does not take away from the existence of
many genuine positive responsibilities that we have to one another that are part of the fulfillment of our human rights. The movement between invocations of rights and the development of thicker concepts that better capture the dynamics in a particular political community creates space for conversations about precisely what was previously missing and what a potential solution might look like.

One common thread throughout theories of human rights is that rights are possessed by individual human beings and offer protections to those individuals. It follows from this that if any agent fails to respect them, they have committed a violation. If this is the case, a human rights violation occurs anytime a violent crime occurs, or a civil rights violation occurs. We ought to be concerned not merely about cases where a state is itself violating the rights of its citizens, but also about cases in which they are failing to offer sufficient protection from or response to rights violations. As should be clear from my discussion so far, this does not mean that we ought to make a point of invoking rights more often than we do. I hope to have articulated what is distinctive about invoking rights, and pointed toward the ways in which these attributes give us a framework for understanding why the invocation of rights in some cases seems mistaken. When rights are for the most part protected, and there are sufficient responses to their violations, we do not need to draw on them.

While states are frequent violators of human rights, the ways that domestic laws and policies protect them are not always explicitly referred to as human rights. I suspect that this is a good thing. That states are able to incorporate human rights priorities into their laws and practices, and to fulfill them in a format that is most amenable to the values and practices of that particular state reflects respect for self-determination. The state’s responsibilities are already at a secondary level in the sense that they require not merely negative responsibilities to refrain from
violating human rights, but also positive responsibilities to help create the conditions that enable their fulfillment. Each individual has a primary responsibility to respect human rights, and states are responsible for putting the conditions in place such that they are respected. This process involves themselves respecting rights, having clear and effective repercussions when they are violated, and taking proactive steps to create the conditions that make their respect more likely.

However, we have reason to question whether states are the best agents for the job. As Onora O’Neill eloquently puts it, “Assigning second-order obligations to define and allocate first-order obligations to agents who do not even reliably respect the first-order obligations that correspond to those rights might be rather like putting foxes in charge of hen houses.” I suspect that this difficulty expands beyond the case of states to the many other potential contenders for second order rights-related responsibilities. Parties frequently charged with this role include international organizations such as the UN as well as NGOs. The disproportionate power of certain members of the UN Security Council, and questions about which countries and which kinds of human rights violations tend to garner a public response have raised objections about the legitimacy of international human rights law. Likewise, many western liberal NGOs have been critiqued for their failure to effectively respond to human rights challenges. They have been charged with asserting aims that were not shared with the individuals their work aimed to help, and for adopting methodologies that failed to take into account local needs and practices.

Of course, NGOs have also contributed to human rights protections worldwide, the UN Security Council has made many decisions geared to protect human rights, and individual states have developed ways of responding to violations. I bring out these examples to offer additional

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33 See William Easterly, *The White Man’s Burden: Why the West’s Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (Oxford: Oxford University Press, 2007).
evidence for why recognizing all human beings as bearing primary responsibilities can help make sense of these challenges in protecting human rights. Each kind of group agent offers one means of trying to fulfill our responsibilities, and the versatility of options here is a valuable resource for recognizing the wide range of ways that human rights can be protected. For example, an NGO that focuses on women’s education is working toward fulfilling not merely rights to education and the variety of opportunities for equal regard in society and autonomy that become possible through education, but also rights to health as studies have shown that the best ways to reduce certain kinds of illnesses is through educating women.34

Another set of group agents that have gained more attention recently in the human rights literature are multinational corporations. While these corporations have long been taken to have responsibilities to avoid violating human rights, some argue that they have duties to positively fulfill human rights. While turning to private, for-profit organizations might seem like a strange choice, or at least one that would require significant oversight to ensure that they fulfill their obligations, these agents often have the best capability and proximity to ensure that rights are fulfilled, especially in underfunded states with weak or unstable governments and infrastructure.

While the previous chapter focused on dynamics in close interpersonal relationships, I here gesture toward how this framework applies to thinking about human rights in more traditional spheres. I aim to show that despite a non-traditional understanding of the political throughout the project, a relational account can still very much make sense of the traditional contexts in which we hear human rights invoked most frequently as well. I conclude with some remarks on how my relational framework accommodates citizens claiming rights against one

34 See Elizabeth M. King and M. Anne Hill, Women’s Education in Developing Countries: Barriers, Benefits, and Policies (Baltimore: Johns Hopkins University Press, 1993).
another and against the state, and finally with a brief glance at the range of further group agents capable of bearing additional positive human rights related responsibilities.

For thinking about cases in which citizens claim rights, we can identify two main categories, (1) cases where they claim them against one another, and (2) cases where they claim them against the state. There is clearly a significant difference between claiming them against the state and claiming them against fellow citizens or against those with whom one stands in closer relationships. I characterize that difference in the following way: when citizens invoke rights against the state, they are making a rights claim against a group agent. In setting up the distinction, I have in mind something like that Philip Pettit’s notion of group agency.\textsuperscript{35} Pettit argues that a group is capable of making decisions over and above those of the individual human beings who comprise the group. Carol Rovane offers a similar account of group agency.\textsuperscript{36} Her account emphasizes the unity of a deliberative perspective. On both of these accounts, groups are (A) agents distinguishable from the individual human agents of which they are comprised and (B) they are capable of acting. The differences between group agents and individual human agents can help us account for why we most frequently need to invoke rights against group agents.\textsuperscript{37}

While we can identify specific state actors, often if a rights violation occurs because of a failure in policy or a systematic miscarriage of justice, we can talk about the state as violating rights, or, at the very least, failing to ensure that rights are fulfilled. In the case of citizens


\textsuperscript{36} Carol Rovane, \textit{The Bounds of Agency: An Essay in Revisionary Metaphysics}.

\textsuperscript{37} While the debate has largely focused on the rights of groups, I will instead focus first on the responsibilities of groups. Worth noting, however, is that on the account of human rights that I have put forth human rights are possessed by individual human beings. Thus groups would not have human rights except insofar as the codification of group rights ensures the human rights of individual human beings.
claiming rights against the state, there are not as many options for communicating the wrong as there are between individual human beings. One must go more quickly to the legalistic language of rights. Methods such as raising a lawsuit or protesting offer two primary ways of communicating the wronging.

Because the state is usually responsible for second order protection and fulfillment, if they are also the violator, one might need to loudly turn to rights claims to ensure that the extent of the wronging is recognized. For example, consider New York City’s now disallowed stop and frisk policy.\(^\text{38}\) According to the previous policy, police officers in the city had a wide level of discretion when making stops. The goal was both to discourage crime and to respond to more instances of it; however, it had the effect of disproportionately affecting minority communities and furthering distrustful relationships between citizens and the police. Opponents to the policy argued that it violated the Fourth Amendment Right against unreasonable search and seizure.\(^\text{39}\) Framing the problem with the policy in terms of a rights violation upped the ante of the response and communicated that the degree to which the policy helped achieve other social goals was irrelevant if it did so at the cost of civil liberties. We might view the first response as directed at the remainder of the community, pushing them to recognize and respond to the wronging. If no changes occur, then it becomes directed toward the international community.

The case of the democratic state is unique in that citizenship is a specific relationship that we stand in with other citizens and with the state as a whole. Likewise, it identifies us as part of the group that we are raising a rights violation against. This, in part, is why appeals to change


\(^{39}\) Of course, constitutional rights and human rights need not cover the same content. I take this particular constitutional right to get at a more general right to security of person. This formulation offers one way of articulating that content.
laws and to persuade fellow citizens that a violation has occurred or that a particular policy is unjust are prime ways of communicating the violations of the state. In this sense, there is a clear relationship between the cases of promoting policy changes by appealing to fellow citizens and encouraging them to vote in ways that will protect those rights. In appealing to our fellow citizens and encouraging them to advocate for certain policy changes, we are drawing on our relationship as fellow citizens.

Nonetheless, the relationships that we can have with group agents are limited. While we can appeal to particular human beings who comprise the group in a wider range of ways, our options for appealing to the group as a whole are more limited. We cannot reason with them from a place of mutual concern and care, nor rely on shared values. Likewise, though they do have a shared history with us, they lack any meaningful attentiveness to that relationship. Because we lack other ways of communicating commitments and responsibilities, we must invoke rights. Since states also have positive duties to ensure that rights are fulfilled, they can be invoked in a variety of contexts.

One positive result of the discourse is that discussions about which particular policies and laws promote human rights become a central way of determining how a particular state can best fulfill its human rights obligations. Due to different cultural climates, infrastructure, and values, the ways and in the order in which one state prioritizes the protection and the promotion of

40 I suspect that there is also an issue here with the presumption that if something is not illegal, then, if it is in one’s self-interest to do so, one ought to do it. However, like in Waldron’s case of an individual and hate speech, just because you have a right to do something does not mean that you ought to. I think that this problem is especially pronounced in the corporate world. A wider and more extensive set of laws are required to curb immoral behavior because we cannot trust corporations to police themselves.

41 One might wonder why group agents, if they are truly distinct from the human beings who compromise them, can bear human rights related responsibilities. However, individual human beings still retain the basic responsibilities that they owe to one another simply as human beings even when joining together to form a group agent. While there are group agents that do not in practice respect these rights, I argue that these cases represent the moral failing of the individuals who comprise them rather than counterexamples to the claim that group agents bear human rights related responsibilities.
certain rights will differ from that of others. How to fulfill rights is not always going to be obvious, and thus a lively discourse may be more helpful than simple proclamations that rights have been violated. Likewise, even if rights are to be prioritized over other values, prioritizing them need not mean that other values no longer generate obligations. Public discussion and debate offers an opportunity for identifying policies that not only fulfill rights, but that also respect other values. Rights are not anathema to other values.

If the state fails to respect human rights and offer adequate rights protection then others have the responsibility to step in. There is significant debate about who that should be and what responses are appropriate. NGOs or UN task forces are two frequent choices. If intervention is deemed necessary, what kind of intervention is appropriate? Sanctions are a frequent choice to put pressure on state leaders to change their practices, and yet a frequent side effect of sanctions is for individuals whose rights are already being violated to experience decreased access to basic goods. This, in turn, raises a further question about how we ought to conceive of the rights of those who are currently living in relation to the rights of those who might come to exist in the future. Presumably something like sanctions is meant to operate by putting pressure on the government of a state to modify its behavior, to get it to better respect human rights. While this might happen quickly, it might also take a significant period of time, during which some of those in whose name sanctions are being carried out are likely to experience greater rights violations. The worry here is that a system too focused on the realization of rights might actually at times go too far in the other direction and begin losing sight of the individual human beings who are here and now affected.

The human rights responsibilities of corporations, especially transnational corporations, offer a more complicated and controversial case. For now, I’ll leave aside the question of
whether or not corporations are persons capable of having rights, though whatever kind of rights they might have are not human rights on the account I am offering. Transnational corporations in particular are distinctive because while they operate in multiple countries, they do not have a national home base. Since multinational corporations operate in multiple countries, they are bound by the laws and regulations not only of the state in which they are operating, but also by those of the national home base. Like NGOS, this lack of direct affiliation with one state can be a boon for intervention that is not sponsored by particular states. However, these methods of operation also put them in a powerful position to influence the well-being of those in the regions in which they operate. Promising work has been done by scholars such as David Jason Karp.\(^{42}\) Karp argues that transnational corporations have additional positive human rights responsibilities in addition to minimal responsibilities to not violate human rights.

Karp argues that as a consequence of characteristics such as proximity, capacity, and scope of impact, transnational corporations are well-situated for contributing to human rights fulfillment and protection and thus have obligations to do so. He focuses particularly on corporate activity in states that themselves lack the capacity to carry out these functions. If a state is incapable of providing rights respecting conditions, and a corporation chooses to operate in that region, they then adopt some of those responsibilities. In defending this approach, Karp first notes that corporations are frequently legally off the hook when it comes to human rights violations that occur as a consequence of the corporation’s development in a region. Other times, they are required to pay a substantial fine, but one that is neither enough to severely hinder the corporation nor enough to compensate for the loss. For example, it is not uncommon that community violence occurs directly in response to the corporation’s infrastructure, or that

depleted economic resources such as tainted water or infertile fields are left behind when a corporation leaves. Karp argues that, due to their wealth, interest in developing a region, and involvement across boundaries, transnational corporations are well-suited to not only refrain from violating human rights, but also to be involved in fulfilling human rights, and should be publicly held responsible for doing so.

Karp argues that the best criterion for determining human rights related responsibilities is publicness. A key point he raises is that publicness need not correlate with a traditional private/public model, where corporations are typically thought of as private and states are typically thought of as public actors. Instead, depending on the state or corporation, it might be either. For example, a weak state might be in far worse a position to meet the needs of its population than a well-established, well-funded corporation. One might worry here that embracing this model might result in maintaining the status quo when helping weak states become better able to meet the needs of their populations should instead be the priority. Nonetheless, this need not be a case of either-or. It might be the case that both a state and a transnational corporation bear responsibilities for helping fulfill human rights.

We often focus on states and corporations as rights violators because their threat is greater, because they are more powerful, and because they have additional rights responsibilities. As many have articulated before, states especially have duties to protect and fulfill, and we can presume, if they are failing to do the bare minimum and respect human rights, they are probably also failing at their higher order obligations as well. Or, at the very least, they are setting back some of their own work. Further, as group agents the kinds of relationships that we can have with them are limited, and as a result, we must invoke the concept of rights more frequently in
order to both communicate the wrongs that have been done to us and to influence the direction of policies.

A central goal in human rights practice is to realize the values protected by the human right in a way that secures them. If this is done in a way that recognizes the rights holder as a human being with human rights who warrants being regarded in a certain way, or simply as a mandatory requirement, the fulfillment of which can be achieved without a change in attitude, then surely the latter is worse. This problem is even more exaggerated in the case of rights between relatives. If rights play a background role, then we should not turn to them first in our aims to realize our values, though ultimately we need to appeal to them if other methods are unsuccessful. While the public declaration of rights might play an important role in reaffirming rights and in identifying public commitments, I argue that it is an intermediary goal rather than an end goal. Like in the case of personal relationships, I suspect that rights provide important normative structure, but that if they are more fully integrated into the fabric of society, then we will have less need to refer to them as such.

The case of the citizen is an intermediary between the close personal relationships I focused on earlier, and the more minimal, and yet still normatively significant, relationship between human beings from which human rights derive. Different kinds of relationships are the source of additional, more specific responsibilities as well as of shared history, values, and norms that provide a framework for engaging a discussion that does not need to refer only to rights. Just as there is common ground between close relatives, there is often much common ground between fellow citizens and fellow community members. These shared goals and values can be appealed to both in times of conflict and when pressing for policy changes. In some cases, these are more standard contractual relationships; for example, the relationship between a boss
and an employee. In other cases, individuals are members of groups and communities with goals, values, and norms. One might be a member of a local sports team, on a community organizing board, or attend the same religious ceremonies. Relationships and memberships generate a richer set of ways to communicate and they provide a frame for having difficult conversations. While it is sometimes necessary to take a step back and appeal to more general norms and expectations of citizenship, of which a set of rights against one another is a part, doing so will not always be necessary for fulfilling one’s rights.

If I am right about this, then there are additional reasons to develop social practices and policies that involve learning more about members of our communities who are different from us. Greater interaction between social groups can help create a shared vocabulary and bridge distance. It does not eliminate the need for human rights, but by increasing understanding of values and history and experience, it might eliminate the need for invoking them as frequently in order to ensure that their content is met. If the concept of rights was all that we had for communicating social goals and wrongings, we would be missing out on a richer sense of what is valuable. We would remain unchallenged because our perspectives would remain unchallenged. The point here is not merely that those opportunities for interaction and engagement with one another are more likely to increase our sympathy; if they allow us to be able to engage with one another with more common ground, then better communication, and more successful rights fulfillment, becomes possible.

The question of how we ought to understand the actions of states has also garnered significant attention. Are citizens of a nation responsible for the actions of their government? Does the answer to this question differ depending on both whether the government is legitimate and on whether it either reflects the views of the citizens or has mechanisms in place to offer
opportunities for selecting or, at least, expressing preferences about representatives or policies? The answers to these questions have implications on how we go about allocating responsibilities. Larry May raises an interesting question about whether individuals, even if they are the heads of states, can be appropriately held responsible for “starting or perpetuating an aggressive war” on the grounds that states, not individual human beings, go to war. On his view, certain wrongs can only be fully characterized by reference to a group agent. Merely identifying the individuals who comprise the group agent fails to give us the whole picture. Thus answering questions about the kinds of agents that are capable of committing human rights violations and possessing human rights related responsibilities is relevant to developing a more thorough account of the responsibilities that are correlated with human rights.

Throughout this dissertation, I have aimed to reorient our conception of human rights from a more negative, individualistic frame to one that takes seriously our rich relationships with our fellow human beings. The account I am putting forth emphasizes the sociality of human beings and the degree to which human lives are interdependent. In doing so, I have worked to show that while human rights are possessed by individuals and serve as legal protections of individuals, they have their source more generally in our relationships with one another and in the responsibilities that those relationships generate. This offers us a way of thinking about the relationship between the theory and the practice. The theory is far more general than the practice. It is interested in the ways in which we engage with one another as fellow human beings and the ways that human rights structure those basic human relations that we stand in. They have their counterpart in our political life–we need legal protections for the most central of our rights.

Nonetheless, I also advocate that as a consequence individual human beings have a greater, rather than a lesser, degree of responsibility.

The approach offers a way of understanding human rights that does not require that we adopt a more antagonistic view of human relations. Likewise, I reject the view that a world where everyone is claiming human rights is an ideal that we want to move toward. Human rights invocations play an important role, but they play one that is intermediary. They allow us to move forward at times when our thicker concepts cannot do the work that we need them to do. Human rights claims open conceptual space and they change a dynamic. They allow us to assert a failure of recognition and acknowledge that more needs to be done, but they do not give us a clear-cut account of precisely how to fulfill them. That must be further filled out. They are genuine duties, and they place real responsibilities, but they do so in such a way that we must still use our moral reasoning and empirical information available to us at a given time in order to determine what is possible. Human rights play an ongoing role in our moral, political, and legal discourse. We can best succeed in fulfilling them by understanding them as continuous with our other responsibilities, and as shaping our relationships with one another.


