

# **BASIC RIGHTS**

## **Subsistence, Affluence, and U.S. Foreign Policy**

**HENRY SHUE**

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## **SECURITY AND SUBSISTENCE**

### **RIGHTS**

A moral right provides (1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats. Since this is a somewhat complicated account of rights, each of its elements deserves a brief introductory explanation.<sup>1</sup> The significance of the general structure of a moral right is, however, best seen in concrete cases of rights, to which we will quickly turn.<sup>2</sup>

A right provides the rational basis for a justified demand. If a person has a particular right, the demand that the enjoyment of the substance of the right be socially guaranteed is justified by good reasons, and the guarantees ought, therefore, to be provided. I do not know how to characterize in general and in the abstract what counts as a rational basis or an adequate justification. I could say that a demand for social guarantees has been justified when good enough reasons have been given for it, but this simply transfers the focus to what count as good enough reasons. This problem pervades philosophy, and I could not say anything very useful about it without saying a lot. But to have a right is to be in a position to make demands of others, and to be in such a position is, among other things, for one's situation to fall under general principles that are good reasons why one's demands ought to be granted. A person who has a right has especially compelling reasons—especially deep principles—on his or her side. People can of course have rights without being able to explain them—

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without being able to articulate the principles that apply to their cases and serve as the reasons for their demands. This book as a whole is intended to express a set of reasons that are good enough to justify the demands defended here. If the book is adequate, the principles it articulates are at least one specific example of how some particular demands can be justified. For now, I think, an example would be more useful than an abstract characterization.

The significance of being justified is very clear. Because a right is the basis for a justified demand, people not only may, but ought to, insist. Those who deny rights do so at their own peril. This does not mean that efforts to secure the fulfillment of the demand constituting a right ought not to observe certain constraints. It does mean that those who deny rights can have no complaint when their denial, especially if it is part of a systematic pattern of deprivation, is resisted. Exactly which countermeasures are justified by which sorts of deprivations of rights would require a separate discussion.

A right is the rational basis, then, for a justified demand. Rights do not justify merely requests, pleas, petitions. It is only because rights may lead to demands and not something weaker that having rights is tied as closely as it is to human dignity. Joel Feinberg has put this eloquently for the case of legal rights, or, in his Hohfeldian terminology, claim-rights:

Legal claim-rights are indispensably valuable possessions. A world without claim-rights, no matter how full of benevolence and devotion to duty, would suffer an immense moral impoverishment. Persons would no longer hope for decent treatment from others on the ground of desert or rightful claim. Indeed, they would come to think of themselves as having no special claim to kindness or consideration from others, so that whenever even minimally decent treatment is forthcoming they would think themselves lucky rather than inherently deserving, and their benefactors extraordinarily virtuous and worthy of great gratitude. The harm to individual self-esteem and character development would be incalculable.

A claim-right, on the other hand, can be urged, pressed, or rightly demanded against other persons. In appropriate

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circumstances the right-holder can “urgently, peremptorily, or insistently” call for his rights, or assert them authoritatively, confidently, unabashedly. Rights are not mere gifts or favors, motivated by love or pity, for which gratitude is the sole fitting response. A right is something that can be demanded or insisted upon without embarrassment or shame. When that to which one has a right is not forthcoming, the appropriate reaction is indignation; when it is duly given there is no reason for gratitude, since it is simply one’s own or one’s due that one received. A world with claim-rights is one in which all persons, as actual or potential claimants, are dignified objects of respect, both in their own eyes and in the view of others. No amount of love and compassion, or obedience to higher authority, or noblesse oblige, can substitute for those values.<sup>3</sup>

At least as much can be said for basic moral rights, including those that ought to, but do not yet, have legal protection.

That a right provides the rational basis for a justified demand for actual enjoyment is the most neglected element of many rights. A right does not yield a demand that it should be said that people are entitled to enjoy something, or that people should be promised that they will enjoy something. A proclamation of a right is not the fulfillment of a right, any more than an airplane schedule is a flight. A proclamation may or may not be an initial step toward the fulfillment of the rights listed. It is frequently the substitute of the promise in the place of the fulfillment.

The substance of a right is whatever the right is a right to. A right is not a right to enjoy a right—it is a right to enjoy something else, like food or liberty. We do sometimes speak simply of someone’s “enjoying a right,” but I take this to be an elliptical way of saying that the person is enjoying something or other, which is the substance of a right, and, probably, enjoying it *as* a right. Enjoying a right to, for example, liberty normally means enjoying liberty. It may also mean enjoying liberty in the consciousness that liberty is a right. Being a right is a status that various subjects of enjoyment have. Simply to enjoy the right itself, the status, rather than to enjoy the subject of the right would have to mean something like taking satisfaction that there is such a status and

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that something has that status. But ordinarily when we say someone is enjoying a right, we mean the person is enjoying the substance of the right.

Being socially guaranteed is probably the single most important aspect of a standard right, because it is the aspect that necessitates correlative duties.<sup>4</sup> A right is ordinarily a justified demand that some other people make some arrangements so that one will still be able to enjoy the substance of the right even if—actually, *especially* if—it is not within one's own power to arrange on one's own to enjoy the substance of the right. Suppose people have a right to physical security. Some of them may nevertheless choose to hire their own private guards, as if they had no right to social guarantees. But they would be justified, and everyone else is justified, in demanding that somebody somewhere make some effective arrangements to establish and maintain security. Whether the arrangements should be governmental or non-governmental; local, national, or international; participatory or non-participatory, are all difficult questions to which I may or may not be able to give definitive or conclusive answers here. But it is essential to a right that it is a demand upon others, however difficult it is to specify exactly which others.

And a right has been guaranteed only when arrangements have been made for people with the right to enjoy it. It is not enough that at the moment it happens that no one is violating the right.<sup>5</sup> Just as a proclamation of a right is not the fulfillment of a right and may in fact be either a step toward or away from actually fulfilling the right, an undertaking to create social guarantees for the enjoyment of various subjects of rights is by no means itself the guaranteeing and may or may not lead to real guarantees. But a right has not been fulfilled until arrangements are in fact in place for people to enjoy whatever it is to which they have the right. Usually, perhaps, the arrangements will take the form of law, making the rights legal as well as moral ones. But in other cases well-entrenched customs, backed by taboos, might serve better than laws—certainly better than unenforced laws.

The vague term “arrangements” is used in order to keep this general introductory explanation neutral on some controversial questions of interpretation. If the “arrangements” for fulfilling, for example, the duty to protect security are to be that every citi-

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zen is to be furnished a handgun and local neighborhoods are to elect residents to night patrols, then the right to security has not been socially guaranteed until the handguns have been distributed, the patrols elected, etc. (The right has still not been guaranteed if this arrangement will usually not work, as I would certainly assume would be the case.) On the other hand, if the "arrangements" are to have well-trained, tax-supported, professional police in adequate numbers, then the right has not been socially guaranteed until the police candidates have in fact been well-trained, enough public funds budgeted to hire an adequate force, etc.

I am not suggesting the absurd standard that a right has been fulfilled only if it is impossible for anyone to be deprived of it or only if no one is ever deprived of it. The standard can only be some reasonable level of guarantee. But if people who walk alone after dark are likely to be assaulted, or if infant mortality is 60 per 1000 live births, we would hardly say that enjoyment of, respectively, security or subsistence had yet been socially guaranteed. It is for the more precise specification of the reasonable level of social guarantees that we need the final element in the general structure of moral rights: the notion of a standard threat. This notion can be explained satisfactorily only after we look at some cases in detail, and I will take it up in the final section of this chapter.

That a right involves a rationally justified demand for social guarantees against standard threats means, in effect, that the relevant other people have a duty to create, if they do not exist, or, if they do, to preserve effective institutions for the enjoyment of what people have rights to enjoy.<sup>6</sup> From no theory like the present one is it possible to deduce precisely what sort of institutions are needed, and I have no reason to think that the same institutions would be most effective in all places and at all times. On its face, such universality of social institutions is most improbable, although some threats are indeed standard. What is universal, however, is a duty to make and keep effective arrangements, and my later threefold analysis of correlative duties will suggest that these arrangements must serve at least the functions of avoiding depriving people of the substances of their rights, protecting them against deprivation, and aiding them if they are nevertheless deprived of rights.<sup>7</sup> What I am now calling the duty to develop and

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preserve effective institutions for the fulfillment of rights is a summary of much of what is involved in performing all three of the duties correlative to typical rights, but to discuss duties now would be to jump ahead of the story.

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Nietzsche, who holds strong title to being the most misunderstood and most underrated philosopher of the last century, considered much of conventional morality—and not conceptions of rights only—to be an attempt by the powerless to restrain the powerful: an enormous net of fine mesh busily woven around the strong by the masses of the weak.<sup>8</sup> And he was disgusted by it, as if fleas were pestering a magnificent leopard or ordinary ivy were weighing down a soaring oak. In recoiling from Nietzsche's *assessment* of morality, many have dismissed too quickly his insightful *analysis* of morality. Moral systems obviously serve more than one purpose, and different specific systems serve some purposes more fully or better than others, as of course Nietzsche himself also recognized. But one of the chief purposes of morality in general, and certainly of conceptions of rights, and of basic rights above all, is indeed to provide some minimal protection against utter helplessness to those too weak to protect themselves. Basic rights are a shield for the defenseless against at least some of the more devastating and more common of life's threats, which include, as we shall see, loss of security and loss of subsistence. Basic rights are a restraint upon economic and political forces that would otherwise be too strong to be resisted. They are social guarantees against actual and threatened deprivations of at least some basic needs. Basic rights are an attempt to give to the powerless a veto over some of the forces that would otherwise harm them the most.

Basic rights are the morality of the depths. They specify the line beneath which no one is to be allowed to sink. This is part of the reason that basic rights are tied as closely to self-respect as Feinberg indicates legal claim-rights are.<sup>9</sup> And this helps to explain why Nietzsche found moral rights repugnant. His eye was on the heights, and he wanted to talk about how far some might soar, not

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about how to prevent the rest from sinking lower. It is not clear that we cannot do both.<sup>10</sup>

And it is not surprising that what is in an important respect the essentially negative goal of preventing or alleviating helplessness is a central purpose of something as important as conceptions of basic rights. For everyone healthy adulthood is bordered on each side by helplessness, and it is vulnerable to interruption by helplessness, temporary or permanent, at any time. And many of the people in the world now have very little control over their fates, even over such urgent matters as whether their own children live through infancy.<sup>11</sup> Nor is it surprising that although the goal is negative, the duties correlative to rights will turn out to include positive actions. The infant and the aged do not need to be assaulted in order to be deprived of health, life, or the capacity to enjoy active rights. The classic liberal's main prescription for the good life—do not interfere with thy neighbor—is the only poison they need. To be helpless they need only to be left alone. This is why avoiding the infliction of deprivation will turn out in chapter 2 not to be the only kind of duty correlative to basic rights.

Basic rights, then, are everyone's minimum reasonable demands upon the rest of humanity.<sup>12</sup> They are the rational basis for justified demands the denial of which no self-respecting person can reasonably be expected to accept. Why should anything be so important? The reason is that rights are basic in the sense used here only if enjoyment of them is essential to the enjoyment of all other rights. This is what is distinctive about a basic right. When a right is genuinely basic, any attempt to enjoy any other right by sacrificing the basic right would be quite literally self-defeating, cutting the ground from beneath itself. Therefore, if a right is basic, other, non-basic rights may be sacrificed, if necessary, in order to secure the basic right. But the protection of a basic right may not be sacrificed in order to secure the enjoyment of a non-basic right. It may not be sacrificed because it cannot be sacrificed successfully. If the right sacrificed is indeed basic, then no right for which it might be sacrificed can actually be enjoyed in the absence of the basic right. The sacrifice would have proven self-defeating.<sup>13</sup>

In practice, what this priority for basic rights usually means is

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that basic rights need to be established securely before other rights can be secured. The point is that people should be able to *enjoy*, or *exercise*, their other rights. The point is simple but vital. It is not merely that people should "have" their other rights in some merely legalistic or otherwise abstract sense compatible with being unable to make any use of the substance of the right. For example, if people have rights to free association, they ought not merely to "have" the rights to free association but also to enjoy their free association itself. Their freedom of association ought to be provided for by the relevant social institutions. This distinction between merely having a right and actually enjoying a right may seem a fine point, but it turns out later to be critical.

What is not meant by saying that a right is basic is that the right is more valuable or intrinsically more satisfying to enjoy than some other rights. For example, I shall soon suggest that rights to physical security, such as the right not to be assaulted, are basic, and I shall not include the right to publicly supported education as basic. But I do not mean by this to deny that enjoyment of the right to education is much greater and richer—more distinctively human, perhaps—than merely going through life without ever being assaulted. I mean only that, if a choice must be made, the prevention of assault ought to supersede the provision of education. Whether a right is basic is independent of whether its enjoyment is also valuable in itself. Intrinsically valuable rights may or may not also be basic rights, but intrinsically valuable rights can be enjoyed only when basic rights are enjoyed. Clearly few rights could be basic in this precise sense.

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Our first project will be to see why people have a basic right to physical security—a right that is basic not to be subjected to murder, torture, mayhem, rape, or assault. The purpose in raising the questions why there are rights to physical security and why they are basic is not that very many people would seriously doubt either that there are rights to physical security or that they are basic. Although it is not unusual in practice for members of at least one ethnic group in a society to be physically insecure—to be, for example, much more likely than other people to be beaten by the

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police if arrested—few, if any, people would be prepared to defend in principle the contention that anyone lacks a basic right to physical security. Nevertheless, it can be valuable to formulate explicitly the presuppositions of even one's most firmly held beliefs, especially because these presuppositions may turn out to be general principles that will provide guidance in other areas where convictions are less firm. Precisely because we have no real doubt that rights to physical security are basic, it can be useful to see why we may properly think so.<sup>14</sup>

If we had to justify our belief that people have a basic right to physical security to someone who challenged this fundamental conviction, we could in fact give a strong argument that shows that if there are any rights (basic or not basic) at all, there are basic rights to physical security:

No one can fully enjoy any right that is supposedly protected by society if someone can credibly threaten him or her with murder, rape, beating, etc., when he or she tries to enjoy the alleged right. Such threats to physical security are among the most serious and—in much of the world—the most widespread hindrances to the enjoyment of any right. If any right is to be exercised except at great risk, physical security must be protected. In the absence of physical security people are unable to use any other rights that society may be said to be protecting without being liable to encounter many of the worst dangers they would encounter if society were not protecting the rights.

A right to full physical security belongs, then, among the basic rights—not because the enjoyment of it would be more satisfying to someone who was also enjoying a full range of other rights, but because its absence would leave available extremely effective means for others, including the government, to interfere with or prevent the actual exercise of any other rights that were supposedly protected. Regardless of whether the enjoyment of physical security is also desirable for its own sake, it is desirable as part of the enjoyment of every other right. No rights other than a right to physical security can in fact be enjoyed if a right to physical security is not protected. Being physically secure is a necessary condi-

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tion for the exercise of any other right, and guaranteeing physical security must be part of guaranteeing anything else as a right.

A person could, of course, always try to enjoy some other right even if no social provision were made to protect his or her physical safety during attempts to exercise the right. Suppose there is a right to peaceful assembly but it is not unusual for peaceful assemblies to be broken up and some of the participants beaten. Whether any given assembly is actually broken up depends largely on whether anyone else (in or out of government) is sufficiently opposed to it to bother to arrange an attack. People could still try to assemble, and they might sometimes assemble safely. But it would obviously be misleading to say that they are protected in their right to assemble if they are as vulnerable as ever to one of the most serious and general threats to enjoyment of the right, namely physical violence by other people. If they are as helpless against physical threats with the right "protected" as they would have been without the supposed protection, society is not actually protecting their exercise of the right to assembly.

So anyone who is entitled to anything as a right must be entitled to physical security as a basic right so that threats to his or her physical security cannot be used to thwart the enjoyment of the other right. This argument has two critical premises. The first is that everyone is entitled to enjoy something as a right.<sup>15</sup> The second, which further explains the first, is that everyone is entitled to the removal of the most serious and general conditions that would prevent or severely interfere with the exercise of whatever rights the person has. I take this second premise to be part of what is meant in saying that everyone is entitled to enjoy something as a right, as explained in the opening section of this chapter. Since this argument applies to everyone, it establishes a right that is universal.

### **SUBSISTENCE RIGHTS**

The main reason for discussing security rights, which are not very controversial, was to make explicit the basic assumptions that support the usual judgment that security rights are basic rights. Now that we have available an argument that supports them, we

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are in a position to consider whether matters other than physical security should, according to the same argument, also be basic rights. It will emerge that subsistence, or minimal economic security, which is more controversial than physical security, can also be shown to be as well justified for treatment as a basic right as physical security is—and for the same reasons.

By minimal economic security, or subsistence, I mean unpolluted air, unpolluted water, adequate food, adequate clothing, adequate shelter, and minimal preventive public health care. Many complications about exactly how to specify the boundaries of what is necessary for subsistence would be interesting to explore. But the basic idea is to have available for consumption what is needed for a decent chance at a reasonably healthy and active life of more or less normal length, barring tragic interventions. This central idea is clear enough to work with, even though disputes can occur over exactly where to draw its outer boundaries. A right to subsistence would not mean, at one extreme, that every baby born with a need for open-heart surgery has a right to have it, but it also would not count as adequate food a diet that produces a life expectancy of 35 years of fever-laden, parasite-ridden listlessness.

By a “right to subsistence” I shall always mean a right to at least subsistence. People may or may not have economic rights that go beyond subsistence rights, and I do not want to prejudge that question here. But people may have rights to subsistence even if they do not have any strict rights to economic well-being extending beyond subsistence. Subsistence rights and broader economic rights are separate questions, and I want to focus here on subsistence.

I also do not want to prejudge the issue of whether healthy adults are entitled to be provided with subsistence *only* if they cannot provide subsistence for themselves. Most of the world’s malnourished, for example, are probably also diseased, since malnutrition lowers resistance to disease, and hunger and infestation normally form a tight vicious circle. Hundreds of millions of the malnourished are very young children. A large percentage of the adults, besides being ill and hungry, are also chronically unemployed, so the issue of policy toward healthy adults who refuse to work is largely irrelevant. By a “right to subsistence,” then, I

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shall mean a right to subsistence that includes the provision of subsistence at least to those who cannot provide for themselves. I do not assume that no one else is also entitled to receive subsistence—I simply do not discuss cases of healthy adults who could support themselves but refuse to do so. If there is a right to subsistence in the sense discussed here, at least the people who cannot provide for themselves, including the children, are entitled to receive at least subsistence. Nothing follows one way or the other about anyone else.

It makes no difference whether the legally enforced system of property where a given person lives is private, state, communal, or one of the many more typical mixtures and variants. Under all systems of property people are prohibited from simply taking even what they need for survival. Whatever the property institutions and the economic system are, the question about rights to subsistence remains: if persons are forbidden by law from taking what they need to survive and they are unable within existing economic institutions and policies to provide for their own survival (and the survival of dependents for whose welfare they are responsible), are they entitled, as a last resort, to receive the essentials for survival from the remainder of humanity whose lives are not threatened?

The same considerations that support the conclusion that physical security is a basic right support the conclusion that subsistence is a basic right. Since the argument is now familiar, it can be given fairly briefly.

It is quite obvious why, if we still assume that there are some rights that society ought to protect and still mean by this the removal of the most serious and general hindrances to the actual enjoyment of the rights, subsistence ought to be protected as a basic right:

No one can fully, if at all, enjoy any right that is supposedly protected by society if he or she lacks the essentials for a reasonably healthy and active life. Deficiencies in the means of subsistence can be just as fatal, incapacitating, or painful as violations of physical security. The resulting damage or death can at least as decisively prevent the enjoyment of any right as can the effects of security violations. Any form of malnutrition, or fever due to exposure, that causes severe

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and irreversible brain damage, for example, can effectively prevent the exercise of any right requiring clear thought and may, like brain injuries caused by assault, profoundly disturb personality. And, obviously, any fatal deficiencies end all possibility of the enjoyment of rights as firmly as an arbitrary execution.

Indeed, prevention of deficiencies in the essentials for survival is, if anything, more basic than prevention of violations of physical security. People who lack protection against violations of their physical security can, if they are free, fight back against their attackers or flee, but people who lack essentials, such as food, because of forces beyond their control, often can do nothing and are on their own utterly helpless.<sup>16</sup>

The scope of subsistence rights must not be taken to be broader than it is. In particular, this step of the argument does not make the following absurd claim: since death and serious illness prevent or interfere with the enjoyment of rights, everyone has a basic right not to be allowed to die or to be seriously ill. Many causes of death and illness are outside the control of society, and many deaths and illnesses are the result of very particular conjunctions of circumstances that general social policies cannot control. But it is not impractical to expect some level of social organization to protect the minimal cleanliness of air and water and to oversee the adequate production, or import, and the proper distribution of minimal food, clothing, shelter, and elementary health care. It is not impractical, in short, to expect effective management, when necessary, of the supplies of the essentials of life. So the argument is: when death and serious illness could be prevented by different social policies regarding the essentials of life, the protection of any human right involves avoidance of fatal or debilitating deficiencies in these essential commodities. And this means fulfilling subsistence rights as basic rights. This is society's business because the problems are serious and general. This is a basic right because failure to deal with it would hinder the enjoyment of all other rights.

Thus, the same considerations that establish that security rights are basic for everyone also support the conclusion that subsistence rights are basic for everyone. It is not being claimed or assumed

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that security and subsistence are parallel in all, or even very many, respects. The only parallel being relied upon is that guarantees of security and guarantees of subsistence are equally essential to providing for the actual exercise of any other rights. As long as security and subsistence are parallel in this respect, the argument applies equally to both cases, and other respects in which security and subsistence are not parallel are irrelevant.

It is not enough that people merely happen to be secure or happen to be subsisting. They must have a right to security and a right to subsistence—the continued enjoyment of the security and the subsistence must be socially guaranteed. Otherwise a person is readily open to coercion and intimidation through threats of the deprivation of one or the other, and credible threats can paralyze a person and prevent the exercise of any other right as surely as actual beatings and actual protein/calorie deficiencies can.<sup>17</sup> Credible threats can be reduced only by the actual establishment of social arrangements that will bring assistance to those confronted by forces that they themselves cannot handle.

Consequently the guaranteed security and guaranteed subsistence are what we might initially be tempted to call “simultaneous necessities” for the exercise of any other right. They must be present at any time that any other right is to be exercised, or people can be prevented from enjoying the other right by deprivations or threatened deprivations of security or of subsistence. But to think in terms of simultaneity would be largely to miss the point. A better label, if any is needed, would be “inherent necessities.” For it is not that security from beatings, for instance, is separate from freedom of peaceful assembly but that it always needs to accompany it. Being secure from beatings if one chooses to hold a meeting is part of being free to assemble. If one cannot safely assemble, one is not free to assemble. One is, on the contrary, being coerced not to assemble by the threat of the beatings.

The same is true if taking part in the meeting would lead to dismissal by the only available employer when employment is the only source of income for the purchase of food. Guarantees of security and subsistence are not added advantages over and above enjoyment of the right to assemble. They are essential parts of it. For this reason it would be misleading to construe security or subsistence—or the substance of any other basic right—merely as

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“means” to the enjoyment of all other rights. The enjoyment of security and subsistence is an essential part of the enjoyment of all other rights. Part of what it means to enjoy any other right is to be able to exercise that right without, as a consequence, suffering the actual or threatened loss of one’s physical security or one’s subsistence. And part of what it means to be able to enjoy any other right is not to be prevented from exercising it by lack of security or of subsistence. To claim to guarantee people a right that they are in fact unable to exercise is fraudulent, like furnishing people with meal tickets but providing no food.

What is being described as an “inherent necessity” needs to be distinguished carefully from a mere means to an end. If A is a means to end B and it is impossible to reach the end B without using the means A, it is perfectly correct to say that A is necessary for B. But when I describe the enjoyment of physical security, for example, as necessary for the enjoyment of a right to assemble, I do not intend to say merely that enjoying security is a means to enjoying assembly. I intend to say that part of the meaning of the enjoyment of a right of assembly is that one can assemble in physical security. Being secure is an essential component of enjoying a right of assembly, so that there is no such thing as a situation in which people do have social guarantees for assembly and do not have social guarantees for security. If they do not have guarantees that they can assemble in security, they have not been provided with assembly as a right. They must assemble and merely hope for the best, because a standard threat to assembling securely has not been dealt with. The fundamental argument is that when one fully grasps what an ordinary right is, and especially which duties are correlative to a right, one can see that the guarantee of certain things (as basic rights) is part of—is a constituent of—is an essential component of—the establishment of the conditions in which the right can actually be enjoyed. These conditions include the prevention of the thwarting of the enjoyment of the right by any “standard threat,” at the explanation of which we must soon look.

A final observation about the idea of subsistence rights is, however, worth making here: subsistence rights are in no way an original, new, or advanced idea. If subsistence rights seem strange, this is more than likely because Western liberalism has had a blind spot for severe economic need.<sup>18</sup> Far from being new or ad-

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vanced, subsistence rights are found in traditional societies that are often treated by modern societies as generally backward or primitive.

James C. Scott has shown that some of the traditional economic arrangements in Southeast Asia that were in other respects highly exploitative nevertheless were understood by both patrons and clients—to use Scott's terminology—to include rights to subsistence on the part of clients and duties on the part of patrons not only to forbear from depriving clients of subsistence but to provide assistance to any clients who were for any reason deprived:

If the need for a guaranteed minimum is a powerful motive in peasant life, one would expect to find institutionalized patterns in peasant communities which provide for this need. And, in fact, it is above all within the village—in the patterns of social control and reciprocity that structure daily conduct—where the subsistence ethic finds social expression. The principle which appears to unify a wide array of behavior is this: "All village families will be guaranteed a minimal subsistence niche insofar as the resources controlled by villagers make this possible." Village egalitarianism in this sense is conservative not radical; it claims that all should have a place, a living, not that all should be equal. . . . Few village studies of Southeast Asia fail to remark on the informal social controls which act to provide for the minimal needs of the village poor. The position of the better-off appears to be legitimized only to the extent that their resources are employed in ways which meet the broadly defined welfare needs of villagers.<sup>19</sup>

As Benedict J. Kerkvliet, also writing about an Asian society, put it: "A strong patron-client relationship was a kind of all-encompassing insurance policy whose coverage, although not total and infinitely reliable, was as comprehensive as a poor family could get."<sup>20</sup>

Many reasons weigh in favor of the elimination of the kind of patron-client relationships that Scott and Kerkvliet have described—no one is suggesting that they should be, or could be, preserved. The point here is only that the institutionalization of

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subsistence rights is in no way tied to some utopian future “advanced” society. On the contrary, the real question is whether modern nations can be as humane as, in *this* regard, many traditional villages are. If we manage, we may to a considerable extent merely have restored something of value that has for some time been lost in our theory and our practice.

## **STANDARD THREATS**

Before we turn over the coin of basic rights and consider the side with the duties, we need to establish two interrelated points about the rights side. One point concerns the final element in the account of the general structure of all rights, basic and non-basic, which is the notion of standard threats as the targets of the social guarantees for the enjoyment of the substance of a right. The other point specifically concerns basic rights and the question whether the reasoning in favor of treating security and subsistence as the substances of basic rights does not generate an impractically and implausibly long list of things to which people will be said to have basic rights. The two points are interrelated because the clearest manner by which to establish that the list of basic rights must, on the contrary, be quite short is to invoke the fact that the social guarantees required by the structure of a right are guarantees, not against all possible threats, but only against what I will call standard threats. In the end we will find a supportive coherence between the account of basic rights and the account of the general structure of most moral rights. We may begin by reviewing the reasons for taking security and subsistence to be basic rights and considering whether the same reasons would support treating many other things as basic rights. Answering that question will lead us to see the role and importance of a conception of standard threats.

Why, then, according to the argument so far, are security and subsistence basic rights? Each is essential to a normal healthy life. Because the actual deprivation of either can be so very serious—potentially incapacitating, crippling, or fatal—even the threatened deprivation of either can be a powerful weapon against anyone whose security or subsistence is not in fact socially guaranteed. People who cannot provide for their own security and sub-

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sistence and who lack social guarantees for both are very weak, and possibly helpless, against any individual or institution in a position to deprive them of anything else they value by means of threatening their security or subsistence. A fundamental purpose of acknowledging any basic rights at all is to prevent, or to eliminate, insofar as possible the degree of vulnerability that leaves people at the mercy of others. Social guarantees of security and subsistence would go a long way toward accomplishing this purpose.

Security and subsistence are basic rights, then, because of the roles they play in both the enjoyment and the protection of all other rights. Other rights could not be enjoyed in the absence of security or subsistence, even if the other rights were somehow miraculously protected in such a situation. And other rights could in any case not be protected if security or subsistence could credibly be threatened. The enjoyment of the other rights requires a certain degree of physical integrity, which is temporarily undermined, or eliminated, by deprivations of security or of subsistence. Someone who has suffered exposure or a beating is incapable of enjoying the substances of other rights, although only temporarily, provided he or she receives good enough care to recover the use of all essential faculties.

But as our earlier discussion of helplessness made clear, either the actual or the credibly threatened loss of security or subsistence leaves a person vulnerable to any other deprivations the source of the threat has in mind. Without security or subsistence one is helpless, and consequently one may also be helpless to protect whatever can be protected only at the risk of security or subsistence. Therefore, security and subsistence must be socially guaranteed, if any rights are to be enjoyed. This makes them basic rights.

In the construction of any philosophical argument, a principal challenge is to establish what needs to be established without slipping into the assertion of too much. By "too much" I mean a conclusion so inflated that, even if it is not a reduction to absurdity in the strict sense, it nevertheless strains credulity. The argument for security rights and subsistence rights may seem to suffer this malady, which might be called the weakness of too much strength. Specifically, the argument may be feared to have im-

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plicit implications that people have rights to an unlimited number of things, in addition to security and subsistence, that it is difficult to believe that people actually could justifiably demand of others.

Now it is true that we have no reason to believe that security and subsistence are the only basic rights, and chapter 3 is devoted to the question of whether some kinds of liberties are also basic rights. But as we shall see in that chapter, it is quite difficult to extend the list of basic rights, and we face little danger that the catalogue of basic rights will turn out to be excessively long. Before it becomes perhaps painfully obvious from the case of liberty, it may be helpful to see why in the abstract the list of basic rights is sharply limited even if it may have some members not considered here.

The structure of the argument that a specific right is basic may be outlined as follows, provided we are careful about what is meant by "necessary":

1. Everyone has a right to something.
2. Some other things are necessary for enjoying the first thing as a right, whatever the first thing is.
3. Therefore, everyone also has rights to the other things that are necessary for enjoying the first as a right.

Since this argument abstracts from the substance of the right assumed in the first premise, it is based upon what it normally means for anything to be a right or, in other words, upon the concept of a right. So, if the argument to establish the substances of basic rights is summarized by saying that these substances are the "other things . . . necessary" for enjoying any other right, it is essential to interpret "necessary" in the restricted sense of "made essential by the very concept of a right." The "other things" include not whatever would be convenient or useful, but only what is indispensable to anything else's being enjoyed as a right. Nothing will turn out to be necessary, in this sense, for the enjoyment of any right unless it is also necessary for the enjoyment of every right and is, for precisely this reason, qualified to be the substance of a basic right.

Since the concept of a right is a profoundly Janus-faced concept, this conceptual necessity can be explained both from the side of the bearer of the right and, as we will see more fully in

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chapter 2, from the side of the bearers of the correlative duties. The content of the basic rights is such that for the bearer of any right (basic or non-basic) to pursue its fulfillment by means of the trade-off of the fulfillment of a basic right is self-defeating, and such that for the bearer of duties to claim to be fulfilling the duties correlative to any right in spite of not fulfilling the duties correlative to a basic right is fraudulent. But both perspectives can be captured more concretely by the notion of common, or ordinary, and serious but remediable threats or “standard threats,” which was introduced earlier as the final element in the explanation of the structure of a right.<sup>21</sup> Certainly from the viewpoint of the bearer of a right it would be false or misleading to assert that a right had been fulfilled unless in the enjoyment of the substance of that right, a person also enjoyed protection against the threats that could ordinarily be expected to prevent, or hinder to a major degree, the enjoyment of the initial right assumed. And certainly from the viewpoint of the bearers of the correlative duties it would be false or misleading to assert that a right had been honored unless social guarantees had been established that would prevent the most common and serious threats from preventing or acutely hindering the enjoyment of the substance of the right. On the side of duties this places especially heavy emphasis upon preventing standard threats, which, as we will see in chapter 2, is the joint function of the fulfillment of duties to avoid depriving and duties to protect against deprivation.

But the measure of successful prevention of thwarting by ordinary and serious but remediable threats is not utopian. People are neither entitled to social guarantees against every conceivable threat, nor entitled to guarantees against ineradicable threats like eventual serious illness, accident, or death. Another way to indicate the restricted scope of the argument, then, is as follows. The argument rests upon what might be called a transitivity principle for rights: If everyone has a right to  $y$ , and the enjoyment of  $x$  is necessary for the enjoyment of  $y$ , then everyone also has a right to  $x$ . But the necessity in question is analytic. People also have rights—according to this argument—only to the additional substances made necessary by the paired concepts of a right and its correlative duties. It is analytically necessary that if people are to be provided with a right, their enjoyment of the substance of the

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right must be protected against the typical major threats. If people are as helpless against ordinary threats as they would be on their own, duties correlative to a right are not being performed. Precisely what those threats are, and which it is feasible to counter, are of course largely empirical questions, and the answers to both questions will change as the situation changes.<sup>22</sup> In the argument for acknowledging security and subsistence as basic rights I have taken it to be fairly evident that the erosion of the enjoyment of any assumed right by deficiencies in subsistence is as common, as serious, and as remediable at present as the destruction of the enjoyment of any assumed right by assaults upon security.

What is, for example, eradicable changes, of course, over time. Today, we have very little excuse for allowing so many poor people to die of malaria and more excuse probably for allowing people to die of cancer. Later perhaps we will have equally little excuse to allow deaths by many kinds of cancer, or perhaps not. In any case, the measure is a realistic, not a utopian, one, and what is realistic can change. Chapter 4 returns to the question of what is realistic now in the realm of subsistence, and consideration of this concrete case will probably also provide the clearest understanding of what constitutes an ordinary and serious but remediable threat.

We noticed in an earlier section that one fundamental purpose served by acknowledging basic rights at all is, in Camus' phrase, that we "take the victim's side," and the side of the potential victims. The honoring of basic rights is an active alliance with those who would otherwise be helpless against natural and social forces too strong for them. A basic right has, accordingly, not been honored until people have been provided rather firm protection—what I am calling "social guarantees"—for enjoying the substance of their basic rights. What I am now stressing is that this protection need neither be ironclad nor include the prevention of every imaginable threat.

But the opposite extreme is to offer such weak social guarantees that people are virtually as vulnerable with their basic rights "fulfilled" as they are without them. The social guarantees that are part of any typical right need not provide impregnable protection against every imaginable threat, but they must provide effective defenses against predictable remediable threats. To try to

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count a situation of unrelieved vulnerability to standard threats as the enjoyment of basic rights by their bearers or the fulfillment of these rights by the bearers of the correlative duties is to engage in double-speak, or to try to behave as if concepts have no boundaries at all. To allow such practices to continue is to acquiesce in not only the violation of rights but also the destruction of the concept of rights.

Insofar as it is true that moral rights generally, and not basic rights only, include justified demands for social guarantees against standard threats, we have an interesting theoretical result. The fulfillment of both basic and non-basic moral rights consists of effective, but not infallible, social arrangements to guard against standard threats like threats to physical security and threats to economic security or subsistence. One way to characterize the substances of basic rights, which ties the account of basic rights tightly to the account of the structure of moral rights generally, is this: the substance of a basic right is something the deprivation of which is one standard threat to rights generally. The fulfillment of a basic right is a successful defense against a standard threat to rights generally. This is precisely why basic rights are basic. That to which they are rights is needed for the fulfillment of all other rights. If the substance of a basic right is not socially guaranteed, attempts actually to enjoy the substance of other rights remain open to a standard threat like the deprivation of security or subsistence. The social guarantees against standard threats that are part of moral rights generally *are the same as* the fulfillment of basic rights.<sup>23</sup> This is why giving less priority to any basic right than to normal non-basic rights is literally impossible.

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Basic Books, 1976). State is simply the portion of the Executive Branch that makes more of its positions public than others usually do, with the result that citizens can examine them, unlike the more often secret positions pursued by the National Security Council.

5. One published account says that the legal analyses of the International Covenants, signed by Deputy Secretary of State Christopher, were "drafted" by the White House, not by the Office of Legal Advisers, and were forwarded without consultation with the Bureau of Human Rights—see Thomas M. Franck and Edward Weisband, *Foreign Policy by Congress* (New York: Oxford University Press, 1979), p. 96. For some of the reasons why it would not be surprising if no one wanted to take responsibility for the destructive collection of reservations, understandings, and declarations that would turn Senate ratification of the Covenants into a farce, see the first section of chapter 7.

6. See Senate Comm. on Foreign Relations and House Comm. on Foreign Affairs, 96th Cong., 1st Sess., *Report on Human Rights Practices in Countries Receiving U.S. Aid* (Joint Comm. Print, February 8, 1979), *passim*. For the PQLI scores, see pp. 666-673. For a thorough discussion of the PQLI by its developer, see Morris D. Morris, *Measuring the Condition of the World's Poor: The Physical Quality of Life Index*, Pergamon Policy Studies, No. 42 (New York: Pergamon Press for the Overseas Development Council, 1979).

7. See Donald M. Fraser, "Freedom and Foreign Policy," *Foreign Policy*, No. 26 (Spring 1977), p. 144.

8. An example of this traditional way of fudging the issue is: "the right to the satisfaction of basic human needs—such as food, shelter, and essential medical care—when resources are available," United Nations Association of the United States of America, National Policy Panel, *United States Foreign Policy and Human Rights* (New York: UNA-USA, 1979), p. 35. Must any effort be exerted to make resources available, or shall we just use what turns out to be left over after business as usual?

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1. Obviously this is not the usual North Atlantic account of what a right is, although it incorporates, I think, what is correct in the usual accounts. Perhaps the most frequently cited philosophical discussion is the useful one in Joel Feinberg, *Social Philosophy* (Englewood Cliffs: Prentice-Hall, Inc., 1973), pp. 55-97. A more recent and extended account is A. I. Melden, *Rights and Persons* (Oxford: Basil Blackwell, 1977). The best collection of recent English and American philosophical essays is probably *Rights*, edited by David Lyons (Belmont, Calif.: Wadsworth Publishing Co., Inc., 1979). For a broader range of views, in

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less rigorous form, see *Human Rights: Cultural and Ideological Perspectives*, edited by Adamantia Pollis and Peter Schwab (New York: Praeger Publishers, 1979). For additional references, mostly to work in English, see Rex Martin and James W. Nickel, "A Bibliography on the Nature and Foundations of Rights, 1947-1977," *Political Theory*, 6:3 (August 1978), pp. 395-413. Some older but more wide-ranging bibliographies are *International Human Rights: A Bibliography 1965-1969* and *International Human Rights: A Bibliography 1970-1976*, both edited by William Miller (Notre Dame: University of Notre Dame Law School, Center for Civil Rights, 1976).

2. In saying that these three features constitute "the general structure of a moral right" I do not mean that every moral right always has every one of the three. Wittgenstein, for one, has argued persuasively that we have no particular reason to expect all authentic instances of any concept to have all features—indeed, to have any one feature—in common and that what instance A shares with instance B need not be the same as what instance B shares with instance C. See Ludwig Wittgenstein, *Philosophical Investigations*, Third Edition (Oxford: Basil Blackwell, 1967), Part I, paragraphs 66-67. What we are left with is the more realistic but more elusive notion of standard, central, or typical cases. The danger then rests in the temptation to dismiss as deviant or degenerate cases what ought to be treated as counter-examples to our general claims. We have no mechanical method for deciding what is standard and what is deviant and so must consider individual cases fairly and thoroughly, as we shall soon be trying to do.

Two important characteristics of this list of features should be emphasized. First, the list of features is, not the premises for, but the conclusion from, the detailed description of individual rights considered in the body of the book. Thus, the order of presentation is not the order of derivation. These general features were distilled from the cases of security rights, subsistence rights, and liberty rights discussed in the first three chapters. These general conclusions are presented here as a means of quickly sketching the bold outlines of what is still to be justified.

Second, most of the argument of the book depends only upon its being correct to say that all *basic* rights have these three features. Since the features are derived from the detailed consideration only of basic rights, it would be conceivable that basic rights were peculiar in having all three. Yet, many other rights obviously do have this same structure. So I advance the less fully justified broader claim, not merely the safer, narrower claim.

3. Feinberg, pp. 58-59. The terminology of "claim-rights" is of course from Wesley Hohfeld, *Fundamental Legal Conceptions* (New Haven: Yale University Press, 1923).

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4. Standard moral rights are, in the categories devised by Hohfeld for legal rights, claim-rights, not mere liberties. Certainly all basic rights turn out to be moral claim-rights rather than moral liberties. See chapter 2.
  5. This becomes clearest in the discussion of rights to liberty in chapter 3.
  6. Who exactly are the relevant people is an extremely difficult question, to which chapter 6 is devoted.
  7. See chapter 2.
  8. For his clearest single presentation of this analysis, see Friedrich Nietzsche, *On the Genealogy of Morals*, edited by Walter Kaufmann and translated by Walter Kaufmann and R. J. Hollingdale (New York: Vintage Books, 1967). Much, but not all, of what is interesting in Nietzsche's account was put into the mouth of Callicles in Plato's *Gorgias*.
  9. Many legal claim-rights make little or no contribution to self-respect, but moral claim-rights (and the legal claim-rights based upon them) surely do.
  10. Nietzsche was also conflating a number of different kinds of power/weakness. Many of today's politically powerful, against whom people need protection, totally lack the kind of dignified power Nietzsche most admired and would certainly have incurred his cordial disgust.
  11. Anyone not familiar with the real meaning of what gets called "infant mortality rates" might consider the significance of the fact that in nearby Mexico seven out of every 100 babies fail to survive infancy—see United States, Department of State, *Background Notes: Mexico*, Revised February 1979 (Washington: Government Printing Office, 1979), p. 1. For far worse current children's death rates still, see below, chapter 4, note 13.
  12. It is controversial whether rights are claims only upon members of one's own society or upon other persons generally. For some support for the conclusion assumed here, see chapter 6.
  13. Since the enjoyment of a basic right is necessary for the enjoyment of all other rights, it is basic not only to non-basic rights but to other basic rights as well. Thus the enjoyment of the basic rights is an all-or-nothing matter. Each is necessary to the other basic ones as well as to all non-basic ones. Every right, including every basic right, can be enjoyed only if all basic rights are enjoyed. An extended discussion of a case of this mutual dependence is found in chapter 3.
- At the cost of being somewhat premature it may be useful to comment here on an objection that often strikes readers at this point as being a clear counter-example to the thesis that subsistence rights are basic rights in the sense just explained. Mark Wicclair has put the objection especially

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forcefully for me. The arguments for the thesis have of course not yet been given and occupy much of the remainder of the chapter and, indeed, of the book.

Suppose that in a certain society people are said to enjoy a certain security right—let us say the right not to be tortured. But they do not in fact enjoy subsistence rights: food, for example, is not socially guaranteed even to people who find it impossible to nourish themselves. The thesis that subsistence rights are basic means that people cannot enjoy any other right if subsistence rights are not socially guaranteed. It follows that the people in the society in question could not actually be enjoying the right not to be tortured, because their right to adequate food is not guaranteed. But—this is the objection—it would appear that they could enjoy the right not to be tortured even though they were starving to death for lack of food they could do nothing to obtain. The objection grants that starvation is terrible. The theoretical point is, however, said to remain: starvation without torture is preferable to starvation with torture, and the right not to be tortured is still worth something even in isolation and, in particular, even in the absence of subsistence rights. Subsistence rights are, therefore, not necessary for the enjoyment of all other rights and thus not basic in the relevant sense.

But could there actually be a case of the kind brought forward as a counter-example? Could there actually be a right not to be tortured in the absence of a right to subsistence? The difficulty is that a person who had no social guarantee of, say, food and was in fact deprived of food might, without other recourse, be willing to submit to limited torture in exchange for food. In other words, what is being called a right not to be tortured is open to being undermined by the threat of doing nothing about a shortage of food. If this perverse trade of submission to torture for receipt of food were possible, it would be accurate to say that although the person may *have* a right not to be tortured, he cannot actually *enjoy* the right because he must choose between undergoing torture and undergoing starvation, or malnutrition (to make the alternative involving subsistence more like much torture: painful and damaging but not fatal). Insofar as the person has anything approximating a right not to be tortured, the “right” is a merely conditional one—conditional upon the person’s not in fact being without some necessity for subsistence for which the substance of the “right” not to be tortured could, in effect, be sold.

Three ways of trying to save the original objection come to mind. First, it might be suggested that trading the immunity to torture for the means to eat is not an instance of failing to enjoy a right, but an instance of renouncing a right. Only because one has the right not to be tortured does one have something to trade for food.

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This response is fairly obviously mistaken. If one's only hope of eating adequately is to submit to torture, one is being coerced into submitting to torture, not renouncing one's right not to be tortured. This is a case of coercion analogous in the relevant respects to the demand, your money or your life. One is not renouncing one's right to the money—one is being forced to surrender one's money in order to stay alive. In prisons, where people are already deprived of the freedom of physical movement ordinarily needed for obtaining their own food, the threat to withhold food as well is in fact a common means of coercion.

Second, it could be noted that the torture-for-food exchange might simply not be available. Certainly in light of the perversity of the bargain, there might be no one in the business of supplying people with food in exchange for the privilege of torturing them. Only some sort of wealthy sadist would engage in this transaction.

Now, of course the exchange described is in fact very unlikely, as is the original situation that constitutes the counter-example. The response to the objection is as fantastical as the objection, but the objector cannot expect otherwise. (In what country are people both provided guarantees against torture and denied guarantees of food for subsistence?) But this second response misses the point. That people were not in fact undergoing torture in order to obtain food (or for any other reason) would not constitute their enjoying a right not to be tortured. Enjoying any right includes, among other things, some social guarantees. It is not merely that one does not undergo objectionable events or that one does undergo desirable events—it includes provisions having been made to see to it that the objectionable does not occur and the desirable does.

Hence, the third way to save the counter-example would be to add to it a prohibition against trading the right not to be tortured for anything else, including what was needed to meet an even more serious threat. The counter-example would have to say: one may not be tortured and one must not surrender, trade, renounce, etc. this right for anything else. This would be a weak version of something roughly like what was traditionally called inalienability, except that as traditionally understood inalienability was essential to or inherent in a right: it was thought to be somehow absolutely impossible to alienate or trade the right. In the objector's counter-example anyone obviously *could* trade the right not to be tortured for something else. The best that could be done would be an exceptionless and enforceable prohibition against trading away this right. The trade would, perhaps, be illegal. We can call this an alienation-prohibition, in order to distinguish it from the traditional notion of intrinsic inalienability.

With the inclusion of the alienation-prohibition the case may be an

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actual counter-example, but it is difficult to tell. Possibly one is enjoying a right not to be tortured when one is not only protected against torture but also prevented from exchanging that protection for protection against other threats. As the argument of the book unfolds, two of the main contentions will be (a) that in order to enjoy any right one must be protected against the standard threats to the right and (b) that the best way to be protected against a standard threat is to have social guarantees for the absence of the threat. Thus, the way to enjoy a right to subsistence is to be guaranteed that no torture, among other things, will be used to implement an economic strategy that produces malnutrition, and the way to enjoy a right not to be tortured is to be guaranteed that no deprivations of subsistence needs like food, among other things, will be used to implement a political strategy that includes torture (not that the latter is a realistic case).

Now instead of protecting the enjoyment of one right against standard threats by also protecting the other rights the enjoyment of which includes social guarantees against the standard threats, one could conceivably “protect” one right in isolation by prohibiting the use of that right to fend off threats against which one has no guarantees because one lacks other rights. This is what is done by the right not to be tortured that includes the alienation-prohibition. But the attempted counter-example has now become quite contorted and exotic. One is being prohibited from saving one’s own life (from lack of subsistence) at a cost of pain and damage that one is willing to accept if one must. Is this an example of enjoying one right (not to be tortured) in the absence of the enjoyment of another right (subsistence)? This case is now so different from an ordinary case of enjoying a right (in which, I will contend, part of the right is social guarantees against standard threats) that it is uncertain what to say. Obviously I could not without circularity invoke what I take to be the normal and adequate conception of enjoying a right in order to judge the proffered case not to be a case of enjoying a right and therefore not a counter-example to the thesis that subsistence rights are basic. However, treating this eccentric example as a clear case would be question-begging against my view, I think. So, I leave it to the reader—and to the argument in the text.

14. It is odd that the list of “primary goods” in Rawlsian theory does not mention physical security as such. See John Rawls, *A Theory of Justice* (Cambridge, Mass.: The Belknap Press of Harvard University Press, 1971), p. 62 and p. 303. The explanation seems to be that security is lumped in with political participation and a number of civil liberties, including freedom of thought, of speech, of press, et al. To do this is to use “liberty” in a confusingly broad sense. One can speak intelligibly of

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"freedom from" almost anything bad: the child was free from fear, the cabin was free from snakes, the picnic was free from rain. Similarly, it is natural to speak of being free from assault, free from the threat of rape, etc., but this does not turn all these absences of evils into liberties. Freedom from assault, for example, is a kind of security or safety, not a kind of liberty. It may of course be a necessary condition for the exercise of any liberties, which is exactly what I shall now be arguing, but a necessary condition for the exercise of a liberty may be many things other than another kind of liberty. The most complete indication of why I believe physical security and liberty—even freedom of physical movement—need to be treated separately is chapter 3.

15. At considerable risk of encouraging unflattering comparisons I might as well note myself that in its general structure the argument here has the same form as the argument in H.L.A. Hart's classic, "Are There Any Natural Rights?" *Philosophical Review*, 64:2 (April 1955), pp. 175-191. That is, Hart can be summarized as maintaining: if there are any rights, there are rights to liberty. I am saying: if there are any rights, there are rights to security—and to subsistence. The finer structures of the arguments are of course quite different. I find Hart's inference considerably less obvious than he did. So, evidently, do many thoughtful people in the Third and Fourth Worlds, which counts against its obviousness but not necessarily against its validity. My struggle with the place of some kinds of liberty, construed more narrowly than Hart's, constitutes chapter 3.

16. In originally formulating this argument for treating both security and subsistence as basic rights I was not consciously following any philosopher but attempting instead to distill contemporary common sense. As many people have noted, today's common sense tends to be yesterday's philosophy. I was amused to notice recently the following passage from Mill, who not only gives a similar argument for security but notices and then backs away from the parallel with subsistence: "The interest involved is that of security, to everyone's feelings the most vital of all interests. All other earthly benefits are needed by one person, not needed by another; and many of them can, if necessary, be cheerfully foregone or replaced by something else; but security no human being can possibly do without; on it we depend for all our immunity from evil and for the whole value of all and every good, beyond the passing moment, since nothing but the gratification of the instant could be of any worth to us if we could be deprived of everything the next instant by whoever was momentarily stronger than ourselves. Now this most indispensable of all necessities, after physical nutriment, cannot be had unless. . ." John Stuart Mill, *Utilitarianism* (Indianapolis: Bobbs-Merrill Co., 1957), p. 67 (chapter V, 14th paragraph from the end).

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17. "Many people, therefore, economically dependent as they are upon their employer, hesitate to speak out not because they are afraid of getting arrested, but because they are afraid of being fired. And they are right." Ira Glasser, "Director's Report: You Can Be Fired for Your Politics," *Civil Liberties*, No. 327 (April 1979), p. 8.

18. Exactly how and why Western liberalism has tended to overlook subsistence is another story, but consider, simply as one symptom, the fact that a standard assumption in liberal theory is that there is only moderate scarcity. This has the effect of assuming that everyone's subsistence is taken care of. You must have your subsistence guaranteed in order to be admitted into the domain of the theory. Today this excludes from the scope of liberal theory no fewer than 1,000,000,000 people.

The figure of over one billion is generally accepted as the minimum number of desperately poor people. The U.S. government's World Hunger Working Group, for example, gave "1.2 billion" as the number of "persons without access to safe drinking water"—see United States, White House, *World Hunger and Malnutrition: Improving the U.S. Response* (Washington: Government Printing Office, 1978), p. 9. This is, roughly, 25% of all the people there are—and a much higher percentage of the children, since in many very poor countries most people are young.

I am not criticizing only people who call themselves "liberals" but also, for example, "neoconservatives." For, as Michael Walzer has perceptively observed, "neoconservatives are nervous liberals, and what they are nervous about is liberalism"—see Michael Walzer, "Nervous Liberals," *New York Review of Books*, 26:15 (October 11, 1979), p. 6.

19. James C. Scott, *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven: Yale University Press, 1976), pp. 40-41. Scott analyzes the "normative roots of peasant politics" (4) with subtlety and clarity, displaying a coherent and rational conceptual framework implicit in the moral consensus across several peasant societies. I do not mean to suggest, nor does Scott, that all is well in Southeast Asia. For one thing, many traditional village institutions are being eliminated by "modernizing" regimes. With Scott's theory, compare Joel S. Migdal, *Peasants, Politics, and Revolution: Pressures toward Political and Social Change in the Third World* (Princeton: Princeton University Press, 1974); and Samuel L. Popkin, *The Rational Peasant: The Political Economy of Rural Society in Vietnam* (Berkeley: University of California Press, 1979).

For defenses of the suspension of the fulfillment of subsistence rights during an indefinite development period, see Lt. Gen. Ali Moertopo, "Political and Economic Development in Indonesia in the Context of

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Regionalism in Southeast Asia," *Indonesian Quarterly*, 6:2 (April 1978), pp. 30-47, esp. pp. 32-38; and O. D. Corpuz, "Liberty and Government in the New Society" (Quezon City: University of the Philippines, Office of the President, 1975), photocopy. For cautions from a nutritional anthropologist about the effects of U.S. aid programs on traditional societies, see Norge W. Jerome, "Nutritional Dilemmas of Transforming Economies," in *Food Policy: The Responsibility of the United States in the Life and Death Choices*, ed. by Peter G. Brown and Henry Shue (New York: Free Press, 1977), pp. 275-304.

20. Benedict J. Kerkvliet, *The Huk Rebellion: A Study of Peasant Revolt in the Philippines* (Berkeley: University of California Press, 1977), p. 252. On the importance for Philippine peasants of their deep belief in a right to subsistence, see pp. 252-255. The most comprehensive legal and normative analysis of economic rights in developing countries is "The International Dimensions of the Right to Development as a Human Right in Relation with Other Human Rights," United Nations, Economic and Social Council, Commission on Human Rights, E/CN.4/1334 (35th Sess., Agenda item 8, 2 January 1979), (Geneva: Division of Human Rights, 1978).

21. I am grateful to Douglas MacLean for emphasizing the similarity between the notion toward which I am groping here and the one in Thomas M. Scanlon, "Human Rights as a Neutral Concern," in *Human Rights and U.S. Foreign Policy: Principles and Applications*, edited by Peter G. Brown and Douglas MacLean (Lexington, Mass.: Lexington Books, 1979), pp. 83-92. The Brown and MacLean volume and this volume are products of the same research effort and are designed to complement each other. On nearly every major issue discussed here, alternative views appear in Brown and MacLean, and I am to some degree indebted to the author of almost every chapter of that companion volume, including those with which I am in sharp disagreement philosophically or politically.

22. Although this admission opens a theoretical door to a certain amount of "relativism," I suspect the actual differences across societies in the standard preventable threats are much less than they conceivably might be. Compare Barrington Moore's thesis that although differences in conceptions of happiness are great and important, virtually everyone agrees upon the "miseries"—Barrington Moore, Jr., *Reflections on the Causes of Human Misery and Upon Certain Proposals to Eliminate Them* (Boston: Beacon Press, 1972), especially chapter I, and *Injustice: The Social Bases of Obedience and Revolt* (White Plains: M. E. Sharpe, 1978). Here, as in many other places, philosophical analysis and political analysis need each other.

## NOTES

The unavoidable mixture of the analytic and the empirical in an element like standard threats is obviously difficult to characterize with any precision. On the one hand, it is clearly part of the meaning of a right that the right-holder may insist that other people take measures to protect the enjoyment of the substance of the right against ordinary, non-inevitable threats—this much is analytic. But which threats are pervasive, which are serious, and which can feasibly be resisted must be discovered from particular situations. Naturally, what is, for example, feasible is a function of how much of the available resources are devoted to the task, as chapter 4 will emphasize, and that is a heavily value-laden question, not a mere question of efficiency to be left to the economists. So we can draw no neat line between aspects that require philosophical argument and aspects that require economic and political investigation.

23. The coherence of the account of the general structure of a moral right and the account of a basic right with each other is one consideration in favor of both, although coherence is, needless to say, not enough. I am grateful to Charles R. Beitz for perceptively pressing me to make these underlying connections clearer.

Since fulfilling any one basic right involves creating safeguards for the enjoyment of the substance of that basic right against the other standard threats that are the respective concerns of the other basic rights, no basic right can be completely fulfilled until all basic rights are fulfilled. See note 13 above and, for an extended example, chapter 3, and especially note 14. It would appear that just as (and, because?) deprivations of rights tend to be systematically interrelated, the fulfillment of at least the basic rights also comes in a single package.

## 2 • CORRELATIVE DUTIES

1. See the Introduction.
2. For a forceful re-affirmation of this view in the current political context (and further references), see Hugo Adam Bedau, "Human Rights and Foreign Assistance Programs," in *Human Rights and U.S. Foreign Policy*, ed. by Peter G. Brown and Douglas MacLean (Lexington, Mass: Lexington Books, 1979), pp. 29-44. Also see Charles Frankel, *Human Rights and Foreign Policy*, Headline Series No. 241 (New York: Foreign Policy Association, 1978), especially pp. 36-49, where Frankel advanced a "modest list of fundamental rights" that explicitly excluded economic rights as "dangerously utopian." A version of the general distinction has recently been re-affirmed by Thomas Nagel—see "Equality," in *Mortal Questions* (New York: Cambridge University Press, 1979), pp. 114-115. An utterly unrealistic but frequently invoked version of the distinction is