The point of the practice of human rights: International concern or domestic empowerment?[1]

Johan Karlsson Schaffer, PhD

j.k.schaffer@nchr.uio.no

Forthcoming in *Moral and political approaches to human rights: Implications for theory and practice*, edited by R. Maliks & J. K. Schaffer (Cambridge University Press).

1. Introduction

How do international human rights norms shape actions and outcomes in global politics, and whom do they empower and authorize to act? In this chapter, I work within the political conception of human rights to challenge its central claim that international human rights chiefly provide standards for international conduct or reasons for interference. As Charles Beitz, a key proponent of the political conception, puts it, human rights are matters of international concern: They give reasons for outside agents to act when a state fails its first-hand responsibility to protect the rights of its residents. I shall offer a different view, on which international human rights are chiefly implemented and enforced through political action in the domestic sphere rather than in international society. International human rights norms authorize and em-

[1] I wish to thank Claudio Corradetti, Daniel Corrigan, Asbjørn Eide, Aled Dilwyn Fisher, Andreas Føllesdal, Reidar Maliks, Amrei Müller, Luise Müller, Matthew Saul and Geir Ulfstein for their constructive comments on earlier versions of this paper.

power individuals and groups to claim their entitlements and challenge governmental authority. This 'domestic empowerment view', as I shall call it, allows us to reconstruct the practice of international human rights in a way that can make better sense, compared to the dominant political conception's 'international action view', of salient features of that practice, such as the importance of legalization, the idea of equal status that animates many human rights, and the constructive role international human rights norms play in societies where the rule of law and democracy are generally respected.

The chapter thus seeks to contribute to current literatures on the philosophy of human rights in three ways. First, it offers an alternative to the dominant political conceptions of human rights, which shares their approach of building a theory of human rights from existing practice rather than from moral theory, yet shows that it can yield different views of, for instance, the role of legalization, external action and individual empowerment. Hence, this comparison helps define the contours of important methodological problems in critically interpreting the practice of human rights, which are subject of an emerging literature (Karp 2013; Schaffer 2014). Second, while others have criticised political conceptions for focusing too narrowly on international intervention (e.g. Nickel 2006; Tasioulas 2009; Valentini 2012), I add to this literature by presenting a positive account of an alternative political-practical view. I have previously suggested focusing on struggles for rights in domestic politics as a modification of the discourse-theoretic conception of human rights (Schaffer 2015) and here elaborate this view further in relation to another strand of the political approach to human rights. Relatedly, third, I seek to connect the philosophy of human rights with recent work on human rights in international political theory, which provides important re-

sources for a political-practical approach to human rights. Yet the two strands of literature only too rarely speak to one another.

The paper is structured in four parts. First, I outline the practical approach offered by Charles Beitz, as the most comprehensive, detailed attempt at offering a political conception of human rights that carefully interprets the existing legal-political discourse. I point out how his view neglects the agency of rights-bearers and fails to convincingly support the claim that human rights conceptually are matters of international concern. Second, I introduce the domestic empowerment view. Like Beitz's international action view, this view locates the practice through key international human rights treaties, but unlike him, holds that the practice is chiefly implemented and enforced through political action in the domestic sphere, not through international action. Third, I further explore how the domestic empowerment view differs from the international action view: It sees the legalization of human rights and their power-mediating function as crucial, and connects this function to claims for equal status. Moreover, thinking of human rights as power-mediators makes the domestic empowerment view less institutionally contingent and allows us to explore the constructive role they play in stable, liberal-democratic states, too. I conclude by reflecting on whether the two approaches are competing or complementary.

Before we proceed, I want to make a prefatory note on method: how to interpret the practice of human rights? A common view holds that we, either as observers or as participants, can identify an idea, concept, value, purpose or point that defines a social practice (cf. Karp 2013; Meckled-Garcia 2013; Valentini 2011). Understanding that purpose or point would allow us to critically scrutinise a practice, for instance to settle controversies about what constitutes the practice and who is practising it properly.

However, the view that a practice is governed by a master purpose, idea or function comes with at least three problems. First, as James Nickel points out, "human rights have features that make them unlikely to have a single function unless it is very abstract." (Nickel n.d.) Most importantly, everyone agrees that there are multiple human rights, which all have distinctive contents and functions and address different human needs. Second, social phenomena always admit of multiple true descriptions, and there is no easily available external point of view from which to show one description to be more apt than others (Shapiro 2005, p.188). Third, some social practices – including the practice of human rights – seem to be constituted by concepts that are "essentially contested" – that is, they "inevitably involve endless disputes about their proper uses on the part of their users" (Gallie 1956).

Hence, a practice may serve several aims or purposes, without a clear hierarchy among them, and participants and observers may often disagree about how to understand the purpose constituting the practice. Beitz (2009, p.10) stresses how human rights practice sometimes seems to invite deep disagreement over its point and purpose, but he also presents a strong idea of what the point or purpose of that practice is: Human rights are norms that serve to protect urgent human interests against standard threats that they face in modern societies, and a state's failure to respect those norms provide reasons for outside agents to act.

I will challenge that idea and present an alternative to it, offering a "problematizing redescription" (Shapiro 2005, p.201f): an account which, by drawing attention to previously neglected features of social reality, can indicate new explanatory and justificatory questions for analysis. I shall both argue that Beitz's way of portraying the practice of human rights fails to capture important features, and offer a re-

characterization that addresses those failings. For the sake of clarity, my redescription will seek to refine, in a somewhat idealizing manner, what I take to be an important but neglected role that the practice of international human rights plays in contemporary politics, and elaborate what this role implies for a political conception of human rights. However, I do not claim this point to be the sole role or master function that can subsume all other functions.

2. Human rights as international concern

In *The idea of human rights* (2009), Charles Beitz presents a practical conception of human rights. As a comprehensive, book-length argument, it offers an historical interpretation of the existing international legal-political discourse of human rights, elaborates a distinct methodology for how to let this interpretation steer our normative reasoning about human rights, and applies this approach to what he suggests are hard cases, such as political rights, women's rights and rights against poverty. Hence, I shall take Beitz's approach as an excellent starting point for a practical approach to human rights. In this section, I outline the approach and evaluate how Beitz, based on that method, describes the practice of human rights, before I proceed to offer a critical re-formulation.

The practical approach aims to derive the principles or values, in terms of which the practice of human rights is to be normatively assessed, from the existing practice itself, with all its complexities. The practice, on Beitz's view,

> "consists of a set of norms that regulate the behaviour of states together with a set of modes or strategies of action for which violations of the norms may

> count as reasons. [… It] exists within a global discursive community whose members recognize the practice's norms as reason-giving and use them in deliberating and arguing about how to act." (Beitz 2009, p.8)

The practical approach takes this real-existing practice as its starting point, and assumes that we can understand what the concept of a human right is by carefully interpreting the role that concept plays within the practice:

> "Human rights are supposed to be reason-giving for various kinds of political action which are open to a range of agents. We understand the concept of a human right by asking for what kinds of actions, in which kinds of circumstances, human rights claims may be understood to give reasons." (Beitz 2009, p.9)

Importantly, the practical approach seeks to keep apart the question of the nature of human rights from questions about their scope and content. The practice, as it exists, provides us with the source material for answering the first question, which is descriptive and conceptual: What is a human right? Put differently, what role or function does the idea of a human right play in the contemporary practice? As a second step, we can use this conceptualization of the role or function of a human right to approach questions about the content of human rights (e.g., is there a human right to X?) or about their normative basis (e.g., what reasons do we have for acting on them). In answering such questions, "we take the functional role of human rights in international … practice as basic: it constrains our conception of human rights from the start" (Beitz 2009, p.102).

This distinction is important in allowing the practical approach to be critical, rather than merely accepting at face value whatever we find in contemporary human rights doctrine. We should grant the practice this authority in guiding our thinking about what human rights are, Beitz (2009, p.11) argues, because it exists, and if we want to understand the practice of human rights, we should learn from it when we seek to conceptualize its central terms. Moreover, at face value we should regard the practice as valuable, as it promises to protect important human interests against standards threats they face in a world of sovereign states.

So what is the practice and its doctrine? Beitz locates the set of norms that govern the practice are articulated in the main international human rights instruments, starting with the Universal Declaration of Human Rights (UDHR, 1948) and the core international human rights treaties that were subsequently developed to give legal effect to the UDHR's provisions, most important of which are the two Covenants on, respectively, civil and political rights (ICCPR) and economic, social and cultural rights (ICESCR).[2] These treaties have been widely ratified: Almost every state has ratified at least one of them, and 80 per cent of states have ratified four or more. Of course, high ratification rates do not imply that states and other agents in the practice

[2] Notably, Beitz (2009, p.14) brackets the regional human rights systems and international humanitarian law in his interpretation of the practice. Reflecting on regional mechanisms, especially in Europe but also in the Americas, might perhaps have lead him to appreciate both legalization and domestic enforcement, while contrasting the practice of human rights *sensu stricto* with international humanitarian and criminal law might have invited a less confident view of international political action for the protection of human rights in some of the most severe situations.

agree about their scope and content, which is a further reason why we cannot consult the practice in order to answer such questions.

Moreover, given that the practice is emergent and immature, there is no external point from which we can determine authoritatively, for instance, who is a proper practitioner of human rights. This indeterminacy complicates the interpretation of the practice, which sometimes serves to frame disagreement just as much as agreement (Beitz 2009, p.9).

This outline of the practice, however, helps to provide an initial notion of its doctrinal content. The treaties do not just translate the UDHR into the language of international law; they expand its content and detail. The resulting doctrine has a broad normative reach beyond mere minimal requirements and it lists quite heterogeneous rights, which open for different means of realization. Furthermore, human rights in the doctrine are obviously not timeless, but relate to the social circumstances of modern life. Finally, through the successive treaties, the doctrine's content has evolved and "extended its reach from a society's constitution and basic laws to its public policies and customs", and this self-evolving capacity of the practice "could be important in forming an adequate grasp of its point" (Beitz 2009, p.31).

Having defined international human rights practice in terms of the UDHR and subsequent instruments, Beitz can hardly avoid concluding that the primary subjects upon which human rights put normative demands are states and their political institutions, laws and policies: "States have the primary or 'first-level' responsibility to ensure the satisfaction of the human rights of their own residents" (Beitz 2009, p.114). While powerful non-state agents may play important roles, only with statehood comes the responsibility to protect, promote or respect human rights. However, on

Beitz's view, it is part and parcel of the concept of human rights, as definitive of contemporary human rights practice, that they are also matters of international concern that may provide reasons for outside agents to take action. Being matters of international concern is a conceptual feature of human rights and provides the functional role that steers our subsequent analysis of the scope, content and justification of human rights.

> "Whatever else is true of human rights, they are supposed to be matters of international concern in the sense that a society's failure to respect its people's human rights on a sufficiently large scale may provide a reason for outside agents to do something." (Beitz 2009, p.105f; cf. Raz 2010, p.332)

As the focus on reasons for action reveals, the practice consists of more than the norms defined in international treaties; it also comprises certain modes of action. The idea that human rights are matters of international concern also informs Beitz's reconstruction of the mechanisms through which international human rights are implemented and enforced. While the founders of the international human rights regime imagined a juridical paradigm of implementation, Beitz (2009, pp.23, 32) maintains, the regime as it *de facto* works today is mainly implemented through six other paradigms of implementation. He does not wholly reject the juridical paradigm, with international law treaties incorporated into national constitutions and law, and with international tribunals to watch over them – it has been realized, on his view, chiefly within the European Convention system and to, lesser extent, in the United Nations treaty system. But the enforcement of international human rights is mainly achieved by six other mechanisms (I have ordered them differently than Beitz): (1) *Accountability* (international human rights bodies and NGOs engage in reporting and monitoring

of state compliance); (2) *inducement* (governments and international organizations can use rewards and sanctions – in diplomacy, trade, or aid, for instance – to encourage states to respect human rights); (3) *assistance* (foreign aid can also help states strengthen their capacity to meet their HR obligations); (4) *compulsion* (external agents can use force – from economic sanctions to military intervention – in order to impose HR compliance); (5) *external adaptation* (outside agents – powerful states, multinational corporations or international regimes – sometimes need to change their own practices in order to facilitate compliance by a failing government); (6) *domestic contestation* (outside agents can influence a government's conduct by mobilizing domestic actors to pressure their government).

For Beitz (2009, p.40), describing these six paradigms of implementation within the international human rights regime serves "to underscore how substantially its repertoire or measures diverges from the juridical paradigm" – specifically, in three respects: The practice is political, not juridical (a). The six other paradigms mostly operate in a political, rather than legal, register. Consequently, (b) the crucial causal agency lies with other types of agents (than the juridical paradigm's international treaty bodies), who often act without specific legal authority. Most important among these non-juridical bodies are states, international organisations (in other issue-areas than human rights) and local and transnational civil society groups. Furthermore, (a) and (b) also imply, Beitz concludes, that the actual implementation of international human rights does not depend on legalization or incorporation into national law and constitutions.

While Beitz finds other mechanisms than juridical means more important for implementing international human rights, he does not systematically assess whether

they also more effectively help international agents make recalcitrant states comply with international human rights norms. However, in practice he seems to hold serious doubts as to the efficacy of most forms of external action, as part of his analysis of whether women's rights, rights against poverty and political participation rights should be considered human rights proper.

In the next section, I shall provide a different account of the implementation and enforcement of the practice; now let me conclude by indicating some problematic features of this view of how international human rights norms are brought to bear on states. First, who are the subjects supposed to act on human rights norms? On Beitz's view, the principal agents of the practice and its implementation are states, international organizations, transnational civil society, and the occasional multinational corporation. And while he accords first-hand responsibility for human rights to states, governments seem to play at most a reactive part in responding to international action: they are objects of reporting, monitoring, assistance or compulsion. Likewise, societal actors within states seem to play a subsidiary role at most, acting as a proxy for the international community, though Beitz (2009, p.38) notes that sometimes, domestic contestation happens without external involvement. Most conspicuously, however, he seems to exclude rights-bearers themselves from the range of agents for whom human rights give reasons to act. This neglects how international human rights discourse may transform the way in which people conceive of and express their grievances, and help them organize and mobilize to demand their rights. In the next section, I will offer a different image where rights claimants have a key causal agency in realising human rights.

Second, does Beitz convincingly demonstrate that human rights are matters of international concern, if this is to include reasons for outside agents to interfere when a state fails to protect rights? In order to bolster that claim, Beitz points to both international human rights doctrine and the fact that states and other agents do act to promote human rights, but I find neither argument convincing. First, international treaties cautiously avoid giving external agents reasons to act when states fail to discharge their human rights obligations. Beitz (2009, p.13) points to the UN Charter, but its stated purpose of seeking "international cooperation in […] promoting human rights and fundamental freedoms" (Art. 1:3) is restricted by its principles of non-intervention and self-determination. Likewise, the UDHR, the two Covenants or other human rights treaties represent, by their mere existence, the idea that human rights are matters of international concern, but only in the sense that Beitz finds too weak: they articulate international standards, but do not grant other states, let alone the international community or transnational activists, any license to act if a state fails its first level responsibilities for human rights. He also points to the fact that the treaties come with implementation machinery, e.g. monitoring procedures (Beitz 2009, p.124f), but even such mechanisms are premised on the state party's active acceptance and participation. Second, while Beitz (2009, p.116) acknowledges that international human rights law does not authorize the types of international action he has in mind, he claims that they are "plainly visible in the practice of states, international organizations and nongovernmental organizations" as evidenced by an "extensive record of transnational political action short of the use of force aimed at protecting human rights" (Beitz 2009, pp.116, 125). However, this argument seems to beg the question if we take it as a reason for why we should regard the international concern as the de-

fining purpose of human rights practice. We may appreciate the fact that human rights norms sometimes engender transnational action (even as we cautiously recognise the possibility that such action also may serve other, less noble purposes), but why should we see this feature as a necessary, let alone sufficient, defining feature of a human right?

Without a compelling argument for why we should regard international concern as the definitive feature of human rights within the practice, Beitz (cf. 2009, p.102) seems to be making the same mistake that he attributes to Rawls: He stipulates a role of human rights within the practice, and lets that narrow role steer his normative evaluation of human rights. Moreover, even if he could provide evidence that this role were paramount in either original intent, evolving doctrine or political practice, why should we regard this particular function as the only relevant point or purpose determining what human rights are? If human rights, as the evolving doctrine details them, are heterogeneous, as are the means for their implementation, couldn't the practice be correspondingly pluralist in terms of the ideas defining what a human right is? In the next section, I shall offer one such idea as an alternative to Beitz's.

4. Human rights as domestic empowerment

Now, let me offer a different account of the practice of human rights: the domestic empowerment view. It shares with Beitz's approach a view of human rights as an emergent social practice defined by a set of norms expressed in the main international human rights treaties, which seek to regulate the behaviour of states and suggest modes of action, in case the norms are violated, to a dispersed community of social agents. Yet it differs in its view of the role of the idea of a human right within this

practice: The basic point with human rights, on this view, is not just, or not even necessarily, to be a matter of international concern; rather, they are power-mediators that provide relatively weak social agents with normative resources for challenging political authority. Viewing human rights in the light of this function reveals a number of striking differences vis-à-vis Beitz's account: It emphasises domestic rather than international action for their enforcement; it highlights the crucial role of legalization in that process; it makes sense of the status egalitarianism inherent in rights discourse; it is less contingent on an international system of states; and it allows us to explore the role international human rights practice plays in stable, liberal-democratic regimes, too. I shall explain the differences in that order: I begin by criticising the idea that international human rights are, or should be, chiefly enforced or implemented through international action, and then suggest a view of the enforcement of human rights that instead emphasises political action at the state level, whereby international human rights norms empower and authorize individuals and groups in domestic society to challenge governmental authority. In the next section, I discuss some attractive features, compared to other political conceptions, of this domestic empowerment view of the practice, and what role the idea of a human right plays within it.

The domestic empowerment view shares Beitz's assumption that the practice of human rights is defined through the key instruments of international human rights law and that the primary addressees of those legal norms are sovereign states only. For instance, the two Covenants "create obligations only for states, and states have international human rights obligations only to *their own* nationals" and others under their jurisdiction (Donnelly 2002, p.34). Yet, even as human rights norms are negotiated internationally and codified into international law treaties, their implementation and

enforcement is mostly a matter of political action within states rather than in international affairs. It happens from the bottom up, through changes brought about by groups and individuals pursuing their goals within the institutions available to them, rather than from the top down, through external influence by other states, multilateral organizations or transnational activist networks. This is a central issue where the domestic empowerment view parts company with Beitz, which sets important terms for the ensuing normative reconstruction of the practice.

In order to support this empirical claim about how international human rights norms make a difference, we may consult a dynamic social science research programme on the politics of human rights in multilateral, bilateral and transnational relations (for overviews, see Hafner-Burton 2012; Hafner-Burton 2014). First, international human rights treaties have multiplied since the adoption of the UDHR in 1948. Today, 80 per cent of states have ratified four or more of the core UN treaties and regional human rights mechanisms claim a total membership of more than 150 states (Schaffer et al. 2013, p.1). Yet in spite of this dramatic increase, international human rights regimes continue to have limited authority over and impact on states' human rights policies, and whatever influence they have is heavily conditional on domestic institutions and actors (Hafner-Burton 2012, p.276). Specifically, participation in international human rights regimes tends to correlate with improved protection of many human rights in fully or partly democratic countries, but not in illiberal, non-democratic states that deny or abuse human rights most severely. While more institutionalised regimes, such as international human rights courts, correspond to better human rights practices (Hafner-Burton 2012, p.278), most international human rights regimes lack independent monitoring and enforcement mechanisms (Donnelly

2002, p.172). States also participate for different reasons: Some governments ratify a human rights treaty because they share its goals or in order to lock in preferred domestic reform processes, while others use international human rights regimes to reduce pressure for internal change or even to signal their resolve not to comply (Hafner-Burton 2012). Unlike other types of global governance regimes, international human rights institutions typically create rather than resolve collective action problems (Schaffer 2013, p.228). As a result, the regimes have to rely on the good will, self-criticism and cooperation of the participating states.

Second, social science research have found no clear evidence that bilateral international action – ranging from foreign aid to economic sanctions and military intervention – have a positive impact on human rights in target countries (Hafner-Burton 2014). As for coercive interference, other states are unlikely to retaliate abuses by a government against the rights of its citizens (Donnelly 2002, p.178): Retaliatory inter-state action is costly, because leverage has to be imported from other areas, such as trade or aid; difficult to legitimize, since such means of retaliation are only indirectly tied to the violations, and risky, since it is much easier to produce great harm than great benefit through international interventions and sanction. Indeed, there is no consensus in social science scholarship on economic sanctions and military interventions as to whether they help promote human rights or exacerbate violations (Hafner-Burton 2014). Just as the sticks of interference, the carrot of foreign aid is a blunt tool for influencing human rights in states where they are systematically neglected or violated, as other political and economic factors often play a much more important role in decisions on overseas economic assistance. In fact, many governments with an express commitment to human rights seem more likely to offer aid to states with wide-

spread repression and terror than to less repressive governments (Hafner-Burton 2014).

Finally, one should not overestimate the power of transnational activist networks and non-state actors to influence the policies of governments that disrespect or violate human rights (cf. Risse et al. 2013). Transnational activist networks may contribute to monitor government compliance and disseminate information and to name and shame abusive governments, but their importance is secondary compared to national political action (Schmitz 2004, p.409). Transnational advocacy networks at best provides valuable backup for domestic opposition groups.

To sum up, external enforcement of international human rights treaties is likely to be undersupplied, politically biased and weak in securing compliance (Simmons 2009, p.123ff). Thus, international action has limited relevance for the implementation of international human rights norms; rather, national politics is the key arena for the realization of human rights.

So what are the means through which domestic enforcement takes place? Beth Simmons (2009, chap.4) suggests three mechanisms through which international human rights treaties may alter domestic politics: First, they may affect elite-initiated agendas. The very question of whether to ratify or incorporate an international human rights treaty may force political elites to review the state's laws, policies and practices, and to consider issues that would otherwise not have surfaced on the political agenda. Second, they open for strategic litigation. Human rights conventions can provide opportunities for individual rights-claimants and their supporters to use domestic courts to pursue politically significant rights cases, at least if the treaties have status as domestic law and if the courts are relatively independent from politics. Third, they trig-

ger broader mobilization. International human rights treaties provide political, legal and social resources for individuals and groups who seek to hold governments to their promises. Activists may use the government's explicit confession to an international law norm in order to improve the rights in which they have a stake. Importantly, these domestic mechanisms may have their greatest significance in transitioning states, where citizens have the motive to mobilize for individual rights and where the institutions of a semi-democratic society allow for challenging governmental policies without risking increased repression.

5. Implications of the domestic empowerment view

The domestic empowerment view, as I have presented it thus far, assumes that outside mechanisms for human rights enforcement will be weak, at best; however, by empowering and authorizing relatively weak agents in domestic society to challenge governmental authority, international human rights norms may have significant, if sometimes subtle, effects on politics. Now, let me spell out a few implications of this view, the ways in which it further differs from Beitz's, and why I believe these differences count to its advantage as a political-practical approach to human rights.

5.1 The importance of legalization

On the domestic empowerment view, for international human rights treaties to alter domestic politics in these ways, their legal form is crucial. It is no coincidence that international human rights norms are codified into treaties of international law. Thereby, they gain both status as law, since they are "embedded in a broader system of interstate rule-making, normatively linked by the principle of pacta sunt servanda,"

and clarity, since the treaty format improves precision and focus, "making it clearer just what compliance requires" (Simmons 2009, p.120). Furthermore, codifying human rights norms in the language of law also endows them with authority, distinguishing them from both power and morality, which offers an indispensable resource for human rights advocates (Donnelly 2006, p.21). Rights claimants can strategically use the fact that their government has committed, explicitly and publicly, to a global standard, acknowledged by virtually all states, in order to legitimate their claims for rights improvement (Simmons 2009, p.15): for each of the three domestic compliance mechanisms, "an official commitment to a specific body of international law helps local actors set priorities, define meaning, make rights demands, and bargain from a position of greater strength than would have been the case in the absence of their government's treaty commitment" (Simmons 2009, p.126).

Critics of a legal or juridical understanding of human rights sometimes suggest that the focus on legal codification and institutionalisation, adjudication and litigation in courts, and punishment and compensation, betrays the moral, aspirational character of human rights and limits their reformatory potential (e.g. Ingram 2009). Critics also claim that the legalism of rights claims close off political debate or turn the issues at stake irreconcilable, by making demands non-negotiable (Ignatieff 2001, p.20). Beitz shares this sceptical view of legalization. He suggests that we should think of human rights as background norms, that is, critical standards that various agents can appeal to when they criticise governmental policies, but not as legal rules, because their would-be legal status does not determinately settle the reasons for acting on them and because members of the discursive community will reasonably disagree about their basis, content and application (Beitz 2009, p.210).

Thinking of law as providing clear-cut rules, whose content is settled and whose application is uncontroversial, may be what leads Beitz to reject the juridical paradigm of implementation and to assert that the domestic paradigm (i.e., mobilization from below by groups within a society) is "the most substantial of all departures from the [juridical] conception of implementation entertained by the framers of modern human rights" (Beitz 2009, p.37). To the contrary, I would suggest that domestic enforcement mechanisms crucially rely on the legalization of international human rights norms, and consequently, they are not too different from what the framers, according to Beitz, originally envisioned.

Moreover, to respond to the first type of scepticism toward legalization, part of what makes human rights aspirationally attractive is their usefulness as legal tools for political change. That political potential would have been lost if the founders of the modern project of human rights had settled for declaring aspirational lists of human entitlements, without codifying them into formal, binding treaties of international law that enumerate detailed legal rights, which are, in principle, enforceable and justiciable at the national level. And, as for the criticism that legal rights claims preclude political disagreement, Samantha Besson (2010, p.133) points out how modern legal theory emphasises how law, and especially legal rights, may provide for intermediary agreements that resolve certain conflicts, yet leave others open, such as the specification of duties, and "the legal guarantees of human rights actually ensure that certain debates take place in a society". Hence, legalized rights open up spaces for political contestation.

5.2 Rights are power mediators

The domestic empowerment view has a distinctly political notion of what human rights are. If human rights are chiefly implemented and enforced through political action in the domestic sphere, we cannot conceptualize them as, first and foremost, matters of international concern, as this function fails to explain why their effects are chiefly the result of political action in the domestic sphere; consequently, neither can we let this conceptualization of a human right determine the content, scope and justification of human rights. Instead, the domestic empowerment view understands human rights as power mediators, to borrow a term from Christian Reus-Smit (2011a):

> "Whatever else they might be, individual rights are power mediators, normative principles that materially weak actors can invoke to alter the power relationship between themselves and materially preponderant political agents or institutions, usually sovereign states." (Reus-Smit 2011a, p.1210)

Thinking of rights as power mediators has been a predominant view in international relations research on international human rights, yet it has been largely neglected in philosophical literatures on human rights, Reus-Smit (2009, p.47; 2011a, p.1210) argues. Rights, he suggests, are a species of normative media which structure power relationships in terms of prevailing societal understandings of legitimate social agency and action (Reus-Smit 2009, p.39). Viewing rights as power mediators highlights how struggles for individual rights produce highly contentious politics by challenging existing social hierarchies and the dominant conceptions of political legitimacy that support them. Similarly, in Simmons's work, this functional aspect of rights is crucial. A government's ratification of international human rights treaties "give relatively weak political actors important tangible and intangible resources that raise the political

costs governments pay for foot-dragging or for noncompliance" (Simmons 2009, p.15).

Note that regarding rights as power-mediators is a descriptive, formal view of their function, not a normative statement about their content or justification. It gives an alternative account of how rights work, without saying anything about what rights there are, to whom they belong or what their normative basis is. Yet just as viewing human rights as by definition giving outside agents reasons to act, the power-mediator view has significant implications for settling normative issues about the content, scope and justification of rights. A distinctive feature of rights is that they allow their holders or users to make claims and demands, and this feature gives them a special moral significance (Feinberg 1970; for an exploration of that insight, see Ho 2014). If the idea of human rights has changed the course of history by empowering and authorizing individuals and groups to mobilize collectively to challenge political inequality and oppression, this is also why that idea is normatively valuable (Reus-Smit 2011a, p.1216).

Consequently, the domestic empowerment view implies a different view of agency: It accords individuals and collective societal agents chief causal agency in enacting the protection and promotion of their rights. This is both causally and normatively significant. In causal terms, highlighting the agency of individuals allows the domestic empowerment view to explain how international human rights treaties can be enforced, in the absence of external international enforcement mechanisms. The domestic enforcement mechanisms Simmons (2009, p.126) details "view local actors not as voiceless victims to be rescued by altruistic external political actors, but as agents with some power selectively to choose tools that will help them achieve their rights goals".

In other words, the agents for which human rights most centrally provide reasons for action are not states, the international community or transnational civil society, but the rights-bearing individuals themselves, since "no one has a more consistent, intense interest in whether and how a government complies with its human rights commitments than the human beings on the ground in that country" (Simmons 2009, p.356).

In normative terms, a theory of human rights which fails to give some role for the causal agency of individual rights-bearers risks not only to become paternalistic, speaking on behalf of but above the heads of those whose rights are at stake, but also to neglect an essential feature of the subject matter: that rights discourse both empowers and authorizes individuals to claim their rights, and that this is an essential part of what makes that discourse morally important.

5.3 Rights claims are claims for equal status

As another attractive feature, the domestic empowerment view can account for the status-egalitarianism of international human rights practice. A striking fact about international human rights doctrine is that it expresses an idea of equality of status, a fact which any normative reconstruction of the practice should be able to explain, as Allen Buchanan (2010) suggests. This idea is expressed in several of the rights we find in international human rights treaties, cutting across established distinctions between different classes of rights (e.g., positive/negative, civil-political/economic-social). For instance, we find it in rights that seek to ensure robust equality before the law and rights against discrimination; in rights to work, adequate living and other 'positive' rights that serve to reduce the risk that inequalities become so great in a society that some persons are regarded as having inferior status; and in rights to political partici-

pation; indeed, the very inclusive ascription of rights to 'all persons', rather than just some category of persons, that we typically find in the preambles of right treaties, is "in itself a recognition of equal status" (Buchanan 2010, p.685). The entitlements these rights describe cannot be justified only instrumentally, as protections against certain "standard threats"; they also affirm the idea that persons should be treated as equals. Furthermore, the idea of equal status also suggests a socio-comparative interpretation of the idea of human dignity: Human dignity, on this view, requires more than respecting a person's autonomy; it also involves respecting her status as an equal to others in her society (Buchanan 2010, p.690).

The ideal of equal status runs like a golden thread throughout the history of struggles for individual rights: in early-modern uprisings and revolutions against feudal orders based on privilege; in a series of waves of expansion of the international system from the Westphalian settlement to the fall of the Soviet Union, whereby colonial subjects challenged imperial hierarchy by mobilizing collectively around their individual right to be treated as equals; in the movements to abolish slavery, racial segregation and apartheid; in successive waves of democratic revolutions and transitions, whereby disfranchised masses have claimed the right to be treated as equals in making the laws that govern them; and, not least, in the establishment of the international human rights regime after the Second World War (Buchanan 2010; Forst 2010; Reus-Smit 2011b). Through such contentious political processes, the moral universe of persons granted equal status through rights has continually expanded to encompass all human persons (Reus-Smit 2011a). Yet the idea of equal status continues to animate struggles for individual rights, e.g., the rights of children, indigenous groups, LGBT persons, disabled persons, and so forth. Equal status, as a plausible interpreta-

tion of human dignity, plays an important inventive function in human rights discourse: "it can lead both to a more complete exhaustion of existing … rights and to the discovery and construction of new ones" (Habermas 2010).

Now, I want to suggest that thinking of rights as power-mediators, as enabling their holders to make claims and demands, can account for the status-egalitarianism we register in international human rights discourse and in historical struggles for individual rights. Put differently, the relationship between status egalitarianism and rights discourse is not contingent: Rights claims are essentially or conceptually claims for equal status. Alexis de Tocqueville (1997, p.30) captures this aspect when he exclaims: "There is something great and virile in the idea of right which removes from any request its suppliant character, and places the one who claims it on the same level as the one who grants it." Viewing human rights as conceptually connected to the idea of equal status also helps explaining what makes them both powerful resources for mobilization and compelling moral principles: namely, their universalizability, i.e., "the fact that they cannot, coherently, be claimed by one but denied to another" (Reus-Smit 2011a, p.1217). This innate connection does not imply that we can somehow derive human rights from the moral value of equality or human dignity, but rather, that the act of asserting one's right conceptually involves claiming equal status.

Hence, rights allow their users to make claims for equal status, which is what makes them morally important. If this is a central feature of the politics and discourse of human rights, as I believe it is, the domestic empowerment view seems to capture it well, as it focuses on how human rights norms provides reasons for action to rights-holders themselves. By comparison, existing political conceptions seem not to register this use of rights at all. On Beitz's view, human rights provide reasons to act for a

wide range of agents – states, international organizations, transnational NGOs, and so on – but not, it seems, for the persons whose rights they are. At any rate, the fact that rights provide rights-bearers with reasons to act has no moral importance in his account of the practice of human rights. The problem becomes evident in the way that Beitz treats three specific hard cases of rights. I shall focus here on how he deals with rights to political participation, but I think a similar case could be made against his treatment of women's rights (cf. Hessler 2013) and rights against poverty.

Like other adherents of the political conception (Baynes 2009), Beitz rejects the idea that rights to political participation and democratic government are human rights. On Beitz's approach, we should accept a claim that something – such as a right to political participation – is a human right if we can demonstrate three things: (1) That the putative right would protect an interest that is important enough to the beneficiaries for its protection to be a political priority; (2) that available public policy instruments would help protect the underlying interests against standard threats; (3) that a state's failure to protect the interest would be an appropriate object of international concern through action by eligible outside agents (Beitz 2009, p.137).

As Beitz notes, the idea that there is a human right to democracy has become a commonplace in international doctrine and practice, yet he finds it to fail his tests. Democracy, he concedes, is desirable because it helps people protect themselves against the predictable, standard threat that an oppressive or merely unresponsive government poses to their enjoyment of urgent interests in physical or material security. However, he adds, this instrumental justification of democracy does not hold generally across contexts. The putative right to democratic government calls for a particular institutional arrangement that is unfeasible in certain societies: Some societies are

too poor and their state apparatus too fragile, in which case democracy may not outperform authoritarian rule in protecting rights or satisfying urgent interests, and we cannot be confident that internal or external agents would succeed in promoting democracy in such weak states. In some societies, the state may do a credible job of protecting rights and urgent interests, but since most citizens hold non-democratic ideals of legitimate government, their collective right to self-determination would be violated if some group or external agents would impose democratic government. Therefore, Beitz concludes, a right to collective self-determination is a better candidate for a human right than a right to democracy.

While there is much to be said about the way in which Beitz reaches that conclusion, what I find most problematic is how he reduces the question of whether there is a human right to political participation, as evolving international human rights doctrine suggests, to a question whether outside agents should and could act to promote or enforce democracy in a society where it is lacking. Posing the problem like that, a right to democracy does look questionable: Historical experience suggests that it is virtually impossible for even the most well-meaning outside agents to establish a working democracy, and that such interferences, even as they are justified in terms of human rights, often serve less noble purposes. But then again, the same might be said for many other currently recognised human rights – the problem is not unique to those rights that Beitz consider to be hard cases (cf. Hessler 2013).

However, would a putative human right to political participation authorise and empower individuals and groups in a society to challenge governmental authority where such rights are denied? If this belongs among the crucial question we must ask about proposed human rights, I believe the empirical track record rather indicates that

recognising a human right to democratic participation can play a constructive, instrumental role: It may contribute to changing the way a quiescent citizenry understands its political entitlements and to undermining a political culture that legitimizes a hierarchical state; it may help pro-democracy opposition groups mobilize for democratic change and consolidation; and it may further a long-term realignment of political forces (cf. Scheingold 2010, p.131). Moreover, it would seem evidently detrimental to such processes to remove or demote rights to political participation from current international doctrine. To conclude, this example illustrates how the domestic empowerment view generates a normative evaluation of contemporary human rights doctrine quite distinct from the international action view.

5.4 The power-mediator role of rights is defined functionally, not institutionally

On the domestic empowerment view, seeing international human rights as chiefly realized through domestic political action, one might still hold that they are also matters of international concern. Some critics of human rights suggest that an international human rights regime might have some legitimate role in elaborating and articulating human rights as normative standards, but that it should leave it to states to interpret and implement those standards and other states have no right to interfere where states fail to discharge their duties to protect human rights (cf. Beitz 2009, p.123). Obviously, this argument does not follow from the domestic empowerment view, which, to the contrary, can assert that outside agents have a self-evident right to express their concern when a government violates or fails to protect human rights and that by doing so, they sometimes provide invaluable normative backup for domestic agents. However, to provide reasons for such international interference is not a necessary con-

ceptual feature of human rights. Indeed, given that even international concern (not to speak of interference or intervention) tends to be selective and erratic, it is desirable to be able to conceptualize human rights in its absence.

By conceptualizing rights as power-mediators, the domestic empowerment view is state-centric in a less arbitrary way than other political conceptions, which have been criticised for being too bound up with the contingencies of the current state system (Valentini 2012). Specifically, by stipulating that human rights are, conceptually, matters of international concern, Beitz hardwires the existing institutional order into the concept of human rights, and limits their scope accordingly; consequently, to speculate about human rights in anything else than a our current world order of sovereign states is a category mistake. By contrast, the power-mediator function does not depend, conceptually, on the existence of an international system of sovereign states; it offers a general, practice-independent account of the function that claims for individual rights play (cf. Valentini 2011). Indeed, claiming individual rights to equal status against hierarchies based on privileged entitlement has served critical functions in the establishment of the international system: Christian Reus-Smit (2011b) has shown how the system of sovereign states has globalized through five great waves of expansion, including the Westphalian settlement, the independence of Latin America, post-1945 decolonization and the dissolution of the Soviet Union. In each of those waves, subject peoples mobilized ideas about individual rights in order to challenge imperial hierarchy based on privileged entitlements, and, as imperial powers failed to meet their demands for equal standing, they exited to form independent states.

However, the fact that the power-mediator role is functionally defined, independently of the current practice of human rights and the international order of states,

does not preclude that rights claims, on this view, are always institutionally referential in the sense that they address political authority and tap prevalent discourses in society for legitimating support (Reus-Smit 2009): They pertain to a state, and even as other powerful agents may violate them, the responsibility for protecting individual rights and holding violators to account always falls on a state (Forst 2010).

5.5 Human rights are not only the rights of others

Finally, the domestic empowerment view allows us to explore the role human rights play in democracies – not only in periods of transition, but in well-functioning democratic rule of law states, too. Only too many theorists (and policy-makers) seem to think of human rights as the rights of others – citizens of other states, whose systematic failure to protect those rights may call on us, and our governments, to act, in one way or another. Apart from suggesting reasons (or duties, as some cosmopolitans more strongly phrase it) to interfere in such circumstances, human rights, on this view, offer little by way of political, practical guidance in societies that meet certain basic criteria of democracy and the rule of law.

I believe this is problematic for several reasons. First, human rights set minimal standards, and therefore leave much discretion for democratic decision-making at the national level, but above and beyond that, they also set developmental standards, challenging governments to continuously improve their rights performance, and, moreover, the standards keep evolving (Nickel 2007, p.36f). Hence, even if we think of human rights as standards of legitimacy and toleration, we cannot determine whether a state fulfils them (and thus deserves to be left to its own devices) independently of the practice itself.

Second, it seems that international human rights norms have had some of their most remarkable yet unanticipated effects precisely on the world's leading democracies (cf. Hafner-Burton 2012, p.276). The European Convention system provides a telling example: It was mainly conceived as an inter-state pact to prevent states from backsliding into dictatorship, but, as was demonstrated by the so-called Greek case in 1969, an inter-state complaint before the Strasbourg Commission did nothing to prevent the systematic torture and other rights violations committed by the military junta in Greece, which simply decided to leave the Council of Europe. However, in the following years, the ECHR system managed to reinvent itself as a supranational constitutional court in the human rights area, using the convention as a bill of rights for European democracies (Bates 2010), and it has since dramatically altered the rights practices of member states. Not only does this, again, show the limits of international action against states that fail or refuse to respect human rights, but also that international human rights institutions may play a constructive, critical role even where democracy, the rule of law and basic rights are consolidated in national constitutional law or practice. Admittedly, the European system is unparalleled, but it would seem to be a weakness of a political theory of human rights if it just bracketed such a remarkable case as an anomaly.

Third, thinking that human rights pertain only to others may lead us to neglect how even states that do a credible job of realizing human rights often fall short in many respects (cf. Hessler 2013, p.388). Just think of the Nordic countries, the citizens of which enjoy, on average, a level of rights protection that few other states can match. They rank in the absolute global top on most indexes that can be used as proxies for estimating aggregate human rights fulfilment. They also broadly promote hu-

man rights internationally in their foreign policies and they have sponsored new international treaties detailing, for instance, rights against torture, women's rights, children's rights and indigenous peoples' rights (Schaffer [forthcoming]).

Yet even these supposedly exemplary states – sometimes dubbed "moral superpowers" (Dahl 2005) or "global good Samaritans" (Brysk 2009) – have a track record of systematic abuses of human rights in recent history: mass sterilization laws and eugenics programmes affecting tens of thousands of citizens; forcible assimilationist social policies against ethnic minorities; widespread abuse of children placed in foster care and orphanages; illegal surveillance and registration of suspected communist sympathisers; rendition of terrorist suspects to countries where they risk being tortured; extensive use of solitary confinement and isolation in prisons, etc. (Langford & Schaffer 2014). To assume that these states, and others like them, are inherently legitimate by virtue of their domestic institutions, and by default immune from human rights-based criticism, neglects that serious human rights violations may coexist with exemplary efforts at realizing human rights and top-notch democratic institutions. A normative theory of human rights that aims to be political and practice-oriented seems stronger if it does not come with conceptual blinkers to thinking of such cases, and their potential solution, in terms of international human rights.

6. Conclusion

In this chapter, I have sought to present a political-practical approach to human rights that emphasises how international human rights mainly make a difference in the world by empowering groups and individuals in domestic society to challenge political authority. I have mainly presented it in polemic with Charles Beitz's alternative view

that human rights are first and foremost matters of international concern. The two approaches share a methodological commitment to theorizing human rights not from the point of view of moral theory, but from the perspective of political practice, yet I hope to have shown that there is more than one way to interpret the conceptual features, empirical effects and normative justification of that practice.

What I have offered is just a theory of what the practice of human rights is, not a conclusive argument: I cannot claim to have proven, decisively, that a certain interpretation of the practice and its political effects is correct or incorrect. Yet that is less of a philosophical controversy over principles, concepts or values, and rather a set of empirical question about how international human rights norms and institutions have come about, how they shape actions and outcomes in world politics, and to whom they give reason to act. Hence, an important task for the philosophy of human rights is to engage even further and closer with empirical scholarship on human rights in law, history and political science.

References

Bates, E., 2010. The evolution of the European Convention on Human Rights: from its inception to the creation of a permanent court of human rights, Oxford ; New York: Oxford University Press.

Baynes, K., 2009. Toward a Political Conception of Human Rights. Philosophy & Social Criticism, 35(4), pp.371–390.

Beitz, C., 2009. The idea of human rights, Oxford: Oxford University Press.

Besson, S., 2010. Human Rights qua Normative Practice: Sui Generis or Legal? Transnational Legal Theory, 1(1), pp.127–133.

Brysk, A., 2009. Global good Samaritans : human rights as foreign policy, Oxford: Oxford University Press.

Buchanan, A., 2010. The Egalitarianism of Human Rights. Ethics, 120(4), pp.679–710.

Dahl, A.-S., 2005. Sweden: Once a moral superpower, always a moral superpower? International Journal, 61, p.895.

Donnelly, J., 2006. The virtues of legalization. In S. Meckled-Garcia & B. Çalı, eds. The legalization of human rights: Multidisciplinary perspectives on human rights and human rights law. London: Routledge, pp. 67–80.

Donnelly, J., 2002. Universal human rights in theory and practice, Ithaca: Cornell University Press.

Feinberg, J., 1970. The nature and value of rights. The Journal of Value Inquiry, 4(4), pp.243–260.

Forst, R., 2010. The Justification of Human Rights and the Basic Right to Justification: A Reflexive Approach. Ethics, 120(4), pp.711–740.

Gallie, W.B., 1956. Essentially contested concepts. Proceedings of the Aristotelian Society, 56, pp.167–198.

Habermas, J., 2010. The concept of human dignity and the realistic utopia of human rights. Metaphilosophy, 41(4), pp.464–480.

Hafner-Burton, E.M., 2014. A social science of human rights. Journal of Peace Research, 51(2), pp.273–286.

Hafner-Burton, E.M., 2012. International Regimes for Human Rights. Annual Review of Political Science, 15(1), pp.265–286.

Hessler, K., 2013. Hard Cases: Philosophy, Public Health, and Women's Human Rights. The Journal of Value Inquiry, 47(4), pp.375–390.

Ho, K.T., 2014. On rights and demands: How theorists of rights can benefit from taking demands seriously. Thesis. University of St Andrews. Available at: http://research-repository.st-andrews.ac.uk/handle/10023/5892 [Accessed February 4, 2015].

Ignatieff, M., 2001. Human rights as politics and idolatry, Princeton, N.J.: Princeton University Press.

Ingram, D., 2009. Of sweatshops and subsistence: Habermas on human rights. Ethics & Global Politics, 2(3), pp.193–217.

Karp, D.J., 2013. The location of international practices: what is human rights practice? Review of International Studies, 39(04), pp.969–992.

Langford, M. & Schaffer, J.K., 2014. The Nordic Human Rights Paradox, Rochester, NY: Social Science Research Network. Available at: http://papers.ssrn.com/abstract=2275905 [Accessed October 1, 2014].

Meckled-Garcia, S., 2013. The Practice-Dependence Red Herring and Substantive Reasons for Restricting the Scope of Justice. Raisons politiques, 51. Available at: http://papers.ssrn.com/abstract=2137525 [Accessed February 7, 2013].

Nickel, J.W., 2006. Are human rights mainly implemented by intervention? In R. Martin & D. A. Reidy, eds. Rawls's law of peoples: A realistic utopia?. Oxford: Blackwell, pp. 263–277.

Nickel, J.W., Assigning roles to human rights. In A. Etinson, ed. Human rights: Moral or political?. Oxford: Oxford University Press. Available at: https://drive.google.com/file/d/0B_VH8cWdlkJSamRrYVFEOXNzd00/edit?pref=2&pli=1.

Nickel, J.W., 2007. Making sense of human rights, Malden, MA; Oxford: Blackwell Pub.

Raz, J., 2010. Human rights without foundations. In S. Besson & J. Tasioulas, eds. The philosophy of international law. Oxford: Oxford University Press, pp. 321–338.

Reus-Smit, C., 2011a. Human rights in a global ecumene. International Affairs, 87(5), pp.1205–1218.

Reus-Smit, C., 2009. On rights and institutions. In C. R. Beitz & R. E. Goodin, eds. Global Basic Rights. Oxford: Oxford University Press, pp. 25–48.

Reus-Smit, C., 2011b. Struggles for Individual Rights and the Expansion of the International System. International Organization, 65(02), pp.207–242.

Risse, T., Ropp, S.C. & Sikkink, K. eds., 2013. The persistent power of human rights: from commitment to compliance, Cambridge: Cambridge University Press.

Schaffer, J.K., 2014. A Pluralist Approach to the Practice of Human Rights, Rochester, NY: Social Science Research Network. Available at: http://papers.ssrn.com/abstract=2490964 [Accessed September 23, 2014].

Schaffer, J.K., 2013. Legitimacy, global governance and human rights institutions: Inverting the puzzle. In A. Føllesdal, J. K. Schaffer, & G. Ulfstein, eds. The legitimacy of international human rights regimes: Legal, political and philosophical perspectives. Cambridge: Cambridge University Press, pp. 212–242. Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2066563.

Schaffer, J.K., [forthcoming]. Mellan aktivism och ambivalens: Norden och de mänskliga rättigheterna. Retfærd: Nordic Journal of Law and Justice.

Schaffer, J.K., 2015. The co-originality of human rights and democracy in an international order. International Theory, 7(1).

Schaffer, J.K., Føllesdal, A. & Ulfstein, G., 2013. International human rights and the challenge of legitimacy. In A. Føllesdal, J. K. Schaffer, & G. Ulfstein, eds. The legitimacy of international human rights regimes: Legal, philosophical and political perspectives. Cambridge: Cambridge University Press, pp. 1–31. Available at: http://ssrn.com/abstract=2276835.

Scheingold, S.A., 2010. The Politics of Rights: Lawyers, Public Policy, and Political Change, University of Michigan Press.

Schmitz, H.P., 2004. Domestic and Transnational Perspectives on Democratization. International Studies Review, 6(3), pp.403–426.

Shapiro, I., 2005. The flight from reality in the human sciences, Princeton: Princeton University Press.

Simmons, B., 2009. Mobilizing for human rights: international law in domestic politics, Cambridge: Cambridge University Press.

Tasioulas, J., 2009. Are Human Rights Essentially Triggers for Intervention? Philosophy Compass, 4(6), pp.938–950.

De Tocqueville, A., 1997. Memoir on pauperism, London: Civitas.

Valentini, L., 2011. Global Justice and Practice-Dependence: Conventionalism, Institutionalism, Functionalism. Journal of Political Philosophy, 19(4), pp.399–418.

Valentini, L., 2012. In What Sense are Human Rights Political? A Preliminary Exploration. Political Studies, 60(1), pp.180–194.