

Abstract: Human Rights and the Minimally Good Life

All people have human rights and, intuitively, there is a close connection between human rights, needs, and autonomy. The two main theories about the nature and value of human rights often fail to account for this connection. *Interest* theories, on which rights protect individuals' important interests, usually fail to capture the close relationship between human rights and autonomy; autonomy is not constitutive of the interests human rights protect. *Will* theories, on which human rights protect individuals' autonomy, cannot explain why the non-autonomous have a human right to meet their needs. This paper argues that it is possible to account for the close connection between human rights, needs, and autonomy if human rights at least protect individuals' ability to live minimally good lives. It argues that people need whatever will enable them to live such lives and autonomy is partly constitutive of such a life. This argument also has important implications for some other key debates in the human rights literature.

Human Rights and the Minimally Good Lifeⁱ

I. A Dilemma for Traditional Human Rights Theories

All people have human rights and, intuitively, there is a close connection between human rights, needs, and autonomy. Accounting for this connection is much more difficult than one might expect. There are two main theories about the nature and value of human rights -- *interest* theories and *will* theories. On *interest* theories, human rights protect individuals' important interests (Raz, 1998). Such theories are well suited to account for the fact that human rights protect individuals from dire need. Even the non-autonomous have some needs which constitute, or are necessary for fulfilling, some of their important interests. Unfortunately, many interest theories fail to capture the close relationship between human rights and autonomy (Hassoun, 2012 b). As Andrew Fagan suggests, interest theories tend to neglect the role of autonomy in grounding human rights; they neglect the role of human rights in protecting human agency (Fagan, 2006). On many interest theories, autonomy is not necessary for, or constitutive of, the interests human rights protect (e.g. see Raz, 1998; Hassoun, 2012b). Will theories avoid this problem. On *will* theories, human rights protect individuals' autonomy (see, for instance: Griffin, 2006). Unfortunately, will theories cannot explain the universality of human rights since some people lack autonomy. Some are not even potentially autonomous. On these theories, the non-autonomous, including the very young and severely disabled, lack human rights (Griffin, 2006). Furthermore, if human rights only protect individuals' autonomy, human rights can be fulfilled and yet some can be left in dire need; people need

more than just autonomy (Griffin, 2006). So, the most common attempts to justify human rights usually fail to appropriately connect human rights and autonomy or cannot account for the human right of all to meet their needs.

This paper sketches one possible solution to this dilemma. This solution could, presumably, be framed in terms of either a will or an interest theory. To avoid begging the question against either kind of theory, however, this paper will try to provide the solution in neutral terms as an account of human rights that protects individuals' ability to live a minimally good life.ⁱⁱ It will argue that people need whatever will enable them to live minimally good lives and that autonomy is characteristic of such a life. In doing so it, thus, shows that most people need what will enable them to secure autonomy (amongst other things).ⁱⁱⁱ

II. Preliminaries

It does not matter much to me if this paper's account of human rights is a sophisticated kind of interest- or will- theory, but some may worry that it is a non-starter because it falls into one or another of these categories. Will theorists may argue that, in subsuming concern for autonomy under concern for a minimally good life, this paper's account of human rights cannot ground appropriate respect for autonomy. Will theorists may maintain that many restrictions of autonomy – e.g. preventing people from voting – do not prevent people from living a minimally good life but still violate human rights. They may contend that such restrictions fail to respect autonomy. Will theorists may suggest that the problem lies in ignoring the fact that autonomy is not an interest at all; it is a constraint on the promotion of interests. On the other hand, interest theorists may suggest that if

an account of the minimally good life includes autonomy, it cannot be an account of our interests. That is, interest theorists may, like some will theorists, maintain that autonomy is not an interest, even if they deny that it is a constraint on the promotion of interests. If human rights are just protections of our interests, the fact that autonomy is not an interest may provide reason for interest theorists to reject this paper's account of human rights' ground.

I expect that the concerns here can be accommodated to some extent. Autonomy is something that we must respect, and respect for autonomy can act as a constraint on the promotion of (other?) interests. Restricting autonomy will make it more difficult for individuals to live minimally good lives – especially when the restrictions are severe and pervasive. But there are other constraints we must respect as well. We cannot countenance violations of some (other?) interests any more than we can countenance (some) restrictions of autonomy. In general, individuals' ability to live a minimally good life cannot be sacrificed for other valuable goals – like promoting peace or protecting the natural environment. Moreover, autonomy may not properly qualify as an interest (though this paper's argument should go through even if people do have an interest in autonomy).

This does not mean that the account can fully capture all human rights. It may not be able to explain why restricting individuals' ability to vote violates human rights where it does not impact individuals' ability to live a minimally good life, for instance. On an adequate account, human rights may have to do other things besides protect individuals' ability to live a minimally good life.

That said, accounts on which human rights only protect autonomy or interests that do not include autonomy fail for the reasons suggested at the start. Accounts grounded entirely in autonomy cannot abide by the fact that even those who lack autonomy have some human rights. Accounts grounded only in interests that do not include autonomy fail explain the role of human rights in protecting agency.

Although this paper will focus on addressing the dilemma sketched above, it is worth mentioning that its argument also has implications for some other key debates about human rights in the literature. It opposes a recent trend away from *foundational* theories of human rights (grounded in interests or autonomy) and toward a purely *political* conception of human rights. On political conceptions of human rights, they are defined in terms of their functions. So, for instance, one might specify that human rights function as minimal standards states must meet to retain their sovereignty over their population (Raz, 2007).

Perhaps the main objection to foundational theories -- that may have motivated the turn towards political conceptions -- is this: People may have autonomy, or have their interests fulfilled, yet their human rights can still be violated. Slaves, for instance, may have the autonomy and welfare they need to live a minimally good life.

However, I believe this objection leaves open many possible responses. It is possible to avoid this objection by endorsing pluralism about the ground of human rights (e.g. a hybrid foundational-political account or an account partly grounded in our equality or dignity) rather than endorsing a completely political

conception of human rights. That is why this paper suggests that human rights may do much more than protect individuals' ability to live a minimally good life – it acknowledges that human rights may have other grounds or functions. This does not settle the debate about whether or not it is best to adopt a political conception of human rights as opposed to an account with some foundational content. Still, the paper provides some reason to try to construct a new account with some foundational content.

Perhaps part of the motivation to turn to political accounts of human rights may come from an underlying presumption about what a good account should provide. Some may hold that a good account of human rights should specify necessary and sufficient conditions for something to qualify as a human right.

Although it would be great to have an account of the necessary and sufficient conditions for something to qualify as a human right, I do not believe that political theories are more likely to achieve this objective than foundationalist theories. Some functions or grounds of human rights will probably be neglected by theories interpreted in this way. Alternately, the posited grounds or functions of human rights may be much too robust to be plausible. Consider just one example. Joseph Raz provides what is, perhaps, the best known political account of human rights (Raz, 2007). On his account, human rights' set limits to state sovereignty. But if Raz did not recognize that human rights have other functions, his account would fail to capture many of the things human rights do (and should do). Human rights provide rallying grounds for governmental and non-governmental action in meeting needs. They play an important role within

international criminal law – protecting individuals against their states. And they do many other things besides.^{iv}

Nor do I believe trying to provide an account of the necessary and sufficient conditions for something to qualify as a human right is the only objective at which a good account must aim. Sometimes philosophical wisdom lies in isolating one or two things of value or importance that human rights, for instance, must protect.

Moreover, I do not believe a good account of human rights must always be modest. The account provided here is compatible with an incredibly demanding theory of human rights. Often authors limit human rights' correlative obligations to what is feasible or standard. However, I know of no one who has justified this view. Hence, the paper also provides a challenge for those who want to limit the paper's account in such ways to justify doing so. The next section sets out the account of autonomy at issue in this paper's conception of the kind of minimally good life human rights must protect.

III. Autonomy

Autonomy is often equated with individuality, freedom of the will, integrity, independence, self-knowledge, responsibility, freedom from obligation, self-assertion, critical reflection, and absence of external causation (O'Neill 2000, 30). Despite their diversity, most accounts of autonomy have this in common: People must freely shape their lives (Nussbaum 2000, 72). This much is essential even for the most minimal sort of autonomy as a pre-requisite for free action.

To shape one's life, one needs to have some freedom from both internal, and external, constraint. Internal freedom is roughly the capacity to decide "for oneself what is worth doing," one must be able to make "the decisions of a normative agent"; to recognize and respond to value as one sees it (Griffin 2006). One must be able to reason about and make both some simple, and some significant, plans on the basis of one's beliefs, values, and goals (henceforth *commitments*). External freedom, or liberty, is roughly freedom from interference to pursue a "worthwhile life" (Raz 1998; Griffin 2006). One must have some freedom from coercion and constraint. The key difference between internal, and external, freedom is that the former is freedom from self-constraint, the later freedom from environmental, or other-imposed, constraints. A woman, who can think for herself, may have internal freedom even in she lacks external freedom because she is imprisoned. To live an autonomous life, however, more is required. One must actually exercise one's freedom -- making both some simple, and significant, choices. One must have at least some good options from which to choose. Let us consider each of these conditions for autonomy in turn.

First, what does it mean to say that one must be able to reason on the basis of one's commitments? The idea is just this: Autonomous people must have adequate instrumental reasoning ability. Some hold much more demanding conceptions of rationality on which saying that autonomy requires the ability to reason would be controversial. Kant, for instance, thinks that reason requires each of us to acknowledge the categorical imperative as unconditionally required.^v The rationality component of autonomy at issue does not require this much, however.

The rationality component only requires that people have the ability to do some instrumental reasoning.

Next, consider what it means to say that one must be able to make some significant plans on the basis of one's commitments. To make significant plans one need not plan one's whole life or every detail of one's day. Rather, one must be able to navigate through one's day with ease and make general plans for the future. One must not be constrained to making plans only about how to meet one's needs like Joseph Raz's proverbial man in a pit or hounded woman.^{vi} Though one might not choose to exercise this ability, one must have the planning ability necessary to pursue the projects one values; to pursue a good life as one sees it. This ability requires a kind of internal freedom one can have even if subject to external constraint. One must be able to form some significant plans that would work if implemented. One must be able to make some significant plans that one could carry through if free from external constraint. There are many ways of starting to make sense of this idea. One might, for instance, analyze the ability to make some significant plans on the basis of one's commitments in terms of the ability to make one's motivating commitments generally coherent. Alternately, one might give a decision-theoretic analysis of planning in terms of a consistent preference ordering. Yet another option is to cash out the ability to make some significant plans on the basis of one's commitments in terms of ordering one's ends perhaps by drawing on John Rawls' work on plans of life.^{vii} It is not necessary to explicate the ability to make some significant plans on one's

commitments further here since these are all standard moves in the literature on autonomy.^{viii}

Consider, also, what is required to carry out some significant plans. This ability requires both some internal, and external, freedom. Once again, internal freedom is roughly the capacity to decide “for oneself what is worth doing,” one must be able to make “the decisions of a normative agent”; to recognize and respond to value as one sees it.^{ix} External freedom, or liberty, is roughly freedom from interference to pursue a “worthwhile life.”^x To carry out some significant plans one must have enough freedom from coercion and constraint to carry out those actions necessary to bring some valuable plans to fruition. The importance of the qualifier *some* is just this: One need not be able to carry out every valuable plan that one might want to carry out to have this component of autonomy. Still, the ability to carry out *some* significant plans is a necessary component of the relevant kind of autonomy.

The idea that people must have good options is tied to the idea that people must be able to reason about, make, and carry out both some simple, and some significant, plans. Variety matters as well as number. We must be able to “exercise all the capacities human beings have an innate drive to exercise, as well as to decline to develop any of them” (Raz, 1998, 375). People must be able to move their bodies, sense the world, use their imaginations, express affection, and occupy their minds. People lack good options if all of their choices are dictated by others or circumstances. They must not be paralyzed or chained. Their every decision must not be determined beforehand by the dictate to maintain their life. If

a man threatens a singer with the loss of her voice if she does anything he dislikes, for instance, the man compromises the singer's autonomy. All of a person's options cannot have horrendous effects. On the other hand, acting on significant options must at least sometimes have significant effects. If a person fails in everything she or he tries to accomplish, that person is not autonomous. Though, people need not fully realize their valuable capacities to be autonomous, they must be able to choose or reject self-realization.

The conditions for autonomy as a pre-requisite for free action explicated in this section are minimal. So, they should be able to secure broad assent. In fact, some accept this conception of autonomy. This is the conception of autonomy that Joseph Raz provides in his book *The Morality of Freedom*, for instance. As Raz puts it:

If a person is to be maker or author of his own life then he must have the mental abilities to form intentions of a sufficiently complex kind, and plan their execution. These include minimum rationality, the ability to comprehend the means required to realize his goals, the mental faculties necessary to plan actions, etc. For a person to enjoy an autonomous life he must actually use these faculties to choose what life to have. There must in other words be adequate options available for him to choose from. Finally, his choice must be free from coercion and manipulation by others, he must be independent (Raz, 1998, 373).

Even those in tribal communities, sustenance farmers, or hunter-gatherers can secure this kind of autonomy – though the kinds of options that they have will likely be very different from those readers of this article are likely to enjoy.

Not everyone accepts this (minimal) account of autonomy. James Griffin, for instance, uses autonomy to pick out only some of the conditions for autonomy at issue in this paper. He suggests that autonomy is the “capacity to recognize

good-making features of human life, both prudential and moral, which can lead to the appropriate motivation and action” (Griffin, 2006, Ch. 7, 11). For Griffin, autonomous people must just be able to form a conception of the good life, however piecemeal and incomplete. Others suggest accounts of autonomy that are much more robust than that sketched here where autonomy is a distinctive kind of achievement or requires full Kantian reasoning on the basis of the categorical imperative.^{xi} Those who prefer to use a different term for what this paper will continue to refer to as “autonomy” can, however, simply substitute that term for “autonomy” in the arguments that follow.

It is also possible to accept this paper’s argument and hold a different conception of autonomy. It is only essential that one endorse the relationship I suggest below between autonomy, needs, minimally good lives, and human rights. As long as the reader agrees that a minimally good life requires autonomy, and that people need whatever allows them to live such lives, the idea that people have a human right to what they need cannot be rejected out of hand. Subsequent sections will, however, adopt the preceding account of autonomy in trying to make this case.

Subsequent sections will consider how we might avoid the dilemma for human rights theories suggested at the start – that they either fail to account for the close connection between human rights and autonomy or *fail to account for* the close connection between human rights and needs. The next two sections argue that people need whatever will enable them to live minimally good lives and that autonomy is characteristic of such a life. In doing so they, thus, show that

people need what will enable them to secure autonomy (amongst other things). If these arguments go through, they establish this paper's conclusion; an account on which human rights protect individuals' ability to live minimally good lives, if defensible, will appropriately connect human rights and autonomy and account for the human right of all to meet their needs. More precisely, subsequent sections will argue as follows:

- 1) Autonomy is characteristic of a minimally good human life.
- 2) People need what will enable them to live minimally good human lives.
- 3) So, if human rights protect individuals' ability to live a minimally good human life, human rights protect individuals' ability to secure autonomy and meet their needs.

I take the following (implicit premises) to be fairly uncontroversial, if not analytic: 1a) If people need whatever will enable them to live a minimally good human life and human rights protect individuals' ability to live a minimally good human life, human rights protect individuals' ability to meet their needs. 2a) If autonomy is characteristic of a minimally good human life and human rights protect individuals' ability to live a minimally good human life, human rights protect individuals' ability to secure autonomy. So, this paper need only defend 1) and 2) above. This paper's argument is compatible with significant constraints on the obligations correlative to human rights that are external to their ground in the importance of protecting individuals' ability to live a minimally good life. Human rights may also have other grounds or functions.^{xii} In any case, section IV defends 1) and section V defends 2). The final sections conclude.

IV. Autonomy and Needs

This section argues that autonomy is characteristic of a minimally good human life by appeal to perfectionist theories. So, it is worth saying a few words about perfectionist theories and how they might help explicate the essence of a minimally good human life. On perfectionist theories, the minimally good human life is one that develops the properties that constitute, or are at least central to, human nature (Arneson, 1999, 120). Perfectionist theories are developed via a two-stage process. First, they sketch a broad account of what a minimally good life would be for animals as well as humans, if not all living things. Then, they arrive at an account of the minimally good *human* life by considering “the peculiarities of the human situation” (Kraut, 1994, 48).

On perfectionist theories, the minimally good human life need not be perfect, but it should have some things of value or pleasure in it or have some significance. A human life completely devoid of significance and value, full of pain and suffering, is not even minimally good. On the other hand, a human life may not be minimally good and yet have some significant and valuable things in it. In other words, a minimally good life must be worth living, but a minimally good life for humans requires more than that. The threshold for living a minimally good life must fall somewhere between that of a life not worth living and a purely good life. One might specify that a minimally good life is well worth living or a life at the lowest level of flourishing.

Consider a few examples of perfectionist accounts of the minimally good life. Richard Arneson suggests that Thomas Hurka’s perfectionism can, for

instance, be fruitfully (mis)interpreted as providing a perfectionist account of the minimally good human life. On this account, the minimally good human life (henceforth, simply, *the minimally good life*) includes the things “essential to humans and conditioned on their being living” (Hurka, 1993, 16).^{xiii} Or consider a different perfectionist theory. In “Desire and the Human Good,” Richard Kraut suggests that “there are at least three conditions that make a life a good one: one must love something, what one loves must be worth loving, and one must be related in the right way to what one loves” (Kraut, 1994, 44). Alternately, one could take Martha Nussbaum's idea of a “fully human” life to provide an account of what one needs for a minimally good life: threshold levels of central human capabilities (Nussbaum, 2000, 71).

On plausible perfectionist theories, whether or not one has a minimally good life is not a completely subjective matter, though what constitutes a minimally good life may differ in different contexts. Rather, a minimally good life must be choice-worthy and one in which people can choose.^{xiv}

On plausible perfectionist theories, a minimally good human life is one in which people are, characteristically, autonomous. Some people may live minimally good lives without autonomy and others may have autonomy yet fail to live minimally good lives. Still, autonomy is a central component of a minimally good life for most people and people must normally be free to shape their lives whether or not they think they need to be able to do so (Nussbaum, 2000, 72).^{xv} On Arneson's suggested adaptation of Hurka's theory, for instance, the minimally good life includes the kind of practical and theoretical reason this paper has called

autonomy since humans are not only physical objects but, more remarkably, living rational animals.^{xvi} Similarly, one might slightly revise Kraut' theory to suggest that the minimally good life (as opposed to the simply good one) requires making appropriate autonomous choices. We need to be able to reflect and evaluate to be related in the right way to our valuable loves; our doing even minimally good may be grounded "in our capacity for rational choice" (Kraut, 1994, 48). Finally, the capacity for autonomous choice is central to the account of a minimally good life on which this life requires Nussbaum's central capabilities (Nussbaum, 2000). Autonomy may have more, or less, importance on different perfectionist theories. Still, because humans are distinctively autonomous creatures, any plausible perfectionist theory should support the conclusion that autonomy is characteristic of a minimally good life.

Even if one does not adopt a perfectionist theory, however, autonomy is characteristic of a minimally good life in the actual world. Even though there are conditions under which autonomy is not necessary for a minimally good life, human rights theories must be responsive to actual circumstances (Nickel, 2006). In the real world, the kind of autonomy sketched above is necessary for *most* people to live a minimally good life and it is an especially important component of such a life for many.^{xvii} Deep understanding, rewarding struggle, significant achievement, good relationships, virtue and so forth are some of the things that make individuals' lives go (minimally) well; although one need not have all of these things to live a minimally good life, they are all characteristic of minimally good lives. Autonomy is often important for obtaining these things. To create and

maintain good relationships, people must normally make and carry out plans to spend time with their friends and family. Planning, and carrying out one's plans, to learn, or develop skills or character traits, is often necessary for understanding or significant achievement. And so forth. So, autonomy is characteristic of a minimally good life.

Another reason to believe autonomy is characteristic of a minimally good life is this. When we humans live minimally good lives we “have a conception of ourselves and of our past and future. We reflect and assess. We form pictures of what a good life would be, often, it is true, only on a small scale, but occasionally also on a large scale. And we try to realize these pictures” (Griffin, 2006, Ch. 2). Often, those who lack a conception of being a self, persisting through time, are not able to hope or dream. Often, those who never pursue their conception of a good life are not able to achieve their goals, carry out projects, or live life on their own terms. To have a conception of self, to pursue a view of the good life, most people need the reasoning and planning conditions for autonomy and good options. After all, reasoning is part of reflecting and assessing, and planning is part of trying to realize one's picture of a good life. In the real world, most people need good options to achieve their goals, carry out their plans, and live life on their own terms. So, autonomy is characteristic of a minimally good life.^{xviii}

In *On Liberty* John Stuart Mill makes the point that autonomy is characteristic of a minimally good life in elegant detail. (He does so in the context of a much more ambitious argument about the importance of individuality). Although he does not use these words, Mill's argument suggests that it is difficult

to live a minimally good life without autonomy. Most of those who live minimally good lives do not mindlessly follow others' example or custom. Other people's experience may be too narrow or be poorly interpreted. Even if others' interpretation of their experience is good, it may not be suitable to one's constitution or circumstance. Even if fate smiles upon someone who lives non-autonomously, it will be difficult for that person to develop "the qualities which are the distinctive endowment of a human being. The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice..." (Mill, 1869, III.3) One who simply follows custom cannot practice "discerning or desiring what is best. The mental and moral, like the muscular powers, are improved only by being used" (Mill, 1869, III.3). Those who are not autonomous usually do not live minimally good lives.^{xix}

Although people need not control every aspect of their lives or even be very resolute to live minimally good lives, those who lack autonomy are often impaired. Because autonomy is important for securing many of the things that make a life go minimally well, the non-autonomous will often be unable to live minimally good lives. Because autonomy is characteristic of such a life, even those who secure all of the other things that make a life go minimally well may not live minimally good lives.

This account does not suggest that those who are incapable of autonomy cannot live minimally good lives. The severely disabled and very young may, for instance, have such lives. Even if these people cannot reason about, form, or carry

out plans, they may experience joy and sadness, pleasure and pain, music and light. They may have good relationships with others. My schizophrenic step-brother's autonomy is, for instance, severely compromised. Largely due to his mother's care, however, he lives a very good life. He is an amazing artist, is able to live independently, and many people love him. Similarly, my husband's autistic niece lives very well. She has achieved so much in her life – though her achievements are not always the same as those of her classmate's she has learned to sign, climb, and swim. She, too, has many people who care for her, a nice place to live, and so forth. So, autonomy is not always necessary for, but is characteristic of, a minimally good human life (Kittay, 2005).

Recognizing that even some of the most severely disabled can live minimally good lives does not require denying that the loss of autonomy is one of the biggest threats to individuals' ability to live minimally good lives or that it is a central, and sometimes constitutive, component of such lives. So when it is possible for someone to secure and maintain autonomy, the next section's argument should establish that they need to be able to do so. The idea is that people need whatever will enable them to live minimally good lives in something like what Dan Haybron calls a "justified aspiration" sense: They should be able to secure the kind of autonomy it is possible for them to secure (Haybron, 2013, Ch. 8). When it is impossible for someone to secure autonomy, however, we can reasonably affirm that that person lives a minimally good life (Haybron, 2013, Ch. 8) The sense of the minimally good life relevant for specifying what people can reasonably aspire to attain is plausibly much more demanding than what is

necessary to reasonably affirm that someone has had a minimally good life, given the constraints of possibility. But it is the former that is at issue in this paper and relevant for specifying what people need.

V. Justifying the Account

Why think people need whatever will enable them to live minimally good human lives? This section argues that this account of needs has some advantages over the most plausible alternatives: Harm and social role accounts. It argues that neither competitor provides a satisfactory conception of needs. Finally, it shows that the minimally good human life account captures some of the advantages of these accounts and avoids some of their problems.

To make this case, it is important to get clear on what a good account of needs must do. A good account may play many roles. First, on a good account, needs should be distinct from preferences and desires (Frankfurt, 1988). Second, a good account of needs must accommodate individual differences in need resulting from differences in individual constitution and the fact that individuals occupy different positions in society (Brock, 1998; Frankfurt, 1988). Some people need only a little food and water. Others (e.g. pregnant women) need much more. Some do not need expensive medicines or health care. Others (e.g. AIDS victims) require a lot of medical aid. So, third, a good account of needs should capture all and only the needs of every person. That is, a good account should capture everyone's needs without leaving anything out that someone needs or suggesting that anyone needs anything that they do not need.^{xx} Finally, a good account should provide a plausible basis for what, at minimum, a decent society is

obligated to enable its subjects to secure. Although some philosophers are more concerned with preference fulfillment, resources, or capabilities, there are compelling arguments that good institutions must be responsive to individuals' needs (Copp, 1998; Brock, 1998; Braybrooke, 1998). This last criterion is especially plausible, if an account of needs is to play the role it does here -- in cashing out a basis for human rights as decent societies should, presumably, protect these rights.^{xxi}

Harm-Based Accounts

Harry Frankfurt in *The Importance of What We Care About* defends one of the most famous accounts of need. Frankfurt argues that we need those things that allow us to avoid harm when we cannot avoid harm in any other way. People need those things that are “necessarily necessary for avoiding harm” (Frankfurt, 1988, 112). Though he does not give a complete account of *harm*, Frankfurt says a few things. First, he says, one is harmed if one is made worse off than before. He also claims that, if the only way to keep one's situation from becoming worse is to make it better, one's situation must improve for one to avoid harm. Finally, Frankfurt says that if one remains in a bad condition, one is harmed. He justifies this last claim by noting that more of a bad thing is worse than less of it (Frankfurt, 1988, 110).

There are at least three problems with Frankfurt's account. First, his notion of harm is too inclusive. Second, people do not always need those things that allow them to avoid harm. Third, decent societies are not always obligated to

enable their subjects to secure what will enable them to avoid even serious harms. Consider each point in turn.

Intuitively, one may not be harmed if one's bad state merely persists.^{xxii} One is not made worse off than before by remaining in a bad state that does not become worse. Suppose, for instance, that Grace has a degenerative disease but is given some medication that stabilizes her condition. It seems that Grace has been helped, not harmed by the medicine.^{xxiii}

Perhaps Frankfurt could respond that Grace is harmed because, absent the disease, she would be much better off. Grace is worse off than she was before she became ill. More generally, Frankfurt could maintain 1) that someone may be harmed if they would otherwise be in a much better state and 2) that people whose bad state persists are worse off than they would otherwise be.

Neither proposition is plausible but accepting the conception of harm implicit in the first proposition for the moment, it should be clear that one's bad state persisting does not necessarily make one worse off than one would otherwise be. Grace, for instance, would have been in a worse state if her condition had not stabilized. The fact that her bad state persists does not mean she is worse off than she would otherwise be. Saying that the relevant comparison is to the time right before Grace got her degenerative disease will not help. Before getting her degenerative disease Grace may have had a much worse disease. If so, Frankfurt must agree that, on this conception of harm, Grace has not been harmed by becoming ill. But this is unintuitive.

Second, people do not always need those things that allow them to avoid harm. Some harms are insignificant and people do not need to avoid insignificant harms. I do not need to wear protective clothing even if this is the only way to keep from getting paper cuts. Even if it is a law of nature that I will get paper cuts if I do not wear protective clothing, I do not need to wear such clothing. Or, consider another example. Some people have sun allergies; they get minor rashes when their skin is exposed to the sun. The only way for some of these people to avoid such rashes may be to completely cover their skin. Although these people are harmed by the sun most of them do not need to completely cover their skin.

Again Frankfurt might object that the paper cuts or rashes are not harms because they are not severe enough to constitute harms. Alternately, he could say that one does not need to wear protective clothing to avoid the paper cuts and rashes because the clothing would be more harmful than the cuts and rashes.

I do not believe either of these responses work. First, it is more plausible that the rashes and cuts are minor harms than that they are not harms at all. If Frankfurt does not like the example of minor harms this paper has given it is possible to modify the example. Second, it is hard to see how protective clothing would always cause harm.

Perhaps the idea is that people may be harmed if they are forced to wear such clothing. But suppose, for instance, that a woman raised in a liberal family in the US freely decides to wear a hejab that would protect her from paper cuts. Does she then need to wear a hejab? I think not, or at least not to avoid paper cuts

or scratches. Perhaps the idea is that the clothing is harmful because it is a nuisance but some may not be bothered by the clothing.

Even if we suppose this is wrong and the clothing is harmful, Frankfurt's account only seems to imply that people need to avoid the clothing as well as the cuts. They still need to wear the clothing (for without it they will also be harmed by the cuts).^{xxiv}

Frankfurt cannot avoid this problem by suggesting that we need what, *all things considered*, will prevent the greatest harm. Sometimes we do need what will prevent lesser harms, we just cannot have it. Pregnant women may need pain relievers or other medicines even if, *all things considered*, refraining from consuming them will prevent the greatest harm to the women as well as their fetuses.

Third, decent societies are not always obligated to enable their subjects to secure even what will enable them to avoid serious harms. Sometimes undergoing significant harm can be beneficial. Enduring even significant harm may be the only way to secure an even greater benefit. Someone with a good prognosis for recovery who must live through chemotherapy may be harmed by the therapy but still needs it. Even if chemotherapy is successful, it can cause kidney malfunction, infections, blood clots, and many other serious problems for patients (National Cancer Institute, 2007). Upon recovery, patients may end up with new problems. They may even be sicker than they were when their cancer was first discovered (though they may be better off than they would otherwise be). Usually the harms that result from the treatment are less severe than those that will occur without the

treatment, but they are still harms. Decent societies may even have to enable their subjects to secure chemotherapy.

Frankfurt might argue that this is not a good case because one who has to undergo chemotherapy is not harmed by the therapy but is, instead, helped by it. After all, without the chemotherapy the patient might die or end up worse off than she would have been without the therapy. Perhaps one can only be harmed by something if one is made worse off than one would otherwise be.

Although this paper did not challenge this way of specifying Frankfurt's conception of harm above, it is implausible. Suppose that George is riding upon his black steed when he comes across Effe standing on a corner. Being a very evil man, George stabs Effe, grabs her purse, and gallops away. Unbeknownst to George, Effe had just decided to walk down a dark street that she could not see was covered with ice. If George had not interrupted her she would have walked down the street, fallen, hit her head, and died from the injury days later. But, because she has been stabbed, Effe goes to the hospital instead. It seems that George has still harmed Effe. Frankfurt could not argue that the fact that someone has not been made worse off than they would otherwise be means that that person has not been harmed. Unless Frankfurt can offer a more plausible conception of harm, his theory must be rejected.

Perhaps a different harm-based account of needs will fare better. In his delightful article "Fundamental Needs," Garrett Thompson argues that "X is a fundamental need for person A" if "X is a non-derivative, non-circumstantially specific and an inescapable necessary condition in order for the person A not to

undergo serious harm” (Thompson, 2005, 175). Thompson specifies that “a person is harmed when he or she is deprived of engaging in non-instrumentally valuable experiences and activities as well as the possibility of appreciating them” (Thompson, 2005, 178).

Unfortunately, there are also some problems with Thompson’s harm-based account of needs. There is an important ambiguity in Thompson’s claim that “a person is harmed when he or she is deprived of engaging in non-instrumentally valuable experiences and activities as well as the possibility of appreciating them” (Thompson, 2005, 178). It is not clear whether Thompson intends to indicate that:

- 1) A person is harmed when he or she is deprived of engaging in *any* non-instrumentally valuable experiences and activities as well as the possibility of appreciating them.

Or:

- 2) A person is harmed when he or she is deprived of engaging in *all* non-instrumentally valuable experiences and activities as well as the possibility of appreciating them.

Neither interpretation of Thompson’s definition is plausible. Consider a problem with the first way of construing his definition: People are not necessarily harmed by being deprived of some non-instrumentally valuable experiences and activities or the possibility of appreciating them. I may have a non-instrumentally valuable experience looking at a van Gogh. I will not be harmed if I am deprived of doing so (because, say, the museum is closed). The second way of construing Thompson’s definition is also implausible. People may be harmed even if they are not deprived of all non-instrumentally valuable experiences and activities and the possibility of appreciating them. I need food and will be harmed by not getting

food. This is so even if I am not deprived of water and both eating and drinking are non-instrumentally valuable activities. Similarly, I am harmed if I am not allowed to associate with other humans. This is so even if I am not deprived of other non-instrumentally valuable activities or experiences.

Now, Thompson might not be intending to offer a definition of harm but still insist that his account of need is generally defensible. If a person is deprived of engaging in *all* non-instrumentally valuable experiences and activities as well as the possibility of appreciating them, that person is harmed. Usually those who are deprived of non-instrumentally valuable experiences are harmed.

Although this response is promising, it cannot do. With this analysis, Thompson's account, at best, offers a characterization of need. Furthermore, it is not an entirely plausible characterization. In many cases, it seems that one can be harmed by being deprived of non-instrumentally valuable experiences without being deprived of what they need. If I am rich and own a Van Gogh, I am harmed by being deprived of the picture. I do not need the picture and may have everything I need even after the deprivation. This example might be adapted to provide a general objection to harm theories. It is not always plausible to think the person who is harmed has unmet needs.

Finally, Thompson may have to contend with another worry that may provide a general objection to harm accounts. Intuitively, some of the things people need they need not merely to avoid harm but in order to flourish. To illustrate the problem, suppose one adopts a conception of harm on which someone can only be harmed if she is made worse off than before. In some

developing countries there are ten year old children who are working because they cannot afford to go to school. On this conception of harm, these children will not be harmed by working: they are not made worse off than before by working (as – by hypothesis - they could not afford an education in any case). Intuitively, however, at least most of these children do need education. Intuitively, this is something that a decent society should, at a minimum, enable its subjects to secure because they need it. So education and the other things people need to flourish should count as needs on a good account.

Social Role Accounts

The minimally good human life account of needs is not the only account that can explain why people need things that they do not need to avoid harm. David Braybrooke's social role account provides one of the best competing accounts of what people need to live a flourishing life. The account he gives in *Meeting Needs* has this flavor: Policy makers can determine the needs of a population via a two step process. First, they must create a list of necessary goods that enable individuals to fully carry out four social roles – citizen, worker, parent and housekeeper (Braybrooke, 1998). Discussion is essential to determining the exact content of the list (Braybrooke, 1998). Then, policy makers must determine the minimal standards of provision for necessary goods. These standards should be set at the level sufficient for each member of the population to carry out each social role. Braybrooke thinks that even those who choose not to occupy a particular social role need many of the same things that those who occupy all of the roles need.

Unfortunately, not all individuals need whatever allows them to function in Braybrooke's social roles, especially if they do not occupy these roles. A woman might need prenatal health care to have children. She does not need prenatal health care if she does not become pregnant.^{xxv}

Braybrooke might argue that all women need to be *capable* of bearing children. Prenatal care enables women to have children if they want to have them. Braybrooke would not want to force women to have prenatal care if they are not planning to give birth. Whether or not they avail themselves of it, prenatal care must be available to all women.

This may be too quick. The most straightforward way of understanding what it means to be *capable* of bearing children is this. To be capable of bearing children, women need access to all of the necessary conditions for doing so. It is not plausible, however, to say that women need access to all the necessary conditions for bearing children. One necessary condition for a woman to bear children (at least right now) is sperm. It would be a strange theory that said all women *need* access to sperm (although some might). Braybrooke might qualify his claim to avoid this problem, but there is another problem with this approach. Some women can have healthy children without prenatal care.

Perhaps Braybrooke could respond that he is only concerned to give an account of what people *typically* need. Most women want to have children and most need prenatal care. Similarly, most people need to work and to have citizenship in some country, though some extraordinary individuals do fine without these things.^{xxvi}

Since this is Braybrooke's project, however, it does not compete with the minimally good human life account on which people need whatever will enable them to live a minimally good human life. The minimally good human life account is intended to give a unified account of every person's needs. This is important if Braybrooke's theory is to help cash out a plausible basis for an account of human rights that will protect *everyone's* needs.^{xxvii} Although an account of human rights might have to be qualified to provide only standard protections of individuals' needs, such constraints must be justified and should, thus, be external to human rights' basis.^{xxviii} Other accounts of need may also be perfectly appropriate for other purposes.^{xxix}

Interlude

People do not need everything that will allow them to avoid harm or fulfill traditional social roles. Still, there is an intuitive connection between meeting needs, avoiding harm, and fulfilling traditional social roles. If the minimally good human life account of needs is defensible, it may be able to explain this connection. People are usually harmed if their ability to live a minimally good life is undermined. Those who cannot live a minimally good life are often unable to do so because they have been harmed or are prevented from fulfilling important social roles. One may not be able to live a minimally good life if one is prevented from working and earning enough to feed one's self. Similarly, people are often incapable of fulfilling social roles and avoiding harm because they cannot live minimally good lives. Those who cannot secure autonomy, for instance, may not be able to fulfill important social roles or avoid serious harms. The minimally

good human life account may retain some of the advantages of the traditional accounts.^{xxx} It also avoids some of their faults. The minimally good human life account of needs does not fall prey to the above counter-examples to harm and social role-based theories. People do not need to own, or view, a van Gough to live minimally good lives, but everyone needs food and water and most need human interaction. Few women need sperm to live minimally good lives, but most children need an education to live such lives.

In short, it is plausible that the minimally good human life account of need, unlike its main competitors, can fulfill the desiderata for a good account with which we started. Both harm and social role theories can distinguish needs from desires. It seems, however, that harm theories capture some things people do not need and neglect other things people do need. Because of this, it is not plausible that a decent society must provide protections of individuals' ability to secure what they need to avoid harm. It is much more plausible that a decent society must protect individuals' ability to secure what they need to function in the traditional social roles. Nevertheless, at least Braybrooke's social role theory captures some things people do not need. The minimally good human life account of needs fares better. Like its competitors, it can distinguish needs from desires but it can also account for the fact that different people need different things. Furthermore, it is plausible that each person needs whatever will enable him or her to live a minimally good life and nothing else. Finally, it is plausible that a decent society should protect individuals' ability to secure what they need for a

minimally good life. Although, like its competitors, the minimally good human life account requires further cashing out, there is reason to take it seriously.

VI. Resolving the Dilemma for Traditional Theories

This paper has said a great deal about autonomy and needs. So, let us return now to the dilemma for human rights theories with which we started and show how accepting the arguments above might explain the connection between human rights, needs, and autonomy. Recall the dilemma for traditional theories of human rights; most either fail to explain the close connection between human rights and autonomy or entail that people do not have a human right to meet their needs.^{xxxii}

On *interest* theories, human rights protect individuals' important interests. Such theories are well suited to account for the fact that human rights protect individuals from dire need. Even the non-autonomous have some needs, which constitute some of their important interests. Unfortunately, interest theories often fail to capture the close relationship between human rights and autonomy. As Andrew Fagan puts it, interest theories tend to neglect the role of autonomy in grounding human rights; they neglect the role of human rights in protecting human agency (Fagan, 2006). On interest theories, autonomy is not constitutive of the interests human rights protect. Will theories avoid this problem. On *will* theories, human rights protect individuals' autonomy. Unfortunately, will theories cannot explain the universality of human rights since some people lack autonomy. Some are not even potentially autonomous. On these theories, the non-autonomous including the very young and severely disabled lack human rights

because they lack autonomy. Furthermore, if human rights only protect individuals' autonomy, it is possible to fulfill human rights and yet leave some in dire need. So, the most common attempts to justify human rights often fail to appropriately connect human rights and autonomy or account for the human right of all to meet their needs (Griffin, 2006).

Of course, more work is necessary to cash out the account of needs and autonomy set out above. If the arguments in this paper go through, however, a theory on which human rights protect each individual's ability to live a minimally good life can avoid this dilemma.^{xxxii} Recall the claims defended above.

(1) Autonomy is characteristic of a minimally good life.

(2) People need whatever will enable them to live minimally good lives.

So, it should follow that:

(3) If human rights protect individuals' ability to live a minimally good life, human rights protect individuals' ability to secure autonomy and meet their needs.

After all, we have assumed:

(4) If autonomy is characteristic of a minimally good human life and human rights protect individuals' ability to live a minimally good life, human rights protect individuals' autonomy.

(5) If people need whatever will enable them to live a minimally good life and human rights protect individuals' ability to live a minimally good life, human rights protect their ability to meet their needs in protecting their ability to live a minimally good life.

These implicit premises should be uncontroversial, if not analytic.^{xxxiii} So, if the arguments in this paper go through, there is reason to try to cash out a theory of human rights on which human rights protect individuals' ability to live minimally good lives. If this theory of human rights is defensible, it will appropriately connect human rights and autonomy and account for the human right of all to meet their needs.^{xxxiv}

VII. But is the Dilemma Real

One might accept these conclusions but argue that the dilemma this paper started with is not genuine. Some of the most famous interest theorists, like Joseph Raz, explicitly argue that people do not have a human right to autonomy.^{xxxv} Some of the most famous will theorists, like James Griffin, enthusiastically endorse non-universal accounts of human rights on which some people lack them.^{xxxvi}

I have argued, at length, elsewhere that Raz's complicated argument against a human right to autonomy is mistaken, but it is worth considering Griffin's argument here (Hassoun, 2012b). Griffin says that the very young and disabled deserve some moral consideration but that it is better to use a definition of human rights on which the very young and disabled lack human rights. Furthermore, because human rights, on Griffin's account, only protect individuals' agency, human rights can be fulfilled and yet some can be left in dire need; people need more than just agency (Griffin, 2006). Griffin says that these consequences of his theory are acceptable because his theory improves our ethical vocabulary and "makes it fuller, more perspicuous, or more user-friendly to moral

agents” (Griffin, 2006, Ch. 4). He also suggests that this can “counteract strong inflationary pressures on the term ‘human rights’” “that have brought about its debasement” (Griffin, 2006, Ch. 4). Using a definition of human rights on which the very young and disabled lack human rights can “make the sense of the term ‘human right’ satisfactorily determinate” (Griffin, 2006, Ch. 4). Because calling something a human right provides a strong ground for creating a legal right to it, and transforms one who claims that thing from a beggar to a chooser, there is an incentive for people to make all kinds of human rights claims. What we need, Griffin suggests, is wide agreement on the content of human rights by philosophers, lawyers, legislators, activists and others. He believes “that we have a better chance of improving the discourse of human rights if we stipulate that only normative agents bear human rights — *no exceptions*: not infants, not the seriously mentally disabled, not those in a permanent vegetative state, and so on” (Griffin, 2006, Ch. 4). This gives definitive, unambiguous content to human rights claims. Griffin does not think there is non-arbitrary way of allowing only a few exceptions to his definition of human rights and once we allow some exceptions, the inflationary pressures will grow. He is not worried about ending the proliferation of human rights; he wants to “end the damaging indeterminateness of sense of the term ‘human right’” (Griffin, 2006, Ch. 4).

There is something compelling about Griffin’s reasoning. Presumably, a good theory of human rights should be determinate. There are other important criteria for an account of human rights, however. A good account should capture our intuitive judgments about what human rights exist and I expect that most

people believe children and the disabled have human rights. An intuitive account is important if it is to play an action-guiding role in, for instance, helping us locate and counter human rights abuses.

This paper has, however, started to cash out a clear and non-arbitrary criterion for when something is a human right that, more intuitively, yields the conclusion that children have human rights. Perhaps the ground for human rights will have to be further expanded.^{xxxvii} Certainly a well-developed account of the minimally good life is necessary to give the account determinate content. This paper has only started to develop such an account in cashing out a few conditions for autonomy that might lie at its heart. It has, primarily, argued that this project is worth pursuing. If this argument goes through, this paper's account will fulfill the desiderata for a good account of human rights set out at the start. It, thus, has an advantage over Griffin's theory.

VII. Conclusion

Some of the most eloquent and famous will and interest theories fail to appropriately connect human rights and autonomy or account for the human right of all to meet their needs (Griffin, 2006). This paper has sketched a new theory of human rights which avoids these problems. It has suggested that it is possible to appropriately connect human rights and autonomy and account for the human right of all to meet their needs. It argued that (1) people need whatever will enable them to live such lives, and (2) autonomy is characteristic of such a life. So, an account of human rights on which human rights protect individuals' ability to live minimally good lives will appropriately connect human rights and autonomy and

account for the human right of all to meet their needs. There is reason to try to cash out this theory.

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ii The author would like to thank all of those who commented on the first chapter of her book *Globalization and Global Justice*, her work on basic needs forthcoming in *Justice in a Complex World. Global Economy and International Aid*, and the Proceedings for the 3rd International Conference on Philosophy *An Anthology of Philosophical Studies*, on which this paper draws. She is especially indebted to Thomas Christiano, Jim Nickel, Allen Buchanan and Dan Haybron for discussion and audiences and commentators at the International Conference on Philosophy conference in Greece and Henle Conference on Happiness and Well-Being. She is indebted to the Institute for Advanced Studies in the Humanities at SUNY Binghamton, the Center for Ethics in Society at Stanford, the Center for Poverty Research in Austria, and the Falk Foundation for support during the course of this project.

ii This basis for human rights is suggested in (Nickle, 2006) but Nickle does little to cash out this account and also posits several other bases for human rights. Although further bases might be required for a fully adequate account of human rights, this paper will suggest that this one will suffice to resolve the dilemma.

iii One of the main competitors to personhood- or interest- based accounts of human rights are practice-based (or political) accounts. One motivation for political accounts is the worry that it is impossible to cash out an adequate personhood- or interest- based account. This paper begins this task and provides some reason for optimism. Political accounts are often unduly conservative bound as they often are to existing practice. They can fail to account for the human rights of even all autonomous people, never mind provide a basis for critically examining emerging practices that may violate human rights – like globalization. For a good political account see: (Beitz, 2009).

iv Raz seems to recognize this in subsequent papers (Raz, 2009).

v (Hill Jr., 1989; O'Neill, 1986)

vi (Raz, 1998)

vii (Rawls, 1971)

viii (Bratman, 2005)

ix (Griffin, 2006)

x Ibid.

xi Note that those who endorse much more robust accounts of autonomy may think that human rights should protect autonomy on both this paper's, and their much more robust, account. It is an open question whether arguments along the lines of those sketched below can be extended to address the dilemma for human rights theories sketched above. As long as these people agree, however, that human rights should protect the kind of autonomy at issue in this paper, its argument should be of interest.

xii For discussion, see: (Buchanan, 2010).

xiii Ultimately, Amerson rejects this kind of perfectionism because he does not think it can accommodate cheap thrills. I do not find this particularly compelling, but if cheap thrills are essential to human wellbeing, maybe humans and other animals need cheap thrills to live minimally good lives.

xiv As David Brink puts it, "This perfectionist conception of the significance of choice or post-deliberative desire may sound remarkably like an informed desire conception of practical reason or the good. But notice some important differences. First, an informed desire conception defines normatively significant desire by appeal to a counterfactual condition. Is the desire one which would emerge from some suitable idealization of the agent's current desires? By contrast, the perfectionist conception appeals to an historical condition. Is the desire one which was produced or is sustained by a suitable kind of deliberation?" (Brink, forthcoming, 31). "It is choice, rather than desire, as such, that has normative significance" (Brink, forthcoming, 30).

xv Some have suggested autonomy-based accounts of need. On such accounts, people need whatever will enable them to live autonomous lives. If this is correct then, on a will theory, human rights will secure for people everything they need. The problem with this account of needs, however, is similar to (and does nothing to help resolve) the other problem with the will theory. Some people cannot secure autonomy, but even these people have some needs (and human rights).

xvi Although it will not do here to go into Hurka's argument for this conclusion, he basically uses a scientifically informed (Kripkian) conceptual analysis to reject other perfectionist conceptions because they fail two tests. They either fail to retain the appeal of the idea that human nature is morally significant or have implausible consequences by suggesting that human nature includes things that lack moral significance (Hurka, 1993, 9). As Richard Kraut puts it, perfectionist theory are developed via a "two-stage processes in which a broad account that applies universally is then made more specific by being tied to the peculiarities of the human situation" (Kraut, 1994, 48).

xvii This does not mean that autonomy's value is completely derivative from its role in enabling people to live a minimally good life or that the minimally good life's value depends entirely on the value of autonomy.

xviii At least this seems right on the conditions for autonomy this paper has defended.

xix Mill is certainly interested in showing that people need to exercise their autonomy to develop their individuality because this advances the common good. But he also seems to think autonomy is important to a minimally good human life. "In proportion to the development of his individuality, each person becomes more valuable to himself... There is a greater fullness of life about his own existence..." (Mill, 1869, III.9).

xx At least, it should not leave out anything someone needs that a decent society should enable people to secure. Of course, other accounts of needs may be useful or necessary for other purposes but the desiderata at issue are interdependent.

xxi Needs plausibly provide part of the basis for human rights here if I am right that they are necessary conditions for that basis; people need whatever will enable them to live the kind of minimally good lives human rights protect.

xxii Even if a person's prospects, or justifiable expectations, are relevant to our judgments about whether or not they are harmed, this is so in a different way than Frankfurt supposes. One might think that if a sick person has a great chance of recovery without receiving stabilizing medication but will remain in a stable state with the medication then the medication has harmed them. However, this is only because the person's prospects have been reduced. The person has been made worse off than before. Furthermore, if the person was lucky to be alive at all and the medication stabilized his or her condition, it seems that the person has benefited from the medication. Frankfurt may have thought remaining in a bad condition was sufficient for harm because he supposed people needed to get better, and deserved to do so, or because he thought that people would (or should) get better.

xxiii Perhaps Frankfurt could say that one's going from a degenerative, to a stable, condition constitutes a change in one's condition. If so, one's bad state does not persist, rather one is in a new stable state. So, he could agree that one has not been harmed by the change. But he should still say more to show that one can not benefit from something that keeps a bad state from getting worse in light of the fact that one may be lucky their state does not deteriorate.

xxiv Perhaps Frankfurt could bring in the notion of an all-things-considered harm to deal with cases like this if he could explain how to weigh and balance different harms against one another. It seems fair to conclude, however, that Frankfurt's account at least requires more development and defense if it is to avoid objections like this.

xxv Similarly, a monk might not need a job if he does not work or even want to do so.

xxvi Thus, this paper's account of human rights does entail that some people have a human right to idiosyncratic things they need for a minimally good life. This is the consequence of its responsiveness to differences in individual needs. A larger worry may be that some need things for minimally good lives that they do not have a human right to obtain – like the cool touch of Henry Fonda's hand. The appropriate response to such purported counter-examples is two-fold. First, many purported counter-examples like this are highly unrealistic or relatively rare. Second, it is much more plausible than it might initially appear that institutions have a role in shaping society and culture in ways that greatly increase the probability of individuals' needs being met – when this can be done without other human rights-violations, it may well be required to protect human rights. Finally, if necessary, the account can be qualified appropriately. It is, after all, just an account of the basis for human rights.

xxvii If one is defensible, a unified account would be desirable because it would be simple and have more explanatory power.

xxviii Braybrooke's theory might be taken as an account of what a society should guarantee for its subjects – what they typically need. But if there are limits to what societies must ensure for people, e.g. “standard protections” of their human rights, these constraints require justification and, so, an account of what people typically need should not be the basis for these rights. There may also be other constraints on rights external to the account of their basis – e.g. there may be a possibility constraint.

xxix It is plausible that a more robust account of needs might be appropriate for some purposes. Some people may need certain kinds of companionship, for instance, though they live minimally good lives.

xxx One might argue that it is possible to cash out a good harm-based theory of need if one says people are only harmed when their ability to live a minimally good life is impeded. I worry, however, that this theory of harm could not account for many things we intuitively count as harms. Those who can live minimally good lives even if they lose some of their valuable jobs and possessions are still harmed by the loss.

xxxi Those concerned to defend interest theories might, however, argue that people have an interest in x if x is partly necessary for, important for, or constitutive of a minimally good life. If this case can be made, then one can view the proposed solution as a kind of interest account.

xxxii To account for the human rights of those who cannot live minimally good lives one might specify that people should be able to come as close as possible to doing so.

xxxiii To see this, consider the structure of these premises. The first implicit premise's logical form is this: If whenever people have m, they have n, and h protects m, h will protect n. The second implicit premise's logical form is this: If a is necessary for or partly constitutive of m, and h protects m, h protects a.

xxxiv Perhaps human rights should not be grounded only in protecting individuals' ability to live minimally good lives –the proposal is just that a good account must protect individuals' ability to live minimally good lives.

xxxv (Raz, 1998)

xxxvi (Griffin, 2006)

xxxvii For discussion, see: (Buchanan, 2010).