

Which Rights are Basic Rights?

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In this paper I will explain and defend the content and justification of John Rawls's conception of human rights, as he outlines it in his major work, *The Law of Peoples* (=LoP). Specifically, I will defend this conception against the criticisms of Allen Buchanan, who writes that:

Rawls's lean list of human rights appears to imply that a society that included the following features could not be characterized as one in which human rights violations occur: there is a permanent, hereditary caste whose members are systematically relegated to a condition of poverty (barely above subsistence) and women are systematically denied the opportunity for an education, are excluded from political participation ... and are not allowed to go outside the home except under highly restrictive conditions ...¹

Buchanan distinguishes four lines of argument that Rawls uses to derive his "lean" list of human rights: the Political Conception Argument, the Associationist Argument, the Cooperation Argument, and finally the Functionalist Argument. In each case Buchanan proceeds to show how the premises of the argument lead to absurd consequences (e.g. the society described in the quote above) if taken to their logical conclusion. It can be shown, however, that the reason these consequences follow is that Buchanan misunderstands and misrepresents Rawls's premises.

My paper will proceed as follows: I will begin with a synopsis of Rawls's account of the content and role of human rights as outlined in *LoP*. I will then proceed to Rawls's justification of human rights as specified in his earlier work, *Political Liberalism* (=PL). After this I will consider some of the objections of Allen Buchanan. I will then have some final comments on the content of Rawls's list of human rights, and then there will be my concluding remarks.

¹Allen Buchanan, *Justice, Legitimacy and Self-Determination* (Oxford: Oxford University Press, 2004), pp. 160-161

The Content and Role of Human Rights in *The Law of Peoples*

The Law of Peoples is an account of right and justice for international law and practice. In *PL*, Rawls developed a liberal conception of justice for a domestic society. *LoP* extends that conception by working out what the ideals and principles of the *foreign policy* of a such a liberal society would be.

Yet the Law of Peoples is not meant to be affirmed by liberal societies alone. Non-liberal, so-called “decent” societies must affirm it as well. By requiring this we are able to determine to what extent, i.e. which kinds, of non-liberal peoples are to be tolerated by liberal peoples, and we can then work out the Law of Peoples, based on *liberal* principles of justice, that would be acceptable to them as well.² Together, the liberal and decent³ societies form the class of *well-ordered* societies that make up Rawls’s *Society of Peoples*.

In the Law of Peoples, human rights are not the same as the rights of citizens in a constitutional democracy. They form, instead, a proper subset of those rights. They are a special class of urgent rights that are accepted by all well-ordered peoples, and they include, but are not limited to: “freedom from slavery and serfdom, liberty (but not equal liberty) of conscience, and security of ethnic groups from mass murder and genocide.”⁴ They are considered to be *universal* rights that are binding on all societies, including the so-called outlaw states, burdened societies, and benevolent absolutisms that do not belong to the Society of Peoples.⁵

Importantly, human rights have a specific *role* to play in the Law of Peoples, and this role is threefold. First, grave violations of human rights justify setting aside the duty of non-interference: they justify infringing on a state’s internal autonomy, and in extreme cases may even justify declaring war on another state. Second, respect for human rights is a necessary (but not sufficient) requirement to be recognized as decent and eligible for inclusion in the Society of Peoples.⁶ Thirdly, human rights set a limit to the amount of pluralism that is to be tolerated in the society of peoples. In other words, they draw the line between what we are to regard as *reasonable* pluralism and pluralism *as such*.

Controversially, some rights included in the *Universal Declaration of Human Rights of 1948* (=UDHR) are not included in Rawls’ list of human rights.⁷ Rawls explicitly excludes article 1, which he considers more as a liberal aspiration than a right: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” He also excludes article 22 (the

²John Rawls, *The Law of Peoples*, with “*The Idea of Public Reason Revisited*” (Cambridge, Massachusetts, London, England: Harvard University Press, 2002), Introduction: pp. 9-10.

³A decent society is associationist in structure and is typically organized according to some religious or other comprehensive doctrine. Two criteria for a society to be decent are: 1) the society must not have aggressive aims. 2a) The system of law, in accordance with its common good idea of justice, secures for all citizens the basic human rights. 2b) The system of law must impose *bona fide* moral duties and obligations on all persons within the people’s territory. (*LoP*, §8.2)

⁴*LoP*, §10.1

⁵For a description of these other types of societies, see *LoP*, §13 - §15

⁶For an elaboration of the other requirements for decent societies, see *LoP*, §8.2

⁷*LoP*, §10.3 (n. 23)

right to social security and other social and cultural rights) and article 23 (the right to work, the right to equal pay for equal work, the right to just and favourable remuneration, and the right to form trade unions), which he takes to presuppose specific kinds of institutions.

Rawls explicitly includes articles 3 through 18 (which he calls “human rights proper” or “first class” rights). These include article 3: “the right to life, liberty, and security of the person”; article 7: “all are equal before the law and are entitled without any discrimination to equal protection before the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”; article 13.1: “Everyone has the right to freedom of movement and residence within the borders of each state.”; article 13.2: “Everyone has the right to leave any country, including his own, and to return to his country.”; article 16.1: “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution.”; article 16.2: “Marriage shall be entered into only with the free and full consent of the intending spouses.”⁸

Also included are all rights “that are obvious implications of the first class of rights”, and Rawls points to the conventions on genocide and apartheid as examples. Similarly we can derive other basic rights from this “first class” list. David Reidy argues, for example, that the Article 11 right to be presumed innocent until proven guilty entails a right against coerced self-incrimination.⁹

Other rights, for example, articles 2 and 21¹⁰, are not mentioned specifically by Rawls, however in the case of article 2, I think Rawls *would* want to affirm this as applying to articles 3 - 18. However since article 2 applies to *the entire declaration* (which includes all 30 articles), Rawls would obviously not want to affirm *that*. In the case of article 21, it is arguable that Rawls would affirm article 21.2 but not articles 21.1 and 21.3 and that is why it is not mentioned. The point of this speculation is that *omission* of a particular article does not necessarily imply an outright rejection of that article in its entirety (some of the articles

⁸Source: <http://www.un.org/Overview/rights.html>

⁹David Reidy, “Political Authority and Human Rights” in *Rawls’s Law of Peoples : A Realistic Utopia?*, ed. Rex Martin and David Reidy (Oxford: Blackwell Publishing, 2006), pp. 171

¹⁰*Article 2*: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 21:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

are quite long). It should also be kept in mind that Rawls confines his whole discussion of the *UDHR* to a footnote; we should hardly expect a very precise exposition.

Already some of Buchanan's claims in the quote above seem to be a little dubious. For instance, his claim that in a society that only affirms Rawls's "lean" list, women "are not allowed to go outside the home except under highly restrictive conditions" is flatly contradicted by article 13 (the right to freedom of movement). Such a society would also seemingly be in violation of article 16 (rights pertaining to marriage and the family) as well. Article 18 (freedom of thought, conscience, and religion), on the other hand, seems to presuppose at least some sort of minimal freedom of education (though not as extensive as that described in article 26, which affirms, among other things, a right to freely available "technical and professional" education). As for the "permanent, hereditary caste whose members are systematically relegated to a condition of poverty (barely above subsistence)", this is also dubious in light of how Rawls actually interprets the term *subsistence*:

"Shue ... and R.J. Vincent ... interpret subsistence as including minimum economic security, and both hold subsistence rights as basic. I agree, since the sensible and rational exercise of liberties, of whatever kind, as well as the intelligent use of property, always implies having general all-purpose economic means.¹¹

Justification of Human Rights in *Political Liberalism*

Rawls does not say much about the justification for human rights in *LoP*. Some have nonetheless interpreted Rawls's discussion of the *role* of human rights to amount to a functionalist conception of their justification¹². Suffice it for now to say that I do not agree, but I will return to this point later. In any case, in many instances in both *LoP* and *PL*, Rawls states that the Law of Peoples is an extension of the conception of justice that is developed in *PL*.¹³ Thus it would seem that if we want to get a better idea of Rawls's justification of human rights in *LoP*, we should see how he justifies them in *PL*.

In *PL*, Rawls introduces the idea of a society as a fair system of cooperation. A fair system of cooperation is the normative component of the political conception of justice for the basic structure of society, and such a system of cooperation, Rawls argues, has three aspects: i) it is guided by publicly recognized rules; ii) it involves the idea of fair terms of cooperation; iii) it requires that we consider the good of each participant. Now by specifying the second aspect, i.e. the fair *terms* of cooperation, we determine what the basic rights and duties of participants in this system are.¹⁴ But in order to work out what these fair terms of cooperation are, we make use of the *original position*. Thus it is

¹¹*LoP*, §8.2 n.1

¹²For instance, see Charles Beitz's article: "Rawls's Law of Peoples", *Ethics*, Volume 110, No. 4 (July 2000), pp. 669-696.

¹³E.g.: *LoP*, Intro: pp. 8, *LoP* §1.4, *LoP* §12.2, *PL* I: §2.1

¹⁴John Rawls, *Political Liberalism*, expanded edition (New York: Columbia University Press, 1993, 1996, 2005), I: §3.2

ultimately the original position that provides the justification for the basic rights and duties of the participants in a fair system of cooperation.¹⁵ The original position, recall, is a hypothetical gathering of the representatives of parties who are to be players in a system of social cooperation. In the case of a domestic society, for example, these are representatives of individual citizens. Critically, the representatives are assumed to be: i) behind a “veil of ignorance.” This means that a representative does not have any knowledge of the abilities, or of the social position of the citizen they represent, or any other background information about the society they live in; nor, importantly do they have any knowledge of the citizen’s conception of the good; ii) *Rational*; i.e. each aims to pursue the best interests of the citizen they represent.¹⁶

In *PL*, Rawls is also concerned with *stability*. And for a political conception to be stable, Rawls argues, it must be stable for the *right reasons*. In other words, in a real society, the competing comprehensive doctrines that make up that society must all *agree* to - not compromise on; not submit to - the political conception. This is what Rawls refers to as an *overlapping consensus*.¹⁷ In order to reach an overlapping consensus, the comprehensive doctrines must be *reasonable* comprehensive doctrines. And reasonable persons, according to Rawls, are persons that are willing to accept fair terms of cooperation.¹⁸ But this entails that reasonable persons will respect the basic human rights.

Rawls also speaks about the content of human rights in *PL*. He specifies the following list (which are all included included in articles 3-18 of the UDHR):

freedom of thought and liberty of conscience; the political liberties and freedom of association, as well as the freedoms specified by the liberty and integrity of the person; and finally, the rights and liberties covered by the rule of law.¹⁹

Rawls notes that the device of the original position can bring us only so far in establishing a list of human rights; i.e. we initially set up the original position in order to arrive at a list of basic liberties. At that point we can draw up a more comprehensive list and see if we can use the original position again to derive it. But we can only do this up to a point. Beyond that point, anything we add to the list will depend on the particular structure of the society we are in.²⁰ Rawls cautions against a list that is too large: “It is wise, I think, to limit the basic liberties to those that are truly essential ... Whenever we enlarge the list of basic liberties we risk weakening the protection of the most essential ones.”²¹ Beyond the *basic* liberties, “the further specification of the liberties is left to the constitutional, legislative, and judicial stages.”²²

¹⁵*PL*, I: §4.5

¹⁶John Rawls, *A Theory of Justice*, (Cambridge, MA: Harvard University Press, 1971, 1973), §24-§25

¹⁷For a detailed discussion of the overlapping consensus, see *PL*, Lecture IV

¹⁸*PL*, II: §1.1

¹⁹*PL*, VIII: §1 pp. 291

²⁰*PL*, VIII: §1 pp. 293

²¹*PL*, VIII: §1 pp. 296

²²*PL*, VIII: §1 pp. 298

This account of human rights seems to be compatible with the account that Rawls describes in *LoP*. In *LoP*, decent societies are expected to respect the basic liberties but *not* the rights and liberties of a constitutional democracy since these institutions simply do not exist in these societies. However since the *basic* rights required to establish a fair system of cooperation are observed in these decent societies - rights that would be agreed on in the original position - these societies are to be at least tolerated.²³

Objections and Replies

Many are not satisfied with Rawls's justification for human rights; for example Allen Buchanan. Let us begin with his criticism of the so-called "Political Conception" argument. Buchanan contends that at least part of the justification for Rawls settling on a "truncated" list of human rights is that he does this in order to avoid parochialism. According to Buchanan, in *PL*, Rawls avoids parochialism by not relying on any particular comprehensive conceptions of the good in order to arrive at a *political* conception. In *LoP*, on the other hand, Rawls allegedly goes even further. *Not only* must we not rely on any comprehensive conceptions, but we cannot even rely on any notion of basic human interests *at all* to formulate our political conception of justice (and hence our theory of human rights).²⁴

Buchanan then asks the question: does avoiding parochialism *necessarily* imply that we not refer to any basic human interests at all in a theory of human rights? Despite the fact that "Rawls never directly addresses any of the interest-based (or capabilities-based) theories of human rights"²⁵, Buchanan argues that Rawls would simply dismiss all of these theories on the sole basis that they do appeal to some (minimal) extra-political conceptions of basic human interests; and he would do this because of his conception of *reasonableness*; i.e. for Rawls it would not be unreasonable for someone to deny an interests-based conception of human rights; therefore such a conception must be parochial. Only a conception not based on any human interests at all could be reasonable. But for Buchanan, it is

intuitively implausible ... to say that the mere fact that a theory of human rights (a) includes norms that in some cases apply to individual actions ... and (b) grounds human rights in characteristics common to all human beings, somehow disqualifies it from serious consideration because any such theory must be parochial and therefore intolerant.²⁶

Thus for Buchanan there must be something wrong with Rawls's conception of the reasonable, and he presents two arguments against it. First, a society in which extreme inequality exists could still be cooperative, and would not necessarily need to be based on force. For

²³see *LoP*, §9.2 pp. 74

²⁴Allen Buchanan, "Taking the Human out of Human Rights" in *Rawls's Law of Peoples : A Realistic Utopia?*, ed. Rex Martin and David Reidy (Oxford: Blackwell Publishing, 2006), pp. 153

²⁵*Buchanan 2006*, pp. 155

²⁶*Ibid.*

example, Aldous Huxley's "Brave New World" is not based primarily on force, yet it is difficult to argue that such a society is reasonable. Second, the fact that every person's good counts for something is compatible with some people's good counting for not very much at all.²⁷

A knee-jerk response to Buchanan's second objection might be that this is also a common criticism of Utilitarianism. Yet I am not sure it would be fair to call utilitarians "unreasonable." As for the first objection, it strikes me as implausible that Rawls's conception of the reasonable can be so weak; essentially allowing for the reasonableness of any comprehensive conception so long as it does not rely on brute force. But to resolve these questions we need to understand exactly what Rawls means by reasonable.

In *PL*, Rawls mentions that reasonableness has two aspects. The first aspect has to do with proposing fair terms of cooperation, which we discussed above. The *second* aspect is the recognition that *reasonable disagreement* is possible between reasonable persons. The sources of disagreement are given by the so-called *burdens of judgement*; e.g. often evidence is conflicting and complex; often we disagree about how much weight to put on which considerations; often our concepts are vague and subject to hard cases; we each have our biases, etc.²⁸

Yet for Buchanan, this account of the burdens of judgement is too vague. He calls it a "grave defect in Rawls's argument", and he states:

[Rawls] says nothing to help us distinguish between a proper humility or appropriate caution in the light of several sources of disagreement among reasonable people and a failure to exercise even rather minimal critical scrutiny regarding the quality of the reasoning we or others use to support conceptions of justice. In other words, Rawls offers nothing like a conception of *justificatory* (or epistemic) responsibility - minimal standards for what counts as acceptable reasons.²⁹

Buchanan asks the question:

Why should we accept as reasonable a conception of society that 'justifies' a system of serious racial inequalities only by a combination of extraordinarily sloppy reasoning and patently false empirical premises ... Respect for reason cannot require treating as reasonable views that are clearly irrational.³⁰

But being reasonable is *not* an epistemic idea.³¹ Reasonableness is not a substitute for rationality. The two concepts are complimentary. The reasonable, as opposed to the *rational*, is an inherently social concept; reasonableness is a characteristic of a *political* conception

²⁷ Allen Buchanan, *Justice, legitimacy, and Self-Determination* (Oxford:Oxford University Press, 2004) pp. 163-164

²⁸For a list of the burdens of judgement, see *PL*, II: §2.3

²⁹*Buchanan 2004*, pp. 166

³⁰*Buchanan 2004*, pp. 167

³¹*PL*, II: §3.4

of justice. But the political conception of justice itself is defined by the original position - in which the representatives of persons are assumed to be 1) behind the veil of ignorance, 2) rational. No *rational* representative *behind the veil of ignorance* would agree to a *political* conception that “‘justifies’ a system of serious racial inequalities ... by a combination of extraordinarily sloppy reasoning and patently false empirical premises” simply because the representatives do not know who they are representing, and no rational being in such a scenario would accept a system that endorsed those inequalities given that ignorance.

Rawls obviously understands that unreasonable doctrines do exist:

In noting these six sources - these burdens of judgement - we do not, of course, deny that prejudice and bias, self- and group interest, blindness and willfulness, play their all too familiar part in political life. But these sources of unreasonable disagreement stand in marked contrast to those compatible with everyone’s being fully reasonable.”³²

The reason that they “stand in marked contrast” is that such unreasonable doctrines would not agree to an overlapping consensus.

This brings us back to where we started. We began this discussion with an assertion by Buchanan to the effect that in *LoP*, Rawls changes his mind. In *PL*, Rawls arrives at a political conception by not relying on any one comprehensive conception of the good, but in *LoP*, Rawls arrives at a political conception of the good by not relying on any human interests *at all*. This is a very bold claim. Given the fact that Rawls in multiple instances explicitly states that *LoP* follows from *PL* ³³, one would think that Buchanan would take greater pains to back up his assertion. Yet all he bases it on is one quotation. Let us examine it:

These rights do not depend upon *any particular comprehensive* religious doctrine or philosophical doctrine of human nature. The Law of Peoples does not say, *for example*, that human beings are moral persons and have equal worth in the eyes of God: or that they have certain moral and intellectual powers that entitle them to these rights.³⁴

Buchanan seizes on the statement “or that they have certain moral and intellectual powers that entitle them to these rights” with a great “aha!” yet it seems to me that Rawls is clearly speaking about a *comprehensive* conception of the good (specifically, his own conception as it is elaborated in *A Theory of Justice*). I really am unconvinced that this passage implies in any way that Rawls suddenly and radically changes the central thesis of *PL*. If this were the case I should think he’d have made this more clear, and have said it more explicitly, and not only here. This single instance is not sufficient justification for Buchanan’s interpretation.

In *PL*, Rawls is very clear. A political conception of justice is stable not because it is grounded in no conception of basic human interests. It is not a compromise position

³²PL II: §2.4

³³PL I: §2.1, *LoP*, Intro: (8), *LoP* §1.4, *LoP* §12.2

³⁴*LoP*, §8.3 (emphasis mine)

between a plurality of comprehensive doctrines.³⁵ On the contrary, it is stable *because it is* grounded in every reasonable comprehensive doctrine's conception of basic human interests. A political conception is stable only because each reasonable comprehensive doctrine derives it *based on its own values*.³⁶ This is the idea of the *overlapping consensus*.

All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides. The fact that people affirm the same political conception on those grounds does not make their affirming it any less religious, philosophical, or moral, as the case may be, since the grounds sincerely held determine the nature of their affirmation.³⁷

Buchanan's Associationist Argument is similar and I will not discuss it in depth: he objects that Rawls's commitment to tolerating an associationist conception of the good justifies his agnosticism with regard to basic human interests, which Buchanan then argues against. However if Rawls's political conception is derived from the values of *both* individualistic and associationist conceptions I fail to see where there can be an objection - unless the possibility of such an overlapping consensus *itself* is questioned. But that would be an argument involving far more than the concept of human rights and it is beyond the scope of this paper to discuss it.

Regarding the so-called Cooperation Argument, Buchanan attributes the following to Rawls: 1) Respect for basic human rights is necessary to ensure that a society is a cooperative association based not on force, but on the common good of all its members. 2) Such a society is considered to be decent and immune from intervention.³⁸

Buchanan points out that a mere form of human association not based primarily or exclusively on force and that exemplifies some (possibly ad hoc) common good conception of justice is a rather anemic conception of a "decent" society entitled to nonintervention.³⁹ And of course he is right. However, Buchanan's description of a cooperative association is also rather anemic.

Samuel Freeman correctly notes that, while Rawls does not elaborate much on the concept of cooperative association in *LoP*, he does do so in *PL*. Rather than being, as Buchanan would have it, a mere "form of human association," social cooperation involves persons who are both reasonable and rational who engage according to fair terms of cooperation - in other words social cooperation includes a moral component - and basic human rights are part of what is required to realize this account of social cooperation.⁴⁰ This is also essentially what I explained above in my discussion of Rawls's justification of human rights in *PL*.

³⁵*PL*, IV: §8.3

³⁶*PL*, IV: §1.5

³⁷*PL*, IV: §3.4

³⁸*Buchanan 2006*, pp. 163

³⁹*Buchanan 2006*, pp. 163-164

⁴⁰Samuel Freeman, "The Law of Peoples, Social Cooperation, Human Rights, and Distributive Justice," *Social Philosophy and Policy*, Volume 23, Issue 01, (January 2006), pp 36-37

The final argument Buchanan describes is the so-called *functionalist* argument, which as Buchanan describes it, defines human rights as those rights whose violation would provide grounds for intervention (e.g. sanctions, or even war) by external parties. Buchanan objects that this amounts to a “stipulative redefinition” of human rights.

I do not agree. To say that human rights violations are grounds for intervention is to assign human rights a *role* in international relations. But assigning a *role* is not the same as *defining* a concept. To say that I have a role to play on a football team, say as a defender, is not the same as saying that I *am* that role, regardless of the context. I have other roles to play in other contexts, e.g. son, sibling, philosophy student, and so on. Rawls actually describes *three* roles that human rights are to play in the Law of Peoples (which I mentioned at the beginning of this paper). It is not clear at all that he actually intends these as *justifications* for human rights.

Puzzlingly, Buchanan then goes on to propose his own two-tiered system of human rights as an alternative model: one set of basic rights that would warrant intervention upon their violation and one that would not. In light of his criticism of Rawls it is difficult to know what to make of this move and a number of questions arise. First, if “first-tier” rights warrant intervention, then are they not in a sense more basic than “second-tier” rights? Should we call them “very basic rights”, and the second tier merely “basic”? But this is absurd. Second, are these “first-tier” or “very basic” rights *defined* by their role as grounds for intervention or not? If so, then exactly how does this escape Buchanan’s own criticism? If not, then for the very same reason, Rawls assigning to them a role does not amount to a “stipulative redefinition.”

Some Remarks on the Content of Human Rights

I believe Rawls’s justification for his conception of human rights is sound, and as I hope I have shown above, it is able to withstand some well thought out and important criticisms levelled against it. That said, some concerns may remain over the content of Rawls’s list. There is no right to democracy, nor is there a right to equal liberty of conscience, nor any apparent economic rights beyond subsistence rights.

Although I do not deny the importance of these rights, I would point out that even in liberal democracies we regularly deny the first two of these supposed “basic” “human” rights to convicted criminals (at least in some jurisdictions), and the number of people living below the poverty line in wealthy liberal democracies continues to grow (note that I mention this last point not to justify poverty but only in order to point out a certain hypocrisy in some of our talk of human rights violations in other societies).

I would also point out that nowhere does Rawls state that his specific list is *the* definitive list. It is conceivable, for example, that the right to democracy would be added to the list of basic rights if experience could establish that it was a necessary condition for the fulfilment of the other basic rights.⁴¹

⁴¹See *Reidy*, pp. 173; and also *LoP*, §15.3 - §15.4 for Rawls’s discussion of Amartya Sen’s thoughts on this topic.

Third, regarding economic rights: as I pointed out above, Rawls's notion of "subsistence" implies "general all-purpose economic means", and Rawls's *Duty of Assistance*, which I have not discussed in this paper, presupposes this right (else there would not be a *duty* of assistance) as a prerequisite right for the other basic human rights which are in turn preconditions for decency.

Conclusion

In summary, I have explained and given an account of the justification and content of Rawls's list of human rights, and I have defended both of these against some relevant and important criticisms as expressed by Allen Buchanan. I believe I have shown that Buchanan's objections to Rawls's justification and content are not sound, and I believe I have helped to make a case for Rawls's theory. Rawls's list of rights is not complete. However it is not as short as some maintain, and within the framework of his justificatory theory there is ample room for the revision and growth of its content.

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