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Human Rights, Needs, and Autonomy

Nicole Hassoun
Carnegie Mellon University

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N. Hassoun

Assistant Professor

Carnegie Mellon University

Abstract: Human Rights, Needs, and Autonomy[1]

All people have human rights and there is a close connection between human rights, needs, and autonomy. Accounting for this connection is difficult on many of the traditional rights theories. On many traditional theories, human rights protect individuals' important interests. These 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. But because these theories sometimes say autonomy is not constitutive of the interests human rights protect they can fail to capture the close relationship between human rights and autonomy. On other traditional human rights theories, human rights only protect individuals' autonomy. These theories avoid the problem sketched above. But, purely autonomy-based theories cannot explain the universality of rights -- some people lack autonomy. Furthermore, if human rights only protect individuals' autonomy, human rights can be fulfilled and yet some can be left in dire need. So, some of the best known attempts to justify human rights either cannot appropriately connect human rights and autonomy or cannot account for the human right of all to meet their basic needs. This paper suggests that a theory on which human rights protect individuals' ability to live minimally good lives should be taken

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seriously because it can avoid this dilemma. For, it argues, people need whatever will enable them to live such lives and autonomy is partly constitutive of such a life.

Human Rights, Needs, and Autonomy[2]

I. Introduction

All people have human rights and, intuitively, there is a close connection between human rights, needs, and autonomy. At least this paper will assume that human rights protect individuals' ability to meet their basic needs and live autonomous lives.[3] Accounting for the connection between human rights, needs, and autonomy is more difficult than one might expect, especially on the traditional kinds of human rights theories (even those endorsing 'positive' social and economic rights) (Wenar, 2005; Fagan, 2006). On many traditional theories, human rights protect (at least a subset of) 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. But because these theories sometimes say autonomy is not constitutive of the interests human rights protect they can fail to capture the close relationship between human rights and autonomy. Interest based theories can also fail to protect autonomy for other reasons (e.g. see (Raz, 1998; Hassoun 2008a)). Other traditional human rights theories protect individuals' autonomy. These theories avoid the problem sketched above. But, purely autonomy-based theories usually cannot explain the universality of rights since some people lack autonomy. Some are not even potentially autonomous. The non-autonomous including the very young and severely disabled lack human rights on these theories (e.g. see (Griffin, 2006)).[4] Furthermore, if human rights only protect individuals' autonomy, human rights can be fulfilled and yet some can be left in dire need. So, some of the best known attempts to justify human rights either cannot appropriately connect human rights and autonomy or cannot account for the human right of all to meet their basic needs (Fagan, 2006; Hassoun, 2008a; Raz, 1998; Griffin, 2006). Any successful human rights theory must avoid this dilemma. It is possible to avoid this dilemma if (1) human rights, whatever else they do for people, protect individuals' ability to live minimally good lives, (2) autonomy

2 Some of the arguments in this essay are expanded upon in (Hassoun, 2008b) which defends a minimally good life accounts of needs.

3 It is beyond the scope of this paper to argue for this conclusion. For compelling arguments that human rights must protect individuals' ability to meet their needs see: (Buchanan, 2004). For compelling arguments that human rights must protect individuals' ability to secure autonomy see: (Griffin, 2006).

4 Griffin actually grounds his account in a more robust conception of autonomy than the one this paper will use (what this paper will call *personhood*). Furthermore, he might say that he is grounding rights in individuals' interests since he supposes that people have an urgent interest in personhood. Nevertheless, his theory has the problem suggested here because he tries to ground all human rights only in this interest.

is necessary for and partly constitutive of such a life,[5] and (3) people need all and only what will enable them to live such lives.[6] This paper makes a preliminary case for (1) by showing that (2) and (3) hold. For, if (2) and (3) hold, a theory of human rights on which human rights protect individuals' ability to live minimally good lives avoids the dilemma sketched above. If this argument goes through, then there is reason to take seriously a theory of human rights on which human rights protect individuals' ability to live minimally good lives. Traditional human rights theories must embrace something like (1)-(3) if they are to prove adequate[7] or a new theory of human rights may be necessary. In any case, the next section sketches an account of autonomy. The third section defends (2). The third and fourth sections together defend (3). The final section concludes.

III. Autonomy

The idea that people must be able to freely shape their lives is central to most accounts of autonomy (Nussbaum, 2000, 72). Though more may be necessary for even the most minimal sort of autonomy as a pre-requisite for free action, one must at least be able to reason about, make, and carry out simple plans on the basis of one's desires. Let us say a bit about each of the conditions for this quite minimal kind of autonomy now.

First, to secure autonomy one needs some instrumental reasoning ability. Some hold demanding conceptions of autonomy on which reasoning requires much more. Kant, for instance, believes reason demands that one acknowledge the categorical imperative as unconditionally required (Hill, 1989; O'Neill, 1986). Many deny the existence of such an imperative. Most people can agree, however, that autonomy requires instrumental reasoning ability. Such reasoning is essential for making simple plans and shaping one's life.

To be able to make simple plans one must have some internal freedom, even if externally constrained. One must be able to adjudicate between one's desires. To make sense of this idea, one might give a decision-theoretic analysis of planning in terms of creating a consistent preference ordering. Alternately, one might cash out planning ability in terms of ordering one's ends (Rawls, 1971). Because these are standard moves in the literature on autonomy, however, we need not consider the ability to make simple plans further here.[8]

Finally, to carry out simple plans one must be able to act on one's consistent desires or well-ordered ends. One needs some external and internal freedom. One must not be completely prevented from acting. One must also have some internal control over one's body.

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5 Technically something might be partly constitutive of something which is partly constitutive of a minimally good life without being partly constitutive of a minimally good life. But we will argue that the requisite part of personhood is part of a minimally good life and autonomy is (in its entirety) a part of personhood.

6 The following (implicit premises) should be uncontroversial, if not analytic: 1a. If autonomy is necessary for and partly constitutive of a minimally good life and human rights protect each individual's ability to live a minimally good life, then human rights protect each individual's ability to secure autonomy. 2a: If people need all and only what will enable them to live a minimally good life and human rights protect each individual's ability to live a minimally good life, then human rights protect each individual's ability to meet their needs.

7 Those concerned to defend interest-based theories might have to argue, for instance, that people have an interest in x if x is partly constitutive of a minimally good life.

8 For instance, see (Bratman, 2005).

Consider how autonomy is impaired when one cannot reason about, make, and carry out simple plans on the basis of one's desires. Suppose that Aida has a head injury that sometimes makes her delusional. Suppose that when she is delusional she cannot reason or plan. Aida might ask to speak to her husband one moment and then refuse to see him the next. Aida's desires are like trains on a busy track going this way and that, unconstrained by traffic signals.[9] Aida is not autonomous.

Contrast Aida's case with *Emal's*. Suppose Emal is a devout Muslim. He wants to live his whole life according to his faith. Occasionally he wants to drink with the other young men who live in his neighborhood. Suppose Emal can reason about, formulate, and carry out simple plans and so carries out a plan to go to the mosque and pray whenever he wants to drink with the other young men in his neighborhood. Since Emal can reason about, make, and carry out such plans on the basis of his desires, he is autonomous.[10]

The kind of autonomy explicated in this section is minimal. So, it should be able to secure broad assent. If one can make the case that human rights should protect a more robust conception of autonomy, the account that follows can be expanded.[11] But in the absence of such arguments, let us adopt this conception of autonomy. The next section suggests that people need all and only what will enable them to live minimally good lives. The fifth section argues that the kind of autonomy sketched above is necessary for and partly constitutive of such a life. Finally, the concluding section considers how adopting this account of needs provides a reason to accept a theory of human rights on which human rights protect individuals' ability to live minimally good lives. For, then, it is possible to avoid the dilemma with which we started -- everyone will have a human right to the protection of his or her autonomy and needs.

IV. Autonomy and Needs

A few theorists have suggested something like the minimally good life account of needs on which people need whatever will enable them to live minimally good lives (Anscombe, 1958). None has cashed out the account. We might begin this project by appealing to the account of autonomy above. We will argue that autonomy is necessary for and partly constitutive of a minimally good life (Nussbaum, 2000, 72).[12] This will also illustrate a general argumentative strategy by which one could show that other things are part of a minimally good life -- further cashing out this account of need.

Consider, first, why autonomy (understood here as just requiring reasoning and planning ability) is necessary for a minimally good life. Rewarding struggle, deep understanding, good relationships, significant achievement, virtue and so forth are some

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9 This analogy is from (Feinberg, 1973).

10 The conditions for autonomy I have set out do not prevent one from acting from poor reasons (e.g., wishful thinking). If one thinks this is not compatible with autonomy, additional criteria for autonomy will be necessary to rule out this possibility.

11 The paper will only face a problem if one can both argue that human rights should protect a more robust conception of autonomy and that such autonomy is not necessary for a minimally good life.

12 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 an autonomy-based 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 many autonomy-based theories of human rights. Some people cannot secure autonomy, but even these people have some needs (and rights).

of the things that make a life go minimally well. Each of these things requires autonomy. People must be able to reason about, make, and carry out simple plans on the basis of their commitments to create and maintain good relationships. People must, for instance, be able to reason about, make, and carry out plans to talk with their friends and families for their relationships to flourish. Reasoning and planning are also necessary for developing important skills and character traits, deep understanding, significant achievement, and so forth. So, autonomy is necessary for a minimally good life.

Autonomy is also partly constitutive of such a life. This is because personhood is, partly constitutive of a minimally good life and autonomy is partly constitutive of personhood. Consider, first, why personhood is partly constitutive of a minimally good life. As persons 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). These conditions for personhood are also conditions for a minimally good life. To live a minimally good life one must be able to hope and dream, to pursue one's goals and carry out projects, to live life on one's own terms. Those who lack a conception of being a self, persisting through time, with a past and future cannot hope or dream. Those who never pursue their conception of a good life cannot achieve their goals or carry out projects. Hence personhood is partly constitutive of a minimally good life. Consider next why autonomy is partly constitutive of personhood. Recall that autonomy requires the ability to reason, make, and carry out simple plans on the basis of one's desires. These conditions for autonomy are also conditions for personhood. To reflect and assess in the way that personhood requires one must be able to reason. To pursue one's conception of a good life, as persons do, one must be able to make and carry out simple plans.

We can also see that autonomy is necessary for and partly constitutive of a minimally good life via examples. Suppose Aefa drifts through life making one choice then another randomly or letting others choose for her. Suppose that Aefa has not freely chosen to drift. He simply cannot reason about, make, or carry out plans. Aefa cannot shape his own life. He does not choose consistently enough to attain most of the things he desires. He may end up subject to another's will. Even if, by chance, Aefa secures many valuable things, his life will still lack an important kind of value. His life will be like a prize won accidentally (Raz, 1998). Aefa cannot live a minimally good life because his life is not truly her own.

One might object that some can have minimally good human lives without autonomy. The very young and severely disabled lack autonomy but may have such lives. They may experience joy and sadness, pleasure and pain, music and light (Kittay, 2005). Autonomy is not necessary for or even partly constitutive of such a life.

Disability theorists have convincingly argued that there may be a lot of value in a life without autonomy (Kittay, 2005). Non-autonomous people, like the rest of us, deserve respect and care. But the fact that it is valuable to experience emotions, music, and light provides little support for the claim that those who cannot reason and plan can live minimally good lives.[13] Rather, it is such a great loss if the extremely disabled cannot

13 If, however, disability theorists insist on reserving the term "minimally good human life" for the valuable lives the extremely disabled (and very young) can live, then they can simply call the sort of life at issue in this account the "minimally good and autonomous life." The issue may just be semantic.

secure autonomy precisely because everyone needs autonomy to live a minimally good life (though people also need other things to live such lives).

A different objection is that monks can live minimally good lives although they freely abdicate their autonomy. One might argue, for instance, that monks lack autonomy since they must follow the rules of the monastery and give up all of their worldly possessions. But, one might maintain, many monk's lives are minimally good.

This objection misunderstands the kind of autonomy that we have argued is necessary for and partly constitutive of a minimally good life. One need only be able to reason about, make, and carry out some simple plans to have this kind of autonomy. So, most monks have this kind of autonomy. Most monks carry out all kinds of simple plans – to read, write, eat, pursue their ideal of a religious life, and so forth.

So far, this paper has argued that autonomy is necessary for and partly constitutive of a minimally good life. So it should be clear how one might argue that something else is necessary for or partly constitutive of a minimally good life. By arguing that autonomy is necessary for and partly constitutive of a minimally good life, however, this paper has also added some content to the minimally good life account of need. We can say, for instance, that people need whatever will enable them to secure autonomy on this account. But why think people need all and only what will enable them to live minimally good lives? The next section motivates the minimally good life account of needs by considering the alternatives. The final section shows how this account provides the key to avoiding the dilemma facing many traditional human rights theories.

V. Justifying the Account

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. Any good account of needs must accommodate differences in individuals' needs resulting from differences in individual constitution and from the fact that individuals occupy different positions in society (Brock, 1998; Frankfurt, 1988). That is, a good account should capture all of the things each person needs without including anything someone does not need. It is plausible that the minimally good life account of needs fulfills this desideratum. This section will argue, however, that the two main competitors to this account -- Harry Frankfurt's harm and David Braybrooke's social role accounts -- do not fare so well.

Before beginning, however, it is important to note that the accounts we will consider are not designed to fulfill the above desideratum for a satisfactory conception of needs.[14] Harry Frankfurt really only intends to account for the presumptive force of needs (Frankfurt, 1988). David Braybrooke wants to give an account of what people need that can inform public policy (Braybrooke, 1987). Still, Frankfurt and Braybrooke have the best developed accounts of needs so it is worth seeing if their accounts can fulfill the above desideratum. If they cannot, and we are right that the minimally good human life account of needs fares better, the minimally good human life account should be, at least provisionally, accepted.

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14 One might argue for this desideratum by suggesting that a good account must provide a plausible basis for what a decent society must enable its members to secure. Unfortunately, it is not clear that would be the most satisfactory defense here. We are, after all, trying to argue for an account of human rights by showing that it will protect each individual's ability to secure what they need. Still, the desideratum is independently plausible, and can probably be defended in another way. Finally, even if it cannot be given an independent defense, this paper may still illuminate important connections between rights and needs (as well as autonomy and a minimally good life).

Harm-Based Accounts

Harry Frankfurt in *The Importance of What We Care About* argues that we need the inescapably necessary conditions for avoiding harm. He says people need those things that are 'necessarily necessary for avoiding harm' (Frankfurt, 1988, 112). Frankfurt does not give a complete account of *harm,* but he says one is harmed if one is made worse off than before. He also claims that one's situation must improve for one to avoid harm, if the only way to keep one's situation from becoming worse is to make it better. Finally, Frankfurt says one is harmed if one remains in a bad condition because more of a bad thing is worse than less of it (Frankfurt, 1988, 110).

There are several problems with Frankfurt's account. First, Frankfurt's notion of harm is too inclusive. Intuitively, one may not be harmed if one's bad state merely persists. One may not be made worse off than before by remaining in a bad state that does not become worse. Suppose, for instance, that Zahra is in the early stages of Parkinson's syndrome, a degenerative disease. Her memory is affected but she can still feed herself. Suppose, further, that she is given a new medication that stabilizes her condition. Even though her bad condition remains the same (her memory is still poor), it seems that the medication has been helped, not harmed, Zahra.

Perhaps Frankfurt could say that when Zahra's degenerative condition stabilized her condition changed -- rather than remaining in a bad state, Zahra has entered a new, stable, state. So, Frankfurt could conclude, Zahra has not been harmed by the change. Even if this move works in Zahra's case, however, Frankfurt must say more to show that one can not benefit from something that keeps a bad state from getting worse since one may be lucky one's state does not deteriorate.

Alternately, noting that Zahra would have been much better off without the disease, Frankfurt could advance the following conception of harm: Someone is harmed if and only if they would otherwise be in a much better state. It might follow that people whose bad state persists are harmed if Frankfurt also holds that those whose bad states persist are worse off than they would otherwise have been.

Neither contention is plausible. But even adopting the proposed conception of harm, for a moment, it should be clear that one is not necessarily worse off than one would otherwise have been if one's bad state persists. Zahra, for instance, would have been in a worse state if her condition had not stabilized. (This is true on any plausible way of thinking about her state; she would have both lost her ability to fee herself and continued to degenerate if her condition had not stabilized.) Even right before Zahra got her degenerative disease she may have been worse off. She might, for instance, have had a virulent form of cancer removed just as she developed Parkinson's.

The second problem for Frankfurt's account is that people do not always need those things that allow them to avoid harm. Some harm is insignificant and people do not need to avoid insignificant harm. Zahra does not need to wear protective clothing even if this is the only way to keep her from getting minor bruises, for instance. Even if it is a law of nature that she will get minor bruises if she does not wear protective clothing, she does not need to wear such clothing.

Frankfurt might object that minor bruises are not harms because they are not severe enough to constitute harms. Alternately, he could say that Zahra does not need to wear protective clothing to avoid minor bruises because the clothing would be more harmful than the bruises.

Neither of these objections goes through. First, it is more plausible that the bruises are minor harms than that they are not harms at all. Second, it is hard to see how protective clothing is harmful. Perhaps Zahra would face harmful social stigma if she wears a full body covering. But, this is not clear. Zahra might live in Iran where she could fit in quite well with a padded burka that would protect her from minor bruises.

There are, of course, other ways Frankfurt might go here, but there are also other reasons to worry about Frankfurt's account. Even undergoing significant harm can be beneficial. Enduring harm may be the only way to secure a greater benefit. Someone with cancer that can be successfully treated with chemotherapy may be harmed by the therapy but still needs it. Chemotherapy can cause kidney malfunction, blood clots, infections, and other serious problems (National Cancer Institute, 2007). When patents recover 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). Even when the harms from chemotherapy are less severe than the harm the cancer would otherwise cause, they are still harms.

Frankfurt might argue that this is not a good case because chemotherapy does not harm but, rather, helps cancer patients. Without the chemotherapy patients often end up worse off than they would have been without the therapy. At least this seems right if one can only be harmed by something if one is made worse off than one would otherwise have been (Kagan, 1998).

While we did not challenge this conception of harm above, it is implausible. Suppose that Damien approaches Zahra as she is walking home. Damien attacks Zahra twisting her ankle in the process. Unbeknownst to Damien, a street on Zahra's way home was covered with ice. If Damien had not attacked Zahra she would have slipped on the ice, hit her head, and become a paraplegic. But, because she was attacked Zahra called a cab instead of walking the rest of the way home. Damien has still harmed Zahra. People can be harmed even if they are not made worse off than they would otherwise have been.

Even if Frankfurt resists this conclusion or maintains a global theory of harm, there are problems with his account of needs. Frankfurt's account unintuitively suggests that some people need things they do not (e.g. padded burkas). Nor can it account for the fact that some people need the things they do (e.g. stabilizing medication, if not chemotherapy).

Finally, consider a general worry about harm accounts. Some of the things people need they need to flourish, not merely to avoid harm. Intuitively, most children need education *even if they will not be harmed* by failing to get an education.[15] A good account of needs must be able to explain why this is so.

Social Role Accounts

The minimally good life account of need is not the only account that can explain why people need things that they do not need to avoid harm, however. David Braybrooke's social role account provides one of the best alternative accounts of what people need to live a flourishing life. On his account, policy makers can determine what people need via a broadly consultative process. First, they must specify a list of necessary goods that enable people to fulfill four social roles – parent, worker, citizen, and

15 One might argue for this on the account of harm suggested above as follows: Some children's lives might not be bad and even improve slightly over time if they do not receive an education, but even these children may need an education.

housekeeper (Braybrooke, 1987). Then, policy makers must specify minimum standards of provisions for these things. The standards should be sufficient for each member of the population to carry out each social role. For, even those who choose not to occupy Braybrooke's social roles will need many of the things that those who occupy the roles need (Braybrooke, 1987).

Unfortunately, some people do not need the things that would let them occupy Braybrooke's social roles and others need things that they do not need to occupy these roles (especially if they hope to occupy other roles). A monk may not need to have children or be a worker but may need religious freedom.

Braybrooke might not think that the monk needs religious freedom. But, even if he accepts this example, he might suggest that this freedom is just a part of the freedom of conscience necessary for the social roles at issue in his account. Braybrooke might maintain that people need freedom of conscience to be good citizens, for instance. On the other hand, Braybrooke might argue that the monk only needs the *opportunity* to have jobs and children. He might insist that people only need to have the opportunity to fulfill his social roles.

Perhaps some freedom of religion is necessary for the kind of freedom of conscience people need to be good citizens, workers, parents, and housekeepers. But, it is not clear that people need the kind of religious freedom the monk needs to fulfill these roles. Furthermore, Braybrooke cannot claim that people just need to have the opportunity to fulfill his social roles. It would be strange to say the monk needs the opportunity to have children. At least the monk does not need the opportunity to have children if he stays a monk and never wants the opportunity.

Braybrooke would probably respond to this last worry by saying that he is only concerned to give an account of what people *typically* need in a way that could be presented to the public.[16] Most people need what will allow them to have children and work, though some people do fine without these things. Few people need the kind of religious freedom monks need. This, however, is just to say that Braybrooke is engaged in a different project than the one in which this paper is engaged, his account is not useful for our purposes. For, Braybrooke's account does not fulfill the desideratum with which we started; it does not capture all the differences in individual needs because, intuitively, some needs are not even rebuttably universal (i.e. few would think everyone needs the kind of religious freedom the monk needs). Braybrooke's account, like harm accounts of needs, also suggests that some people need things that they do not (some do not need work or children but these are rebuttably universal needs). Although, like its competitors, the minimally good life account requires further cashing out, it has some advantages over the alternatives. We can, thus, conclude by turning to the connection between this account and human rights.

VI. Conclusion

More work is necessary to cash out the accounts of autonomy and need suggested above. But, if the arguments in this paper go through, the accounts of need and autonomy we have sketched provide keys to avoiding the dilemma facing traditional theories of

16 Braybrooke says that not everyone will need to play every social role on his list and emphasizes that he is not concerned about idiosyncratic, or episodic needs. Everyone has a non-episodic need for food even if they are currently well fed. One has an episodic need for food when one is starving.

human rights. Recall that we suggested that many traditional theories either fail to account for the close connection between rights and autonomy or fail to account for the rights of all to meet their needs. That is, this paper has given us some reason to accept:

(1) Human rights protect each individual's ability to live a minimally good life.

For, we have argued for the following conclusions:

(2) People need all and only what will enable them to live minimally good lives.

(3) Autonomy is often necessary for and is partly constitutive of such a life.

So, if (1) is correct, human rights will protect each individual's ability to secure autonomy and meet their needs. There is reason to take seriously a theory of human rights on which human rights, whatever else they do for people, protect peoples' ability to live minimally good lives.[17] Traditional theories must embrace something like (1)-(3) if they are to remain contenders or a new account of human rights might be necessary.[18]

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17 To account for the 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.

18 The alternative accounts may have other advantages over the minimally good life account or there may be another option that merits consideration. Some, for instance, worry about autonomy and interest based accounts because they believe that these accounts are too individualistic. Rather, some suggest, we should accept a community based account of rights. I do not think that the minimally good life account need be viewed as a competitor to community based theories. Rather, I believe that they may each be useful lenses which emphasize different aspects of human rights. On this see (Wong, 2004).

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