Newcastle University e-prints

Date deposited: 25th March 2013

Version of file: Author

Peer Review Status: Peer reviewed

Citation for item:

Jones P. [The Value and Limits of Rights: A Reply](#). *Critical Review of International Social and Political Philosophy* 2012, **15**(4), 495-516.

Further information on publisher website:

<http://www.emeraldinsight.com>

Publisher's copyright statement:

© 2012, Taylor and Francis

"This is an Author's Original Manuscript of an article whose final and definitive form, the Version of Record, has been published in *Employee Relations* 2012, © Taylor and Francis, available online at: <http://www.tandfonline.com/10.1108/01425451211267946>."

The definitive version of this article is available at:

<http://dx.doi.org/10.1108/01425451211267946>

Always use the definitive version when citing.

Use Policy:

The full-text may be used and/or reproduced and given to third parties in any format or medium, without prior permission or charge, for personal research or study, educational, or not for profit purposes provided that:

- A full bibliographic reference is made to the original source
- A link is made to the metadata record in Newcastle E-prints
- The full text is not changed in any way.

The full-text must not be sold in any format or medium without the formal permission of the copyright holders.

Robinson Library, University of Newcastle upon Tyne, Newcastle upon Tyne.
NE1 7RU. Tel. 0191 222 6000

The Value and Limits of Rights: a Reply

Peter Jones*

School of Geography, Politics & Sociology, Newcastle University, Newcastle upon Tyne, NE1 7RU, UK.

I reply to each of the contributions in this issue. I agree with much that Steiner argues, especially his insistence that the associated ideas of impartiality and discontinuity are crucial to dealing satisfactorily with a diversity of competing claims. I am, however, less willing to conceive provision for that diversity as *the* role, rather than *a* role, that we should ascribe to rights. I question the success of David Miller's endeavour to provide a unified justification of human rights grounded in the concept of need. It is the notion of a minimally decent human life, rather than need itself, that does most of the justificatory work in Miller's argument and, arguably, that notion does not deliver a genuinely unitary account of human rights. I concede the case for state funding of opera and the arts more generally to Horton's argument, but defend neutralism, and its associated distinction between the right and the good, as a strategy for dealing with diversity, including cultural diversity. I resist Bellamy's attempt to ground all basic rights in democracy and suggest that his argument relies upon idealised assumptions about the functioning of democracy. I share much of his objection to substituting judicial for political decision-making but argue that a strong moral commitment to rights need not imply a shift in power from democratic processes to courts. I endorse Weale's argument for favouring a beneficial design approach over a rights approach to health care and to many other social goods. Rights should not monopolise our moral and political thinking.

Keywords: rights, human rights, neutrality, democracy, cultural difference, welfare

I am greatly honoured that a group of such distinguished scholars should have been willing to give their attention to my research. I am also most grateful to Ian O’Flynn and Albert Weale for organising the conference at which these papers were first presented and for editing this special issue of *CRISPP*. To receive the critical attention of so many famous names in British political philosophy is a rare luxury. This collection has a special value for me since the contributors have been friends and colleagues throughout my academic career and I have gained immeasurably from the intellectual life that I have shared with them over several decades. Our thinking on our common concerns has sometimes converged and often differed, but all of the contributors have had a major impact on my own thinking and the debt I owe them extends far beyond this collection.

While the experience of having one’s work scrutinised by such an able body of scholars is both gratifying and flattering, it is also humbling and chastening. I find myself called to account for unguarded comments and breezy generalisations that I managed to slip past editors and journal referees many years ago. I cannot make the usual excuse of youthful excess, since most of my indiscretions belong to middle-age and sometimes quite late middle-age. That said, I am chastened only to a limited degree and in limited respects. Perhaps unwisely, I remain stubbornly attached to most of the positions to which I committed my former self and the stubbornness with which I defend and reassert those positions will be more apparent in what follows than my readiness to learn from criticism. The Socratic nature of analytical political philosophy pushes its practitioners towards disputation; too much agreement would threaten the subject’s survival. But persuasion and progress in understanding are possible even in political philosophy and I have found much to learn from and to assent to in the papers that make up this collection. I need hardly say that the brief responses I give to them in this Reply will not do justice to the subtle and detailed arguments they contain, particularly since those arguments often grow out of much larger bodies of work for which their authors have become well known and justly celebrated.

Disagreement, discontinuity and rights

In the 1980s Robert Goodin and Andrew Reeve invited me to write an essay on the neutral state for their volume, *Liberal Neutrality* (1989). Writing that essay was

something of a Damascene experience and very much of what I have written since has had its origins in issues the essay made me confront. Like many contemporary political theorists, I have been preoccupied with the diversity that characterises the populations of modern societies and with the question of how a population should provide for its own diversity. More particularly, I have been concerned with the differences of belief, value and culture, because those differences present us not merely with ‘difference’ but with conflict. In that context, it is easy to see the appeal of a neutralist strategy: if an arrangement providing for conflicting beliefs and values is to be *acceptable* to people, and if they are to accept it as *fair*, it cannot be one that simply privileges and imposes a belief or value that is part of the very conflict for which it aims to provide. It has to be an arrangement that is grounded independently of the beliefs and values at issue and which, in that sense, deals with the conflict neutrally. It should regulate the conflict without becoming party to it.

Hillel Steiner has obviously felt the appeal of this approach every bit as strongly as I have. His own defence of the case for a neutral or impartial strategy in the face of conflicting beliefs and values has been eloquent, both here and elsewhere. Steiner makes sparing use of the language of ‘neutrality’ and it is perhaps unfortunate that the strategy to which we both subscribe should have been characterised primarily in those terms, since it has occasioned much misplaced criticism. For instance, critics have complained that it is impossible to be neutral about everything, but no neutralist has ever said otherwise. In particular, neutralists are not neutral about the principles that inform or ground their neutralism; but it does not follow that there is no credible sense in which their approach is authentically neutral in the way it deals with the diversity for which it is designed. The relevant strategy can be and has been characterised in other terms, particularly the distinction between the ‘right’ and the ‘good’. Like Steiner, my own preferred characterisation is the distinction between ‘discontinuous’ and ‘continuous’ strategies for dealing with diversity, a distinction due to Ronald Dworkin (1990, pp. 16-22). Neutralism belongs in the discontinuous stable, since it aims to establish a discontinuity between the diversity at stake and the principles that are used to regulate it. A continuous strategy, by contrast, seeks a solution based on values that are somehow continuous with those that are in conflict and for which it has to provide.

There are many cases in which a continuous strategy is not feasible. Take the case of religious differences. If a population tries to provide political arrangements

that deal fairly with differences in religious faith, an approach that searches for a solution in the very beliefs that are in conflict is decidedly unpromising. Much more promising is an approach that requires the parties to step outside their religious bunkers and to see themselves not as adherents of this or that religion but as people who hold different and conflicting religious beliefs. They should then think about what would be a fair arrangement amongst people so circumstanced. Nowadays, the religious are likely to protest that their faiths are intrinsically tolerant and contain within themselves the solution to the diversity they present; in other words, there can be a continuity between different and conflicting faiths and the values that we call upon to provide for that difference. However, viewed historically, it is hard to find that claim convincing. If the political values of freedom and equality were written into Christianity and Islam all along, it is surprising that it took so long for their sponsors to discover them. Much more plausible is the story that John Rawls tells – a story of faiths gradually adjusting and amending their doctrines to remove dissonances between their doctrine and changed moral and political thinking on liberty and equality. The slow and reluctant way in which the Roman Catholic Church came to accept democracy and human rights is a perfect example of this process of gradual adjustment (Curran 1998). It may be plausibly claimed, as Rawls does, that an overlapping consensus amongst religions on acceptable political arrangements now exists in many liberal societies, but that is not a consensus that was there all along. Nor is it one formed around principles of liberty and equality and political practices and institutions that owe their origin only to religious doctrine.

My own thinking on these issues has been heavily influenced by Rawls even though, like many of his fellow travellers, I have sometimes bitten the hand that has fed me. The strategy of discontinuity is not unique to Rawls, and it was a strategy he thought appropriate only to a society characterised by pluralism and a liberal democratic political culture (Rawls 1993, 1999). Steiner's commitment to the idea of, and need for, discontinuity is not similarly circumscribed nor, as far as I can see, is it similarly indebted to Rawls. Unlike most of the major political theories that have been developed in recent decades, Steiner's work, especially his *Essay on Rights* (1994), is distinguished by its lack of indebtedness to Rawls, even as an adversary.

How then does discontinuity relate to the purpose and content of rights? For Steiner, it is disagreement and the need to provide for it discontinuously that explains both the purpose of rights and the moral priority they enjoy. These also intimate what

it is that rights must be rights to: domains within which the right-holder alone is free to determine what shall be done. By comparison with the simple austerity of Steiner's view, my more varied conception of the purpose and content of rights will appear decidedly promiscuous. However, I certainly agree with Steiner in giving disagreement and diversity a major role in determining the purpose and content of rights. Rights have to make sense in, and have to provide for, a world in which people hold different beliefs, values and commitments. Those rights include human rights and the differences they have to address include cultural differences.

David Miller detects a difference in emphasis between my approach in *Rights* (1994) and in articles on rights that I wrote thereafter, a difference, he suggests, that is to be explained by my having discovered 'culture'. I have indeed argued that, in conformity with the strategy of discontinuity, we might conceive human rights as standing in a second-order and regulative relation to cultural differences (Jones 2001). That argument does presuppose that cultural difference deserves to be taken seriously, but it does not entail that our response to cultures must be indiscriminate. It also leaves human rights in a position of moral primacy. I remain resistant to the way in which 'culture' is frequently deployed as a trump card in contemporary political argument and wary of attempts to sanctify practices and shield them from critical discussion by branding them 'cultural'. One reason for my taking up the issue of how human rights relate to cultural diversity was the common complaint (more common nowadays than in 1948) that the doctrine of human rights imposes a particular form of life – western and liberal – upon humanity at large. Human rights advocates now find themselves caricatured as marauding imperialists callously trying to stop practices such as torture and tyrannously imposing freedom of thought and freedom of religion upon populations. For some western critics, it would seem that non-western populations, in embracing human rights, are merely running headlong to their chains. Protests about the alien influence of human rights and liberalism are rarely accompanied by similar protests against the influence of ideologies such as nationalism and Marxism, which are every bit as 'western' in origin and which often play a significant role in 'non-western' violations of human rights.

In fact, the generality of human rights, that now figure in a plethora of international declarations, covenants and conventions, do very little to impose a specific form of life on populations. On the whole they establish a framework intended to give people the freedom and opportunity to live whatever form of life they

wish or believe to be right, including the most communal of communitarian forms of life. In Miller's own terms, they aim to secure the conditions for a minimally decent human life without specifying in any detail what particular life that should be. Insofar as a diversity of beliefs, wishes and aspirations is part of the world for which human rights have to provide, those rights can, should and often do, take account of that diversity. They do not, of course, sanction every kind of practice; they would be pointless if they did. But, in the jargon of neutralism, they seek to lay down certain rules of right within which people are able and free to pursue different conceptions of the good.

In arguing that the theory of human rights needed to take cultural diversity seriously, I did not mean to suggest that that was the sole or main purpose of human rights. As I have already indicated, my efforts to link the role of rights to the facts of pluralism and disagreement have been more modest and qualified than Steiner's. My view has been that the purpose that has done most to prompt the ideas of natural and human rights has been the protection of people from abuses of power, particularly political power. Rights, such as rights to freedom of thought, conscience and religion and rights not to suffer certain forms of discrimination, clearly do provide for differences, while rights not to be tortured, to be tried fairly, and not to suffer cruel, inhuman and degrading treatment, have a purpose that lies elsewhere. But even those commonly-claimed human rights that relate less immediately to diversity, such as those I have just cited, along with rights relating to judicial processes, personal security and basic socio-economic goods, remain consistent with a multitude of different forms of life.

Grounding human rights

The diverse content of human rights has led me to think that the justification of human rights might also need to be diverse. In proposing a pluralistic approach to the justification of human rights, I do not mean to suggest that all of the various extant justificatory theories of human rights could contribute to the task. As Miller points out, that could not make sense since those theories are frequently incompatible. Rather my thought has been the more modest one that different rights may be rights for different reasons, and that the reasons that justify different rights can be different without being incompatible. I mean to cast doubt on the assumption, widely shared

amongst who take on the daunting task of justifying human rights, that all of these rights can stem, or should stem, from a single justificatory root.

Miller resists this doubt and remains committed to a unified justification of human rights. He has long been a proponent of need as a normative notion that should contribute to our thinking on justice and he is joined by many others, including myself, in holding that need should contribute to our thinking on human rights. However, needs have been most frequently invoked in relation to socio-economic human rights; Miller is unusual in proposing that need can ground every sort of human right.

I remain sceptical about Miller's bold claim in a number of ways, all of which concern the way in which he links need to the idea of a minimally decent human life (MDHL). First, he does not claim that need alone can do the job; rather, it is need in conjunction with the notion of a MDHL. That gives us reason to suspect that the primary normative work is being done by the notion of a MDHL rather than by the notion of need. Once we have established, or have taken for granted, that everyone is entitled to a MDHL, we can go on to argue that everyone is also entitled to whatever he or she needs to live a MDHL. (That is not quite true because, there may be elements of MDHL to which we do not think people have rights, e.g. love and friendship.) But what gives moral force to claims of need and what gives content to those claims will be our notion of a MDHL.

Secondly, we may question whether the idea of MDHL provides a genuinely monistic justification of human rights. T. M. Scanlon has argued that we should not think of well-being as a 'master value' (1998, pp.108-143); it is not 'a good separate from other values, which are made valuable in turn by the degree to which they promote it' (1998, p.142). It is better understood as an 'inclusive good': one that encompasses the various particular goods that contribute to a life's going well. That would seem even more clearly true of a MDHL; that life is not a good in its own right from which all of the things that contribute to it derive their value. It is a portmanteau term that we use to encompass all of the various things that make up a life's being 'decent'. If that is so, we can still think about human rights in terms of needs but the meeting of those needs will not promote a single unitary goal that we can label a MDHL. Rather it will provide for the many and various constituents of a MDHL. In other words, our ability to appeal to the idea of MDHL in justify human rights does not suffice to show that that justification will be genuinely monistic in character.

Thirdly, in speaking of what is needed for a MDHL, there is a risk of conflating the *instruments* necessary for attaining a MDHL and the essential *constituents* of a MDHL. Miller seems to stick consistently to an instrumental notion of need and I do not suggest therefore that he is guilty of this conflation when he argues that all human rights can be understood as catering for what is needed for a MDHL. However, the claim that all human rights answer to needs is certainly more plausible if need is ambiguous between instruments and constituents. For example, if we say that the right to a fair trial (which we may generalise as a right to be treated fairly by the judicial system to which one is subject) is needed for a MDHL, that is much more persuasive if we think of the possession of that right as itself part of – as itself a constituent of – a MDHL. It is much less persuasive if we have to view the right to a fair trial as an instrument of – as something that provides a resource for – the attainment of a MDHL. We can certainly tell a story about how the fairness of trials might serve other goods that matter to people, but that is not the whole story nor are we likely to regard it as the most important story we should tell if we were asked to defend the human right to a fair trial. We are much more likely to think that being tried unfairly is, of itself, an injustice and, for that reason, the violation of a human right, irrespective of whatever other ills the victim suffers as a consequence of his unfair treatment.

It is, of course, much easier to pick holes in someone else's justification of human rights than oneself to come up with an alternative that will do better. Even if we do opt for a pluralistic approach, the task is still daunting. But I want to pray in aid here an observation that I previously made on human rights and one to which Miller refers: the observation that 'the traditional political purpose of natural or human rights has been to tell those who wield political power what they may and may not do' (Jones 1994, p. 222).¹ If that is true – and I still think it is – we should, in cataloguing human rights, be particularly aware of the respects in which people might be mistreated by political power and therefore of the different sorts of safeguard they will need. If we approach the compilation of a catalogue of human rights with that purpose in mind, it will be unsurprising if the human rights we end up with are a rather heterogeneous set – such as, for example, the rights to security of person, freedom of religion, social security, a nationality, and a fair trial (all of which appear in the UDHR 1948). We might speak of all of these rights as rights that people 'need'

to secure them from the abuse of power, but that does not indicate that need contributes significantly to the reasons for these rights being rights.

I do, however, want to add a comment on that approach. While I think providing safeguards and guarantees in relation to political power has been the principal driving concern behind the natural and human rights tradition, I do not mean that to be definitive of human rights. Some authors have defined human rights as rights only against governments (e.g. Martin 1993). By contrast, I would see taming political power as one of the major – and as historically perhaps the major – practical implication of ascribing rights to human beings as human beings. But the idea of human rights is not, and should not be, limited to that domain. If, for example, an individual is abused by a commercial organisation in the same way as he might have been abused by a government, and if that abuse by a government would have been the violation of a human right, I see no good reason for denying that the commercial organisation violates a human right. Similarly, if the idea of human rights brings with it an idea of the fundamentally equal moral status amongst human beings, I see no reason why human rights might not be invoked when we condemn the unequal treatment of women. So, although I think that human rights have been conceived primarily in relation to governments and although the provision of safeguards against political power can help to make sense of the heterogeneity of human rights, I do not suggest that the very idea of a human right should be confused with that purpose.

Neutrality, the right and the good

If my thinking about rights has been more modestly ‘discontinuous’ than Steiner’s and if it has verged on being too discontinuous to satisfy Miller, its having aspired to discontinuity in any measure has been enough to earn the scepticism of John Horton. He is sceptical of the entire family of neutralist or impartialist forms of liberalism, and their efforts to distinguish the right from the good. He takes me to task for commenting that ‘the real test of a liberal is whether one believes that it is permissible for the state to subsidise opera’. While I cannot now recall saying that, I do not doubt that I did. I hope I said it ironically and with a smile on my face, but I cannot be sure that I was not in earnest.² Certainly if we do adopt a distinction between the right and the good and require political power to concern itself with nothing but the right, we would seem to remove state patronage of the arts and much else besides from the

political agenda. Some liberals have tried to make a case for state funding of the arts that avoids any claim that they are of intrinsic worth but, like Horton, I find their efforts desperate and unconvincing. In truth, I do not want to embargo the state's supporting opera, or other art forms, or museums and libraries. As Horton acknowledges, there is a legitimate argument to be had about state subsidies for opera and the case for those subsidies has to be made. He rightly mocks the idea that anyone is 'disrespected' if their state supports opera, but the more pertinent Rawlsian question is whether that support is fair. Is it fair that public funds should be used to support a form of entertainment that is enjoyed by only a minority of taxpayers, most of whom come from the better-off section of society, particularly if there is no counterbalancing use of taxpayers' money to support other, more 'popular', forms of entertainment? The fact that the sum of money involved is paltry compared with other government expenditure does not dispose of the issue of principle. If a satisfactory justification is to be found, it cannot be one that claims that some people – those with a taste for opera – should count for more than others. It must be more impersonal in form: opera has an intrinsic worth that merits public support. On that point, as on so much else, I agree with Brian Barry (2001, pp. 198-9). State subsidy of opera is likely to escape the charge of unfairness only if it is conceived as not a matter of fairness at all.

However, while I am willing to run up the white flag in the case of opera, I am not similarly willing to renounce my use of the distinction between the right and the good in other contexts. Apart from the case of opera, Horton focuses his critique of that distinction mainly upon my use of it in relation to cultural diversity. I was aware that applying the distinction to cultural differences was particularly provocative, since a culture is often thought to be something that we cannot get 'outside' and view impartially. Even so, it is commonplace for people to insist that in a multicultural society, cultural differences should be provided for justly or fairly or equally. That, in turn, implies that a society should, in its public life, be impartial in its treatment of the cultural differences present in its population.³ It is not unusual to hear people insist that this sort of impartiality is impossible, but then go on to complain bitterly about partiality or bias a society displays in its treatment of different cultures. I do not claim that it is practically possible or even desirable for a society to be impartial with respect to everything that the sprawling term 'culture' might encompass. Language is often cited as an example of something on which it is neither practicable nor desirable

that a society should be neutral, although some societies, like Belgium and Canada, do endeavour to be even-handed between two languages. But if we accept that a society cannot be, or should not be, impartial about *everything*, it does not follow that it cannot be, or should not be, impartial about *anything*. The shift in perspective that I cited earlier in relation to religious difference can also be made in relation to cultural difference. That is we, as the members of a multicultural society, rather than seeing the world and making demands only from the blinkered perspective of our own culture, can shift to a perspective in which we see ourselves and our fellow citizens as possessors of different cultural inheritances and commitments. We can also appreciate that other's inheritances and commitments matter to them as ours do to us. We can then begin to think about what constitutes a fair arrangement amongst citizens who possess different cultural allegiances.

This shift in perspective is sometimes said to be impossible and to require people to be schizophrenic. But that is melodramatic nonsense. It is a shift that we very commonly make. That is, rather than living in a solipsistic bubble in which we are sensitive to nothing but our own preferences and commitments, we are normally aware that others have preferences and commitments that differ from our own. There is nothing unusual or far-fetched in our then seeing ourselves as one person amongst many, each of whom is of equal status, and going on to think about what would be the right or the fair arrangement when we see the world in that way. That, for instance, was the perspective adopted by Rowan Williams as Archbishop of Canterbury when he called for the protection afforded to Christianity by the English common law of blasphemy to be extended to Islam and other non-Christian faiths.

That shift in perspective alone is not guaranteed to deliver unanimity on what constitutes the fair treatment of differences. The distinction between the right and the good sometimes goes along with the claim that those who possess different and conflicting conceptions of the good can nevertheless agree upon the principles of right that should regulate their pursuit of those conceptions. That claim is sometimes justified. For instance, in most liberal democratic societies there is a broad consensus upon the principle of freedom of religion and one that includes those who possess different religious beliefs. There are sometimes, of course, disputes about how precisely that principle should be translated into public policy, but those disputes arise within a consensus on the general principle of freedom of religion. However, I do not claim that issues of right will always be free of controversy, but, even if they are not,

that is no reason to rubbish the distinction between the right and the good, since the distinction marks a difference of kind between issues. Argument about the correct or best conception of the good and argument about the right principles for regulating relations amongst people who have different and conflicting conceptions of the good, are arguments about different sorts of issue. Plato notwithstanding, I cannot see why all of our moral thinking should be reducible, without loss, to an undifferentiated moral blob that we label 'the good'.

The case of *cultural* difference is particularly challenging because of the all-enveloping content that we commonly give that concept, but the shift in perspective I describe would still be possible and significant if, as Horton alleges, cultures penetrate the right. We can still distinguish between the role and status of principles conceived merely as the principles of a particular culture from principles designed to provide fairly for differences amongst cultures. There is one respect in which I still want to resist the sort of ultimacy that Horton claims for 'culture'. My argument has been that insofar as cultures matter, they matter primarily if and because they matter to those who bear them. Thus, our ultimate concern should be not for cultures but for those whose cultures they are. I still think it no less bizarre to ascribe moral standing to a culture qua culture than to a painting or a musical composition or a language (Jones 1998, p. 36). If I am correct about that, the issue at the level of the right should be about which people should count and about what follows from their counting; it will not be about which culture qua culture we should knuckle under. Nor, if cultures incorporate principles of the right, can we burke this issue by leaving it to be determined by each culture since, logically, the issue of moral standing, and who possesses it, must precede claims of culture.

Horton expresses some surprise that I allow that impartial arrangements need not be liberal arrangements. If we believe that the ultimate units of standing should be individuals, it is still open to people to argue that some individuals should count for more than others. While I, of course, sympathise with Steiner's claim that human individuals should enjoy an equality of status, I am less sanguine than he is of the ease with which its triumph will be secured, although we can reasonably place the onus of justification upon those who wish to depart from equality. Groups rather than individuals might also be proposed as the relevant units of standing. Another option is resort to a procedural rather than a substantive form of impartiality. For example, a society might deal with cultural difference by way of democracy and majority rule, so

that the culture that shapes a society's public life is whatever culture a majority of its members votes for. We may regard the outcome of that procedure as substantively unfair, but a procedure can be fair qua procedure even though it yields an unfair outcome. A commitment to democracy together with majority rule can count as an authentic commitment to impartiality, provided that it is a principled commitment to the fairness of the procedure and not a commitment contingent upon a particular outcome. A group cannot claim to be authentically committed to procedural impartiality if it demands equal rights when it is in the minority and unequal rights when it is in the majority. Most of the critical comment upon neutralism or impartiality has focused upon whether it is possible. The burden of my argument here and elsewhere is that more of it should be about whether neutrality or impartiality is justified and, if so, what form it should take, and how extensive its range should be.

While Horton is generally sceptical of the whole neutralist approach, and particularly of the distinction between the right and the good, much of his argument is directed not at the discontinuous strategy as such but at its 'misguidedly rigorist' forms. I have no wish to defend 'rigorism'. Being committed to a principle does not mean that we have to be fanatical and unyielding in our commitment and bone-headedly oblivious to other considerations. Nor does it compel us to ignore the fact that we start not with a blank sheet but with a particular society and a particular historical legacy. Horton cites the case of the established Church of England as an example of non-neutral arrangement that does not evoke complaints of unfairness and unequal respect from other Christian denominations or other faiths. Like Brian Barry (again), I am phlegmatic about the established status of the Church of England (Barry 1995, p. 165). The reality in Britain is that neither other variants of Christianity, nor non-Christian faiths, nor even secularism, are significantly disadvantaged by church establishment in its contemporary form. Horton rightly notices that the adherents of other faiths now sometimes given their blessing to the established church, but that is because they have come to regard secularism, rather than one another, as their principal enemy. In their eyes, disestablishment would be a victory for secularism rather than a blow for religious equality. However, in the different world of nineteenth century Britain, when Anglicanism really was privileged, dissenting Protestants objected very strongly to establishment and sought its abolition. Moreover, if we really could scrape the canvas clean and start afresh, it is hard to imagine anyone, including Anglicans, pressing the case for an established church.

Rights and democracy

Horton's opposition to distinguishing the right from the good is matched by Richard Bellamy's opposition to separating rights from democracy. Both see giving a distinct and privileged status to rights and 'the right' as part of a misguided attempt to take them 'out of politics'. Bellamy challenges any suggestion, including my own, that rights might properly function as constraints upon democratic politics.

We might distinguish between two categories of right: those that we conceive as 'human' or 'fundamental' rights and those of a more quotidian and prosaic sort. We generally give the former, but not the latter, a special political status and one reason for that, I have argued, is because we believe they should serve as checks on political power. I take it that, while Bellamy may be concerned with both sorts of right, he also has particularly in mind rights of the former sort – rights of particular moment, such as the right to be tried fairly or the right not to be tortured. However, he argues that it is a mistake to conceive these rights as checks upon political power, or at least as checks upon democratic power. Rather than pit rights against democracy, we should think of rights as the offspring of democracy. We should place rights 'inside' rather than 'outside' democratic politics. Bellamy accepts another distinction that I make: that between 'democratic rights' (rights that are intrinsic to the democratic process, such as the rights to vote and to freedom of expression) and 'non-democratic rights' (rights that are concerned with something other than the democratic process, such as rights to freedom of religion, to be tried fairly, and not to be subjected to torture). But he argues that rights of both sorts are properly grounded in democracy and, in that respect, both might be described as 'democratic rights'.

Bellamy's argument relates (i) to the way we should think of the rights that people have and (ii) to the institutions that we should employ to uphold and safeguard those rights. For Bellamy, these two issues are closely related but here I want to address them separately. How then should we think of having rights? In virtue of what can people claim rights? Bellamy's answer is: as the citizens of a democratic society. But how exactly are those citizens' rights grounded in democracy?

Parts of Bellamy's argument suggest a simple answer. In a democratic society, the demos possesses ultimate political authority on all matters, so that the members of that society will have all and only those rights that the demos decides

they should have. We might describe this as the Hobbesian conception of democracy since it conceives the demos as ‘sovereign’ (in Hobbes’s sense): for political purposes, the demos is the ultimate authority on all matters of right. One thing that suggests this understanding of Bellamy’s argument is the stress he places on the extent and depth of disagreement that surrounds rights. The more we stress the inevitability and the inescapability of that disagreement, the more we are pushed towards a Hobbesian way of dealing with it. If this is how we should conceive the relationship between democracy and rights, we can do little more than sit back and let democracy take its course: we will know what rights people have only once the democratic process has declared what rights they shall have. We may be able to anticipate what some of those rights will be, but they will actually be rights only if and when they receive the stamp of democratic authority.

Something that reinforces this understanding of Bellamy’s position is his insistence that the democracy in which he grounds rights is not an idealised decision-procedure, analogous to those employed by Habermas and Rawls. Rather he means to ground rights in, and to derive them from, real-world democratic processes (pp. x, xx-xx). Yet, in spite of his protests to the contrary, there does seem to be an element of idealising in Bellamy’s argument. He commends us to think about rights in a ‘democratic spirit’ (pp. x, xx) and to use ‘democratic forms of reasoning’ (p. xx). All rights, he says, ‘involve a democratic form of justification – they imply a spirit of political equality to be accorded equal concern and respect’ (p. x). Political equality is, of course, fundamental to a democratic political system, but Bellamy seems to contemplate its being carried forward and instantiated in the decisions that the demos goes on to make. He makes clear that the democracy he contemplates is majoritarian democracy (p. x), but he entertains none of the traditional fears for the fate of minorities. His lack of concern seems to derive from an assumption that his democratic citizens will always be good egalitarian citizens, who will treat people equally in the decisions they make as well as in the way they make them, and who will always pursue a good that is authentically public (p. xx).

We may suspect that it is the principle of equal concern and respect, rather than democracy itself, that really drives Bellamy’s argument. That principle would seem to justify both democratic decision-making and a set of rights. So, we might object, it is not democracy that grounds rights; rather the principle that justifies democracy also justifies rights, and it justifies rights not ‘through’, but independently

of, democracy, so that those rights stand alongside democracy as its moral equals rather than its moral subordinates. However, Bellamy fends off that objection by arguing that we respect people equally only ‘if their views have been equally considered’ and we show them equal concern only ‘through collective arrangements that can be shown to track their common recognisable interests’ (p. x; also p. x). In other words, equal concern and respect requires us to arrive at rights through a democratic process; if we take any other route to rights, we shall violate the principle of equal concern and respect and perhaps also the ideal ‘non-domination’.

But, as I have already indicated, Bellamy’s argument seems to suppose that the principle of equal concern and respect will shape not only political institutions and procedures but also the thoughts of democratic citizens as they enter the decision-making arena. Only if that is so, can we expect them to arrive at the rights that everyone ought to enjoy. If they fail to keep faith with that principle, they will fail to deliver the rights they should. It is in that respect that Bellamy’s argument on rights strikes me as an exercise in ideal theory. It is an argument that contemplates the rights that people would settle on if they were deciding under genuinely democratic circumstances and with full respect for democratic principles.

There is another respect in which Bellamy’s argument seems to belong to ideal theory. If rights are grounded in democracy and must be delivered by democracy, what are we to say of people who have the misfortune to live under undemocratic forms of government or in flawed democracies? Do they not have rights too? Bellamy recognises this issue and sees the solution as the incorporation of the excluded into the democratic community where they will enjoy rights on equal terms with others (p.xx). But that does not tell us what rights people possess while they remain subject to the non-ideal circumstances of undemocratic government. These are precisely the circumstances in which we want to appeal to human rights – rights that people have in virtue of being human and that are violated by show-trials, genocidal campaigns, religious persecution, and the like. Any understanding of fundamental rights that precludes our saying that the Nazis or the Khmer Rouge violated rights is seriously hobbled and will not come anywhere close to playing the role that the conception of human rights has traditionally played.

My own approach to basic rights has been to ask what rights we have reason to attribute to people either as human beings or as citizens. The reasons will be moral reasons, but moral reasons informed by a knowledge of human beings and of human

circumstances, including the realities of the political world and of political power. I think of those rights as moral rights, but as moral rights that have political implications; that is the only respect in which I will own up to thinking of rights as ‘prior to politics’. I accept that a good argument is not enough to justify the imposition of a rights regime upon a population. Some sort of process of acceptance, either national or global, will be necessary to legitimate the regime, but legitimating the regime is not the same as, nor can it be a substitute for, working out what its content should be. In particular, when people enter the democratic arena, their acceptance that their decision should be made democratically will not tell them what their decision ought to be. They will necessarily invoke moral principles and considerations other than democracy, along with their knowledge of human circumstances and their beliefs about human interests. When moral and political philosophers argue about human rights, that is the sort of exercise in which I understand them to be engaged. Bellamy’s claim seems to be not merely that a regime of rights must be endorsed by the population whose lives it will regulate, but also that the very idea of democracy and the very existence of a democratic process will somehow suffice to tell citizens what rights there ought to be. I cannot find that claim plausible, assuming that Bellamy expects democracy to deliver rights that will be similar in scope and substance to those enumerated in the UN’s Universal Declaration of Human Rights (1948) and not a severely attenuated set of rights relating only to political procedures.

When we shift from the question of what rights there should be to the issue of who should look after them, I can rival Bellamy in my reservations about constitutional entrenchment and judicial review. For example, I believe it little short of a scandal that a document, worded so generally and vaguely as the European Convention on Human Rights, should be administered by courts in the same way that they administer ordinary Parliamentary legislation. I do not blame the courts for this state of affairs. Judges are simply performing a task that the politicians have assigned them, and politicians’ complaints about judicial decisions on, for example, privacy law often ring hollow because those same politicians are reluctant to grasp the nettle themselves and give courts clearer direction. My ideal state of affairs would be one in which the idea of human rights is heavily ingrained in a society’s political culture, but one in which the conflicts of value and competing considerations that will inevitably arise in implementing rights are dealt with by democratic politicians in a good faith

manner rather than by judges. As Bellamy quotes my saying, ‘rights should be special, but their specialness should be felt in the way they are handled by politicians rather than in their not being handled by politicians’ (Jones 1994, p. 225). So I have some sympathy with Bellamy’s stance on these issues. However, his stance does raise questions relating to his own ideal of non-domination.

For the republican (e.g. Pettit 1997), there is critical difference between not being interfered with and not being liable to interference. Even if I am liable to interference by another, I may not actually be interfered with and to that extent I may remain free. But my freedom will fall short of non-domination because I remain prey to the arbitrary interference of another. For republicans, freedom is a condition rather than a non-event; it consists in not being *liable* to interference by others. Now consider the conception of democracy that Bellamy offers us. That will be a democracy whose authority is in no way fettered by rights. But the existence of that comprehensive and unconstrained authority must mean that each individual citizen remains comprehensively at the mercy of the democratic sovereign and is therefore ‘dominated’ by it. Each citizen will of course have an equal vote with others in the exercise of that sovereignty, but for one individual amongst a demos numbered in millions that may offer little comfort. How could citizens become less dominated? The obvious answer is by acquiring constitutionally entrenched rights that limit the scope of democratic authority and that correspondingly enhance the non-dominance that each citizen enjoys. Each entrenched right would constitute an ‘immunity’, in relation to which others, including democratic governments, would possess a corresponding Hohfeldian ‘disability’ or ‘no-power’. Each immunity would therefore be a zone of non-dominance. It would seem then that, contrary to the general thrust of Bellamy’s argument, pursuit of non-dominance should lead us in the direction of constitutionally entrenched rights US-style.

Bellamy seeks to resist that implication by talking up the potentially arbitrary, biased, elitist, controversial, and politically motivated nature of judicial decisions that rule on rights. But, while I share some of his worries about judicial discretion, being subject to the reasoning of a judge may still seem less arbitrary than being subject to the will of a legislature. Bellamy also seeks to fend off worries about unfettered democracy by stressing that democracy secures non-domination through its procedural features, rather than through the substance of its decisions. Perhaps that should lead us to voice a different worry: are the demands of non-domination being

scaled back to secure a harmony between procedural democracy in general and its real world versions in particular? ⁴

Bellamy associates my approach to rights with liberalism and with freedom conceived as non-interference, as distinct from the republican conception of non-domination. That is not an association, or dissociation, I recognise. Rights work differently from freedom. Republicans distinguish (what they reckon to be) the liberal conception of freedom as non-interference from their own conception of freedom as non-domination. However, it is hard to see how there might be two conceptions of rights that mimic those two conceptions of freedom. The idea of a right that one has only insofar as it remains unfringed makes little sense. If we think merely in terms of liberty-rights (what Hohfeld called ‘privileges’ and other sometimes call ‘liberties’ – the absence of obligations to the contrary), we could perhaps say that people have those rights insofar as they find themselves without obligations to the contrary and even though they may be liable to obligations to the contrary (e.g. by the creation of new obligations through legislation). But to present that as the ‘liberal’ conception of rights would be a travesty (and no less of a travesty just because Hobbes – a favourite ‘liberal’ of the republicans – understood natural rights as liberty-rights). For liberals, as for others, significant rights, such as human rights or the rights of citizens, are claim-rights or immunities or both. Claim-rights impose duties upon others and immunities impose ‘disabilities’ or ‘no powers’ upon others. Both sorts of right are instruments of non-domination. Slavery is the most complete form of domination just because it is a rightless condition. Certainly some – but equally certainly not all – of the rights that theorists like myself champion are rights to non-interference, but to have a *right* to non-interference is quite different from merely *being* uninterfered with. According people rights creates precisely the sort of condition that non-domination demands.

Rights and collective goods

Although Bellamy’s argument may contain hints of scepticism about rights-talk, he is not hostile to rights as such. For Bellamy, rights can properly figure in a political arrangement provided they do so as the instruments or offspring of democracy rather than its rivals. But the extent to which rights now figure in people’s political vocabularies does often attract scepticism. Even someone who is broadly sympathetic to a rights-

approach has reason to acknowledge that it is not the most defensible or appropriate approach for every issue a society confronts. Health care is now frequently talked about in the language of rights, but Albert Weale gives us reason to doubt whether health care policy is best conceived in those terms and I can only assent to his measured scepticism.

Weale's scepticism is directed not, of course, at the desirability or goodness of health care. Health would seem to be amongst the least controversial of human goods and, even allowing for asceticism, it scores well as a cross-cultural good. Rather his scepticism concerns the utility and appropriateness of a rights-approach to health care. As he points out, the right to health care is now well entrenched in human rights documents and the International Covenant on Economic, Social and Cultural Rights (1966) sets the bar high in asserting that everyone has the right to 'the highest attainable standard of physical and mental health' (article 12). Weale's assessment of this right focuses more upon health care as a human *right* than as a *human* right, but both claims are controversial.

It seems clear that, in 1948, the drafters of the UDHR did not conceive the socio-economic rights included in the Declaration as genuinely human rights. Rather they conceived them as rights of citizens, that is, as rights that each government or each society should secure for its citizens. The fact that the rights were formulated not as rights to general resources or to a given standard of material well-being but as rights to specific goods and services indicates that they would be primarily rights possessed by individuals as members of states. Indeed, they were clearly rights inspired the welfare states that had developed in many industrialised societies. The UDHR described itself as setting 'a common standard of achievement for all peoples and all nations' and, in line with that self-characterisation, the Declaration was partly an exercise in target-setting for governments. Now it could be that states, or their governments, were thought of as mere intermediaries that humanity was using to deliver genuinely universal rights, but I have never been persuaded by that claim. If the goods and services secured to each individual were to be geared to the resources available to each state – and article 22 of the UDHR came clean in stating that the right to social security was to be 'in accordance with the organization and resources of each state' – the socio-economic goods to which the members of poor states were entitled were markedly different and inferior to those claimable by individuals in rich societies. How, then, could these be authentically human rights: rights possessed

identically and equally by all human beings as human beings? The human right to health care illustrates that objection particularly well. No amount of pleading about the relevance of local circumstances can show that the rights to health care that contemporary India or Mali might extend to its citizens can equate in value with those that can be enjoyed in contemporary Switzerland or Sweden.

That is not to say that a human right to health care is intrinsically nonsensical. On the contrary, securing an equivalent level of health care amongst the world's population is both intelligible and, for the most part and in principle, possible. My point is simply that, if we assert a 'human right' to health care, we should mean what we say and conceive the right as a global right with its attendant global obligations and global claims upon resources. Nowadays, a greater number of people than half a century ago are willing to think about socio-economic goods in a genuinely cosmopolitan way, but, beyond the relief of poverty, their views are still not widely shared by either politicians or ordinary citizens.

If we set aside the issue of whether health should be conceived as a genuinely *human* right, we are still left with Weale's question: do rights (of any kind) provide us with the appropriate normative apparatus for thinking about goods such as health care? A common complaint is that assertions of rights to socio-economic goods, such as health care, provide us with no clue about the specific quantity and quality of the good to which there is a right. The ICESCR may appear to be an exception in asserting a right to the 'highest attainable standard of physical and mental health' (article 12) but, as Weale ably demonstrates, that standard is simply question-begging. However, Weale's doubts about the serviceability of a general right to health care go beyond the common complaint that it fails to answer the question: a right to how much? Rather he argues that we have reason to think about goods such as health care in terms other than rights.

He contrasts the rights approach with the beneficial design approach. In some measure, resource issues remain important to the differences between those approaches. If we move from the idea of a universal right to a basic level of health care to the goal of 'comprehensive, high quality care available to all those eligible for its services without financial barriers to access' (p. x), the greater ambition of that goal will mean that the claims of health care will compete more fiercely for resources with the claims of other social goods. Moreover, as Weale explains, we shall also be faced with severe choices between competing claims within the category of health

care. Invoking rights is singularly unhelpful in dealing with those competing claims to resources.

However, the contrast Weale draws is not merely a contrast between the relative utility of two different approaches for resolving issues of scarce resources. It is a contrast between two fundamentally different normative approaches to the provision of health care. A rights-based approach will begin with the question, what is the health care to which each individual has a right? And it will go on to ask, what are the obligations imposed by that right and upon whom does it impose those obligations? Ultimately, if not immediately, those who bear the obligations are likely to encompass most of those who hold the right; even so, a rights-approach will still give primacy to the demands people can make upon each other. By contrast, the beneficial design approach starts with the question: how should we provide for our health care? It asks not what can each of us demand of the rest, but what should we do together? It treats the provision of health care as a collective endeavour: what sorts of health care arrangement should we put in place to provide for our mutual good? That perspective seems more consonant with the approach to health policy in societies like Britain and also more consonant with a health policy that aims to do more than secure a basic minimum for all. It is also more consistent with the area of discretion we generally suppose each society has in deciding how it should deploy its public resources. As Weale points out, while the beneficial design approach does not start from individual rights, it can issue in rights – rights that give citizens equal access to the health care for which their society has made collective provision. For those who aspire to make rights justiciable, the only right to health that has any chance of being assessable by a court is one that has emerged from a series of complex and detailed policy decisions and that is nested within a given set of policy parameters. If the right to health care is supposed to lie at the foundation of health policy, judges are clearly not the right people to decide what it demands.

We might tell similar stories about how Weale's two approaches relate to goods such as education, housing, and personal security. In their case too, we are likely to conclude that the assertion of rights is of little help in deciding what sort of provision we should make, and of doubtful merit in determining the moral spirit in which we make that provision. So do we have any reason to go on characterising health care and its like as fundamental rights? One purpose that claims of right, especially claims of human right, have served has been to identify goods that we

should prioritise because of their special value for human beings. That purpose has been an important driver behind the addition of socio-economic rights to the traditional catalogues of civil and political rights. If we do not add rights to health care or to adequate food, clothing and shelter to the list of human rights, we may appear to be saying that those goods matter less than freedom of expression, freedom of religion and the other standard fare of traditional declarations. In most people's lives, the opposite is likely to be true. Indeed, if we apply Miller's test of what is needed for a minimally decent life, health care, along with many other socio-economic goods, scores well and does so for reasons that are much more simple and straightforward than those that argue for freedom of expression or freedom of religion. In so far as we want to go on using the idea of rights to assure a basic minimum to all, either as citizens or as human beings, so that there will be 'bread for all before jam for some', we have reason to go on speaking of health care in the language of rights. But, when we turn to the actual provision of goods such as health care, we can have reason to aspire to more than the notional minima those rights demand, and reason, as Weale shows, not to expect rights to contribute helpfully to resolving the policy issues we shall encounter. Rights should have an important place in our moral and political thinking, but they should not monopolise either sort of thinking.

The ease with which people can and do assert rights and the consequent proliferation of rights-claims has become a major preoccupation of commentators on rights. For some, it has helped foster a hostility to claims of moral and human rights reminiscent of Jeremy Bentham (e.g. Geuss 2001). For others, it has helped make the case for limiting 'rights' to conventional rights, principally legal rights. For these conventionalists, a 'moral right' should be understood as a morally justified conventional right; in the absence of a conventional right, there simply is no right that can be either moral or immoral (e.g. Darby 2009; Martin 1993). In a similar spirit, many now argue that expansive moral thought on the rights that we might ascribe to human beings should give way to a focus on the political function that human rights actually perform in the contemporary world. The idea of human rights should be shaped by its practical role in justifying international intervention and by the real-world practice of human rights that has developed since 1948 (e.g. Beitz 2009; Rawls 1999; Raz 2010). While there is much to commend these efforts to contain rights thinking within some sort of limit, there is also a danger that they will exclude too

much. The idea of moral rights as morally grounded entitlements provides a distinctive and significant element of our moral thinking and, arguably, we have to think of human rights as moral rights first and foremost if they are to perform their traditional role of curbing and containing the use of political power (Jones forthcoming). But those of us who want to keep faith with the orthodox conceptions of moral and human rights still face a major challenge in setting non-arbitrary boundaries to rights that prevent the orthodoxy collapsing into an anarchy of rights-claims that devalues and discredits the very idea of rights.

*Email: p.n.jones@ncl.ac.uk

Acknowledgements

I am grateful to the participants in the conference at which the papers in this collection were first presented for their thoughts and comments. I am also indebted to the Rowan Cruft, Ian O’Flynn and Albert Weale for their helpful advice and comments on an earlier draft of this Reply.

Notes

1. This would have been better expressed as telling those who wield political power ‘what they may not do to, and what they must do for, those over whom they wield their power’. That formulation would have better captured the point that human rights can impose positive as well as negative obligations on power-holders.
2. I suspect the comment had its origins in arguments I had with Simon Caney over many years on the relative merits of neutralist and perfectionist liberalism. I would always start from the case of religion, while he would always start from the cases of opera and the non-medical use of drugs.
3. I previously assumed too readily that the impartial treatment demanded by fairness must be equal or equivalent treatment. But, even if we hold, for example, that fairness is consistent with greater weight being given to the culture of the indigenous or majority population by comparison with the cultures of migrant groups, that

judgement still implies the sort of external or supra-cultural perspective that I go on to describe. Insofar as this view involves a commitment to a general principle that, for some public purposes, an indigenous culture should weigh more than migrant cultures, that principle remains impartial with respect to any particular culture qua particular culture. If, on the other hand, an imbalance in the weight given to the indigenous culture and migrant cultures reflects no more than an imbalance in the power of indigenous and migrant groups, there will be nothing ‘impartial’ about it.

4. This is an issue to which Bellamy has given a great deal of attention, both normative and empirical (Bellamy 2007). The few doubts I express here do not even begin to address the extensive and closely argued case he makes.

Note on contributor

Peter Jones is Emeritus Professor of Political Philosophy at Newcastle University, UK. He is the author and editor of books on rights and has written on rights of various sorts, including human rights, group rights, democratic rights, welfare rights, and rights of free expression. His published work has also ranged over a number of other subjects, including toleration, identity, recognition, cultural diversity, democracy, neutrality, international and global justice, and the nature of liberalism.

References

- Barry, B., 1995. *Justice as impartiality*. Oxford: Clarendon Press.
- Beitz, Charles R., 2009. *The idea of human rights*. Oxford: Oxford University Press.
- Bellamy, R., 2007. *Political constitutionalism: a republican defence of the Constitutionality of democracy*. Cambridge: Cambridge University Press.
- Curran, C. E. 1998. Churches and human rights: from hostility/reluctance to acceptability. *Milltown Studies*, 42, Winter, 30-58.
- Darby, D. 2009. *Rights, race and recognition*. Cambridge: Cambridge University Press.
- Dworkin, R., 1990. Foundations of liberal equality. In: G. B. Peterson, ed. *The Tanner Lectures on human values, XI*. Salt Lake City: University of Utah Press.

- Geuss, R., 2001. *History and illusion in politics*. Cambridge: Cambridge University Press.
- Goodin, R., and Reeve, A., 1989. *Liberal neutrality*. London: Routledge.
- Jones, P., 1994. *Rights*. Basingstoke: Macmillan.
- Jones, P., 1998. Political theory and cultural diversity. *Critical Review of International Social and Political Philosophy*, 1(1), 28-62.
- Jones, P., 2001. Human rights and diverse cultures: continuity or discontinuity? In: S. Caney and P. Jones, eds. *Human rights and global diversity*. London: Frank Cass, 27-50.
- Jones, P., forthcoming. Moral rights, human rights, and social recognition. *Political Studies*.
- Martin, R., 1993. *A system of rights*. Oxford: Clarendon Press.
- Pettit, P., 1997. *Republicanism*. Oxford: Clarendon Press.
- Rawls, J., 1993. *Political liberalism*. New York: Columbia University Press.
- Rawls, J., 1999. *The law of peoples*. Cambridge, MA: Harvard University Press.
- Raz, J., 2010. Human rights without foundations. In: S. Besson and J. Tasioulas, eds. *The philosophy of international law*. Oxford: Oxford University Press, 321-338.
- Scanlon, T. M., 1998. *What we owe to each other*. Cambridge, MA: Harvard University Press.
- Steiner, H., 1994. *An essay on rights*. Oxford: Blackwell.