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BASIC RIGHTS

#### MORAL JUSTIFICATIONS:

##### TWO CONCENTRIC-CIRCLE CONCEPTIONS OF MORALITY

Possible justifications for being morally required or allowed to grant priority to one's own compatriots can be superficially divided into two general groups: (1) views about the proper role of individual persons toward each other and (2) views about the proper role of such social institutions as governments and the citizens who live under them. The latter will be considered in the succeeding section.

The first grouping of justifications for granting priority to compatriots consists of a variety of moral views, otherwise dissimilar, that share the explicit implication—or, more often perhaps, the tacit assumption—that moral responsibility begins at home.<sup>2</sup> This cluster of views might be said to share the concentric-circle conception of morality.<sup>3</sup> The other people to whom one has some degree of responsibility are often conceived of as constituting a succession of concentric circles of outwardly diminishing responsibility. Responsibility is greatest to those at the center and trails off as one moves outward along a radius of the circles. According to such a view a number of compatriots take priority over other

#### NATIONALITY AND RESPONSIBILITY

compatriots, but all compatriots take priority over non-compatriots.

Two major questions arise about theories with such a structure. The first concerns a matter on which individual theories differ sharply: the specification of the feature, or features, represented by the radii of the circle. What exactly is it of which people at the center share more and people farther from the center share less? Several kinds of answers have at least some plausibility, but here we can concentrate on two polar cases that portray the inner circles as, respectively, (1) *communities of sentiment* and (2) *communities of principle*. On the former interpretation the radii represent features like intimacy, or directness, and depth of personal involvement among the people who have responsibility for each other; on the latter the radii indicate quite different features like the extent to which the people with mutual responsibilities are committed to the same goals, principles, or basic values. Interpretation (1) might well place family and loved ones at the center and others less well and warmly known progressively farther from the center, as feelings toward them diminish in strength or significance. Interpretation (2), in contrast, might, although it need not, yield a different assignment of persons to places among the circles and a consequently different allocation of degrees of responsibility, especially if one had warm and important personal ties with people with whom one disagreed about many basic goals and values, since degree of responsibility would diminish as degree of agreement on principles diminishes. A number of variations and combinations of these two basic interpretations of the unifying element of the moral primary group, as I will call the community to which one has primary responsibilities, are of course possible. The brief discussion of nationalism in a later section of this chapter provides some concrete illustration of the interaction of sentiment and principle.

The other tantalizing question, which cuts directly across the first question about the relative weight assigned respectively to sentiment and principle, is whether (A) it is the very fact that people are compatriots, given some precise account of what being "compatriots" means, that is supposed morally to require or permit them to grant priority to each other in at least some circumstances, or (B) the grounds for the priority are some feature not

### THREE CHALLENGES

intrinsically tied to nationality but as a matter of fact much more likely to be shared among compatriots than between non-compatriots. Is shared nationality (and whatever sentiments or principles shared nationality necessarily involves) the justifying grounds for the granting of priority, or is nationality simply a more or less reliable indicator that grounds of another sort are very likely, but not necessarily, available?

On the one hand, the very sharing of nationality might be taken in itself to be the grounds for some sort of moral bond: one might be taken to owe one's compatriots more than one owed other people because they are one's compatriots—and, of course, because of what being compatriots is taken to involve. Obviously several alternative accounts are available concerning which features of moral significance are taken to be exclusive to and shared among compatriots.<sup>4</sup> The focuses of such accounts range from emphasis on a shared history, culture, and language; to emphasis on an interdependent economy and single system of taxation and economic transfers; to participation in a social network of mutual expectations, some explicitly created and others perhaps tacit; to participation in a single political system. Such accounts need to be able to explain why participation in a single political system, for instance, creates responsibilities beyond the obligation to abide, when participating, by the prohibitions essential to the system. Should I make greater efforts to reduce malnutrition in Kentucky than in Kerala merely because Kentucky is in the American political system and Kerala is in the Indian? Why is that a good reason? What is the connection between political system and the this kind of moral responsibility?

On the other hand, one might turn out on the basis of various moral theories generally to have greater responsibility for compatriots, but *not because* they were compatriots. Several different interpretations of the radial feature that determines the degree of moral responsibility on the concentric-circle conception might have the result that those closer to the center are mostly compatriots and those farther from it are mostly not compatriots. The reason for the greater responsibility might be (1) the stronger sentiment, (2) the greater agreement upon principles, or whatever is the radial feature that dictates the allocation of people among concentric circles of responsibility, and not the shared nationality

### NATIONALITY AND RESPONSIBILITY

as such. It would simply be an important but contingent fact that one tended, for example, to have a greater sharing of purposes with one's compatriots, if indeed this is a fact.

If this were the outcome, national boundaries would have ethical significance, but only as indicators, not as the grounds for the moral responsibility. And the reliability of national boundaries as indicators of the presence of the morally relevant feature might turn out to vary from nation to nation or from feature to feature. This outcome, the discovery of a merely contingent and not very reliable association between shared nationality and the morally relevant shared feature, would probably be tantamount to the disintegration of the thesis that compatriots have priority.

The deepest challenges to the conviction that one has strong responsibilities to compatriots because they are compatriots, however, may lie in the rival loyalties possible toward transnational communities that include non-compatriots as well as compatriots and toward subnational communities that include some compatriots but not others. The list of alternative groupings that could with some plausibility be taken to identify those within which moral bonds are strongest—the moral primary group—is extremely long. Quite a few transnational groups, that is, groups that contain some but not all the citizens of several nations, are currently perceived to be the subject of strong allegiances.

Suppose Abdul is a Syrian and a Muslim and an Arab. Initially, it might seem at least as plausible to contend that Abdul has responsibilities to non-Syrian, non-Arab Iranian Muslims, because of their shared Islamic faith, that override his responsibilities to, say, Christian Syrians, or to contend that Abdul has responsibilities to non-Syrian Arabs to oppose Syrian policies hostile to the pan-Arab movement that override his responsibilities to fellow Syrians, as to contend that his responsibilities as a Syrian to other Syrians override his more widely shared Arab and Muslim identities. Or, if Charlotte is French and female and black, the relative strength of her respective obligations, if any, to white French males and to (at least some) non-French black women is surely somewhat unclear, given only these meager facts without a background theory of responsibility. If Abdul is a devout and strict Muslim, he might feel a strong commitment to fellow believers in what the Western press calls fundamentalist Islam, which is a

### THREE CHALLENGES

powerful force across many nation-states. And Charlotte might believe that being black gives her a natural identity, not subject to voluntary renunciation, with her ancestors.

Obviously some rival pretensions to being the moral primary group can also be asserted on behalf of many subnational groups, most notably perhaps the scores of more or less ethnically defined groups with inclinations toward political separatism, such as Iraqi Kurds, Iranian Kurds, Basques, South Moluccans, East Timorese, Serbo-Croatians, French Canadians, some American Indian tribes, quite a few African tribes, Scottish Nationalists, Eritreans, et al., as well as many similar non-separatist groups that are resigned to unenthusiastic membership in confederations of convenience. The difficulty is clear without rehearsing all the variations: showing that priority goes specifically to compatriots would involve more than the merely negative step of showing that it is unreasonable to think that one has the same obligations to all mankind (apart, perhaps, from one's offspring and dearest friends) and would have to include the positive demonstration that political—not religious, ethnic, ideological, sexual, etc.—boundaries are the circumference of the moral primary group.

Naturally, not every potential loyalty mentioned deserves to be taken equally seriously. And in any given case only one claim, or combination of claims, can be granted priority. Indeed, not every instance of sharing a property is an instance of sharing membership in a morally significant group.<sup>5</sup> Some shared properties are morally irrelevant: red-haired people of the world will probably never unite, and they presumably owe each other, as fellow bearers of red hair, nothing. Other shared properties are morally inappropriate bases for at least some kinds of priorities: shared ancestry must for many purposes be prohibited from being allowed to count. Shared citizenship in a nation-state seems, in general, both relevant and appropriate. The question is when, and why, it should count more than other considerations. If one ignores the importance of precise specification of the characteristic(s) in virtue of which compatriots allegedly deserve priority, it is easy to slide unconsciously from the virtually undeniable conviction that members of some group smaller than all mankind have moral claims stronger than the claims of any random human being outside the smaller group, to the much more specific conviction that

### NATIONALITY AND RESPONSIBILITY

the smaller group with the stronger claims is, under some definition, the nation. But the general belief that one has stronger moral ties with some smaller group than one has with all the rest of humanity could be correct without that smaller group's turning out to be, in particular, one's nation.

Any justification for the assignment of priority to compatriots would, then, need to include, among other elements, two closely tied basic steps: a *specification* of what is distinctive of compatriots—what all but only compatriots have in common—and a *justification* for attaching, in at least some cases, considerable moral significance to the distinctive feature specified. If two people are starving, why should it matter, to the point of my being bound to aid the one and not bound to aid the other, that the one and not the other is my compatriot? Why should I not instead allot my aid, for example, in accord with a duty to aid those deprived of subsistence, disregarding nationality entirely or giving nationality only "tie-breaking" weight? I know of no one who has adequately answered—or even straightforwardly and systematically tackled—these questions in defense of the thesis that compatriots take priority even when the compatriots' own subsistence rights are more than adequately fulfilled and the subsistence rights of non-compatriots are ignored by those around them.<sup>6</sup> Priority for compatriots as a moral theory is at best unproven, however widely assumed. Meanwhile, arguments for the generality of subsistence duties, like those given in earlier chapters, seem a more adequate moral view. We must now look briefly at two political views that offer partly complementary justifications—once again, I think inadequate ones—for granting priority to compatriots even to the point of failing to acknowledge subsistence duties to non-compatriots.<sup>7</sup>

#### POLITICAL JUSTIFICATIONS: TWO CONCEPTIONS OF GOVERNMENT

*The Trustee/Adversary Theory of Government.* One political view is what might be called the trustee, or adversary, theory of government: the proper role of every national government is primarily or exclusively to represent and advance the interests of its own nation. This view is so widely assumed that it is ordinarily

### THREE CHALLENGES

taken to be obviously correct. Various formulations of this view are possible, distinguished from each other in part by the types of constraints they acknowledge and the extent to which these constraints are allowed to override national interest. Perhaps the term "adversary" should be reserved for less constrained and more aggressive variants. Most people would presumably agree that it is reasonable to acknowledge treaties and international law generally as constraints upon the pursuit of national interest. But it is less obvious what other "rules of the game," if any, ought to be observed by governments in their sometimes bitter advocacy of national interests that are sometimes zero sum. Ought a nation ever to refrain from pressing a natural advantage out of concern for the welfare of the people of another nation—for example, ought the United States (A) actively to support an international system of food reserves that could place a ceiling on the upward volatility of world prices for commodities the U.S. exports or (B) to encourage world prices to rise as high as they will go and sell all but token amounts to whichever nations can afford to buy at the top price regardless of the levels of poverty elsewhere (assuming that selling to the highest bidder would be in the long-term U.S. national interest and that a price ceiling would not be)?

Various formulations of the trustee/adversary theory of government would also differ in the precise basis offered for the role attributed to national governments. Rarely in print but frequently in political rhetoric one finds taxation presented as the basis: the government is spending our money so the government ought to be serving our interests. This appeals to a principle that he who pays the piper is morally entitled to call the tune. A quite different, more strictly political basis would be an account of representative government, maintaining, roughly, that in a representative form of government individuals are entrusted with executive and legislative office precisely and explicitly in order to act on behalf of those whom they represent.<sup>8</sup> A decision to sacrifice the interests of constituents, or anyhow the basic interests of the nation of which the constituency is a part, would according to this view quite literally be a betrayal of a trust. A person should seek and hold a representative role only if the person is prepared faithfully to represent the interests entrusted to him or her.

Almost inevitably, faithful representation of constituent inter-

### NATIONALITY AND RESPONSIBILITY

ests, where those interests do in fact conflict with the interests of other constituencies, will involve serving in an adversary role and assuming that the interests of others will be advocated by their own representatives. At the national level, then, national leaders are to be expected from this point of view to be advocates for the national interest. This may be thought to be especially appropriate at the national level. Whereas the competition of conflicting national interests may be conducted within some minimal procedural rules, looking out for the interests of other nations must generally be the business of their own leaders.

The trustee/adversary theory has two main weaknesses. The first and more important is simply that the very most that the theory could establish, even if it were fully adequate, would be that national governments have no inherent duties—no duties merely because they are national governments—directly to promote the interests of people outside the borders they control. It would remain entirely possible that some of, or all, the people served by a particular national government would, on the basis of a moral view like those considered earlier in the chapter, themselves have transnational duties and that these citizens would ask their government to act in their behalf to coordinate the performance of the citizens' duties.<sup>9</sup> One interest that these citizens wish to have served may be their interest in seeing their transnational duties to aid fulfilled.

The second weakness of the trustee/adversary theory affects its implicit claim that this international competition of national advocates works out best—or, at least, well enough—for everyone. Recall some of the differences between the situation within one nation and the situation among nations. Within individual nations a great deal is determined simply by the competition of adversaries representing conflicting interests, but not everything is. Institutions also exist to care for those unable to compete or unsuccessful in the competition, to provide for goods that cannot derive from competition, to regulate competition within generally beneficial rules, etc. These national institutions are in various cases defective in certain respects, but at the international level comparable institutions are virtually non-existent. The critical difference is the absence from the international arena of institutions that are designed to provide for the minimum well-being of

### THREE CHALLENGES

those whose trustee/advocates prove inadequate. Suppose the national grain purchasing agency of a poor country cannot afford to outbid the Soviet trading company in the competition for U.S. wheat, or is too corrupt or incompetent to make the adequate arrangements. What is to happen to the diets of the children in the country in question?

From the existence of a need for some institution to step into the breach when a national government fails, or loses a vital competition, nothing follows about which institution that should be. It certainly does not follow that some other national government or governments should be the ones to do, or to arrange to have done, what is necessary. But it is left open that something somewhat different from a simple competition among trustee/adversaries might be better. And it is certainly left unproven that simply having each government do its utmost for its own is the best arrangement. At present no institution provides adequately for the subsistence rights of persons deprived, ignored, or ill-served by their own national government. Look, for example, at the present "haphazard, inconsistent, and badly coordinated" response to the world's 10,000,000 refugees, most of whom are children.<sup>10</sup>

*The Comparative-Advantage Theory of Government.* The second view about the role of national government is what might be called the comparative-advantage account of the significance of national boundaries. This view is, in effect, that each nation's own government (or other social institutions) are best able to care for the welfare of the people of that nation and therefore each nation ought, in effect, to care for its own. So, it is not that Americans start out with more moral responsibility for people in Kentucky than for people in Kerala because the Kentuckians are in the same political system. The argument runs in the other direction: the U.S. government is, according to this view, less likely than is the Indian government (A) to know which policies will be beneficial in Kerala (comparative advantage in comprehension) or (B) to be able to implement them effectively (comparative advantage in implementation), and therefore it has less responsibility for Indians in Kerala than the Indian government does. The basic premise adopted is (1) that a government ought to concentrate its

### NATIONALITY AND RESPONSIBILITY

efforts where they will do the most good. It is then taken to be the case (2) that the U.S. government can do more good in Kentucky than in Kerala and (validly) inferred (3) that the U.S. government ought to concentrate its efforts in Kentucky rather than in Kerala, given these two choices. This theory can underlie the trustee/adversary theory and be presented as the explanation why that competition is supposed to work best.

However, though the argument central to the comparative advantage view is valid, both its first (moral) premise and its second (empirical) premise are open to some doubt. The first, "do the most good," is, as stated, hopelessly vague with regard to all sorts of choices, such as the choice between doing a great deal for each of a few individuals and doing less for more (where, say, the aggregate amount accomplished would be roughly equivalent).<sup>11</sup> Much more serious, any calculations involving compatriots and non-compatriots would beg the crucial question, for any calculations face the following dilemma. If the welfare of compatriots and the welfare of non-compatriots are weighted equally, it is assumed that national boundaries have no moral significance. But if the welfare of compatriots is weighted more heavily, it is assumed that national boundaries do have moral significance. Rather than helping to provide an answer to the question of the proper role of a national government, this reasoning must presuppose one.

The second premise, being an empirical form of hypothesis that needs to be stated in a version specific to each case, also needs to be checked against the facts in each case. But, as we have already seen, it seems most unlikely that every domestic government is always better able to comprehend and to implement the best solutions for all the problems of its people that might concern others.<sup>12</sup> Comprehension of effective solutions may require managerial or technical experience not available domestically, and implementation may require capital or a will to change not found domestically. At best it is an open question of fact in each case whether a nation's own government can or will provide for even its people's most desperate needs. But even where the factual second premise needed by the comparative-advantage view is correct, the basic fault in the moral first premise—that it must beg the question of the significance of national boundaries—remains.

### THREE CHALLENGES

More fundamental arguments are needed to settle that issue. And meanwhile the priority of all and only compatriots remains to be established.

#### PRINCIPLED SENTIMENTS: TWO ASPECTS OF NATIONALISM

In addition to the two general kinds of concentric-circle moral views and the two kinds of political views, all of which are presented as positive support for the priority of compatriots, we need to consider one general counter-argument against any thesis that people have significant transnational duties: the contention that all will come to nought in the wake of nationalism. If this is true, priority might go to compatriots by default, whatever the weaknesses in the theoretical support for this priority. Certainly someone might reasonably suggest that the power of nationalism is likely to engulf and overwhelm such motives as might undergird any sense of responsibility not focused upon compatriots. Look what the fervor of nationalism has done, it is often said, even to so initially powerful-seeming an internationalist movement as Marxism, not to mention the momentum for the United Nations and other institutions of world order, with their bases in calmer passions. Does not the virility of nationalism demonstrate the impotence of any sense of extra-national responsibility? This objection, in effect, rejects the assumption that it is psychologically plausible even to consider groups other than nation-states to be moral primary groups.

Three factors indicate that the sheer strength of nationalistic forces is less decisive an objection than it might initially seem to be. Two factors are of relatively superficial philosophical interest, but a third leads toward one of the deeper problems in the philosophical psychology of morality. First, the classic studies of nationalism are indeed rich, but they are also varied—and varied at the critical points of their respective conceptions of what nationalism is, why it rather abruptly (in the scale of human history) appeared, and what factors are necessary to its continued strength.<sup>13</sup> Are the revolutionary nationalism of 1789, the Nazi and Fascist nationalisms of the Hitler/Mussolini period, the Zionist nationalism of Israel, the anti-colonial nationalism of Nkrumah, and the expansionist nationalism of Sukarno and

### NATIONALITY AND RESPONSIBILITY

Suharto usefully categorized as fundamentally the same phenomenon? It is neither obvious that they are not nor obvious that they are. For all the insights in individual studies of nationalism, it is difficult to draw firm general conclusions from the literature as a whole.

Second, at whatever level nationalism can plausibly be pegged, it is significantly threatened by both centrifugal and centripetal forces. Undoubtedly as great as the differences among the varieties of nationalism are the differences among the varieties of regionalism. Except for the ways in which they already constrain nationalism, there may be little else in common among OPEC, the EEC, the OECD, the Group of 77, NATO, ASEAN, OAS, the Andean Pact, the Helsinki Agreement, and Islamic fundamentalism. But some forces of some degree of strength are already channeling, if not constraining, nationalistic tendencies from outside.

And the threats from inside the modern nation-state, especially in the underdeveloped countries, may be at least as profound. Geertz defined a "primordial attachment" as a loyalty based upon:

the assumed givens . . . of social existence: immediate contiguity and kin connection mainly, but beyond them the givenness that stems from being born into a particular religious community, speaking a particular language, or even a dialect of a language, and following particular social practices. These congruities . . . are seen to have an ineffable, and at times, overpowering, coerciveness in and of themselves.<sup>14</sup>

Primordial sentiments, which unfortunately have come often to be called primordialism, obviously can attach to the institutions and fellow citizens of a nation-state, where the nation-state is coextensive with what is taken to be a "given" community. In these cases, primordial sentiments may actually be the deeper explanation of what is called nationalism. In scope primordial attachments also need not be unlike the commitments of what have here been called concentric-circle conceptions of morality. The main point, however, is that primordial attachments are often to groups smaller than nation-states and may indeed undermine nationalistic forces.<sup>15</sup>

### THREE CHALLENGES

The third consideration is philosophically more complex and interesting—indeed, here the challenge of nationalistic sentiment to the plausibility of extra-national responsibilities leads toward a critical unresolved tension in the philosophical psychology of morality. I would suggest, with apologies to Kant, that sentiments unconstrained by principles lack authority, principles unsupported by sentiments lack effect. Sentiments, both in others and in ourselves, can be judged critically. The expression in action of some sentiments is to be welcomed, the expression of others is to be discouraged. For assessing sentiments one needs principles.

Principles, on the other hand, will be adopted only if they evoke the support of some felt sentiment. Action in accord with a principle needs to be motivated, and apart from the possibility of a Kantian *Achtung* inspired somehow by the very contemplation of the principle, the principle must somehow appeal to motivational springs of action that preexist the appeal.<sup>16</sup>

The interaction of sentiment and principle is, then, complex. In the light of one's principles one can criticize one's sentiments, discourage them, and sometimes extinguish, sometimes suppress, them. But one cannot run ahead of oneself. Attachment to the principle must develop—it must evoke a positive response in anyone who is to be motivated to act in accord with it. The principle cannot violate all one's deepest sentiments, nor can it simply fail to connect with sentiments that would then motivate action guided by the principle.<sup>17</sup>

A nationalistic community can, in the terms used earlier, be a community of sentiment, a community of principle, or—most typically, of course—a combination of large measures of each. Greatly over-simplifying, I would say that one core question is: is it reasonable in the light of nationalism and other deep human feelings and motives to suggest that people break out of what I have called concentric-circle conceptions of morality and include in the universe of persons to whom they bear, out of principle, significant duties, considerable numbers of persons who are not their fellow citizens? This may depend in part upon the degree to which the circles must be taken to be communities of sentiment rather than communities of principle, for the following reason.

The concentric-circle conception of morality received its classic statement (and critique) in Hume's *Treatise*:

### NATIONALITY AND RESPONSIBILITY

Now it appears, that in the original frame of our mind, our strongest attention is confin'd to ourselves; our next is extended to our relations and acquaintance; and 'tis only the weakest which reaches to strangers and indifferent persons. This partiality, then, and unequal affection, must not only have an influence on our behaviour and conduct in society, but even on our ideas of vice and virtue; so as to make us regard any remarkable transgression of such a degree of partiality, either by too great an enlargement, or contraction of the affections, as vicious and immoral.<sup>18</sup>

Again over-simplifying considerably, I would epitomize the Humean view as assuming that the limits of one's "affections," or sentiments, are the limits of one's obligations. Natural communities are communities of sentiment, and natural motivation will be lacking, according to Hume, for the behavior required by any substantial enlargement of the natural boundaries of concern, which are in fact for Hume even more restricted than national boundaries. Philosophers dissatisfied with the conjunction of (1) the general principle that the limits of sentiment are the limits of obligation and (2) the particular description given by Hume of where those limits naturally fall, have responded to the Humean view (whether or not directly to Hume's *Treatise*) in a rich variety of ways (that constitute alternatives to the concentric-circle view of morality). Rousseau and Kant, for instance, provide complementary responses: Rousseau urges enlargement of the existing limits of sentiment, attacking Humean assumption (2), whereas Kant more radically suggests severing the supposed tie between sentiment and obligation, attacking Humean assumption (1).<sup>19</sup>

More strongly and explicitly than Hume, Rousseau challenged what he considered to be the excessive rationalism of the Lockean conception of the foundations of rights and duties:

I would show . . . that by reason alone, unaided by conscience, we cannot establish any natural law, and that all natural right is a vain dream if it does not rest upon some instinctive need of the human heart.<sup>20</sup>

But for Rousseau—at least for one side of the many-sided Rousseau—an appropriate education and socialization could prevent

### THREE CHALLENGES

the essentially unnatural egocentricity produced by corrupt societies:

Extend *amour-propre* over others, we will transform it into virtue, and there is no human heart in which this virtue does not have its root. The less the object of our cares concerns ourselves immediately, the less the illusion of particular interest is to be feared; the more one generalizes this interest, the more just it becomes; and the love of the human race is in us nothing other than the love of justice. Do you wish then that Emile love the truth, do you wish him to know it; make him in his activities exist outside himself.<sup>21</sup>

Kant too hoped that individuals could in a sense come to exist outside themselves, not through the nurturing of a (Rousseauan) emotionally "expansive soul," but through the universality of reasoning:

For the pure conception of duty and of the moral law generally, with no admixture of empirical inducements, has an influence on the human heart so much more powerful than all other incentives which may be derived from the empirical field that reason, in the consciousness of its dignity, despises them and gradually becomes master over them.<sup>22</sup>

Thus in order for a principle to lead to action no preexisting sentiment toward the people to whom the principle applies is necessary. The full comprehension of the meaning of the principle will itself motivate action in accord with the principle. And progressing through the at least superficially very different formulations of the categorical imperative, which are nevertheless said to be equivalent formulations of the content of duty, Kant arrives at a conception of a realm of ends, to which contingencies like differences of ethnic group or nationality are utterly foreign:

By "realm" I understand the systematic union of different rational beings through common laws. Because laws determine ends with regard to their universal validity, if we abstract from the personal differences of rational beings and thus from all content of their private ends, we can think of a

### NATIONALITY AND RESPONSIBILITY

whole of all ends in systematic connection, a whole of rational beings as ends in themselves as well as of the particular ends which each may set for himself. This is a realm of ends. . . . Thus there arises a systematic union of rational beings through common objective laws.<sup>23</sup>

At bottom Rousseau and Hume are much closer to each other than Rousseau and Kant are.<sup>24</sup> For, while both Rousseau and Kant (in at least some of their respective major writings) were seeking ways to expand moral consciousness, as each understood it, Rousseau and Hume had more nearly the same understanding of the nature of moral consciousness and agreed, in particular, that the limits of sentiment are the natural limits of obligation. The on-going contemporary discussion within analytic philosophy of the nature of reasons for moral action, of "why be moral?," and especially of "internalist" and "externalist" accounts of moral motivation is to a considerable extent an elaboration and refinement of the basic conflict between Hume/Rousseau and Kant.<sup>25</sup>

A definitive settlement of the question of the psychological realism of expecting the fulfillment of transnational duties would depend upon the resolution of at least some of the issues raised by Hume/Rousseau and Kant. Is it impossible that, as Rousseau hoped, the sentiments can be broadened? Is it also impossible that, as Kant thought, general principles can be made persuasive? I cannot answer these questions. The proponent of the thesis that compatriots take priority is assuming, however, that both are definitely answered and that the answer to each is: yes, it is impossible. But we do not know any such thing, and until we do the priority of compatriots remains, in this respect as well, unproven.

Nationalistic principles, then, can be subjected to philosophical scrutiny in the same manner in which all principles advanced as rationally justifiable can be. The principles that survive the test of criticism can then be used to assess nationalistic sentiments. To attempt to extinguish parochial sentiments, nationalistic or primordial, would be fatuous, but to constrain them may not be. Earlier chapters have suggested why we should try. This chapter is suggesting that no one has demonstrated that it is irrational or unrealistic to try to encourage the adoption of transnational principles and to nurture a sense of transnational responsibility.

### THREE CHALLENGES

#### TRANSNATIONAL DUTIES TO AVOID DEPRIVING

One does not prove a thesis even by fully disproving an argument against it. I have, of course, not disproven, but only cast various doubts upon, the thesis that compatriots take priority even in matters of subsistence duties to aid. And other arguments against the generality of duties to aid those deprived of subsistence have gone not only unrefuted but unremarked. So, it has certainly not been proven that anyone has transnational duties to aid. Nevertheless, I hope to have made it seem a little less obvious that there are no economic rights at all and a little more reasonable to think that at least toward basic subsistence rights all of us who enjoy affluence have duties, including duties to provide some of the needed aid. However unclear the matter of duties to aid may have been left—much more certainly needs to be said—it may be useful in conclusion to recall how very clear is the matter of duties to avoid depriving people of the substance of their rights, even transnational duties on the part of a national government.

We need to distinguish any duties a national government A as such may have toward people living under another government B from duties national government A has toward the same people as an agent for members of its own population. Apart from duties to avoid depriving, which are owed to every person, relatively few duties are borne by the national government of any given nation in its own right toward persons living in other nations, as opposed to being performed by the government acting as agent for some of, or all, its own constituents. In its own right any national government has a wide range of duties toward its own people, because it is their government—and because of what this means. A full explanation of the basis and extent of the duties of a national government toward its people would of course be a major undertaking and would lead us far afield. But no one, except advocates of some view of government according to which it is not a supreme duty of government to serve the people who live under it, would deny that among the duties of a national government is service as the agent for its constituents in their pursuit of some of their interests and in their fulfillment of some of their duties, especially interests and duties that are widely shared among the constituents and require coordination in their performance.

### NATIONALITY AND RESPONSIBILITY

Many of the duties toward persons outside its own jurisdiction that a national government will fulfill are therefore, strictly speaking, duties borne by the government's constituents. They are the government's duties only indirectly by way of the government's duty to its constituents to serve as their agent, when they choose, in the fulfillment of their duties. In order to have a shorthand label I will use the name "service duties" for duties correlative to rights that actually fall upon some of, or all, the people of a nation but ought to be fulfilled on behalf of the people by their national government. I will sometimes call service duties the government's duties, but I will always mean that they are duties of the government only in this indirect sense. All a government's service duties are, by this definition, derived from the duties of its people. One of the most urgent and important duties for Americans is undeniable at the theoretical level, and so is the derivative service duty for the U.S. government. In fact, this duty is extremely powerfully entailed by the theoretical structure of rights now before us, because it is fully required independently by each of two fundamental propositions, which will be recalled below, and is in this special sense a double duty.

It is clear, first, that the duty to avoid depriving is universal across individuals and institutions. Accordingly, the transnational duty to avoid depriving is one of the few duties that do fall upon governments in their own right as powerful institutions capable of causing severe deprivations when they do not restrain themselves. In the case of a superpower like the United States the capability of the national government, if it is not restrained, to cause deprivation in the farthest corners of the globe, even by its "domestic" policies, is enormous. A change in "domestic" U.S. farm policy, for example, can almost immediately raise the price of bread in New Delhi.

But individual Americans, of course, also share in the universal duty not to deprive others of their basic rights. A clear practical implication of this duty is that Americans, like people of every other nationality, ought to restrain not only themselves as individuals but also the government that is their agent from depriving anyone, including people of other countries, of their rights. Thus, the U.S. government has a second, service duty owed to its constituents to avoid contributing to deprivations of rights, just as

### THREE CHALLENGES

it is required in its own right as a powerful social institution to avoid depriving people of the substance of their rights. Therefore, a government that does violate, or assist in violating, the rights of people outside its own territory is failing in its duties both to the victims of the deprivation and, as an agent with service duties, to its own population. It would be difficult to imagine a much stronger case against one government's complicity in violations of rights by other governments. This has strong implications for U.S. foreign policy, and we can now briefly consider a few examples.

## Afterword

### Right-grounded Duties and the Institutional Turn

As far as I can tell, one of the most useful effects of the first edition of *Basic Rights* was to help to throw open a number of issues about the duties that need to be performed if rights are in fact to be secure. Or perhaps I should say "help to throw into confusion." In any case, during the subsequent years I along with others, some of whom I will mention below, have continued to struggle with issues about both the specification and the assignment of right-grounded duties, two intertwined complexes of problems concerning the "division of moral labor."<sup>1</sup> Here I would like to rework once again some of the persistent questions about rights and their duties, indicating a little about how my picture of them has evolved so far.

John Locke had taken for granted that the right to accumulate private property was limited by a universal right to subsistence.<sup>2</sup> A balanced picture of rights of this kind, including guarantees for both liberties and subsistence, had been reaffirmed by various U.S. political leaders, most powerfully perhaps by Franklin Delano Roosevelt.<sup>3</sup> In the first year of the Carter Administration (1977), Secretary of State Cyrus Vance announced a balanced view as the basis for the enhanced attention that, it was promised, would be given to human rights in U.S. foreign policy.<sup>4</sup> The secretary of state's affirmation of rights nevertheless quickly came under philosophical attack, including a politically influential critique in 1978 by Charles Frankel, maintaining that "the list proposed by Secretary Vance, and particularly the economic and social rights of which it speaks, must be characterized as somewhat puzzling."<sup>5</sup> My discussion of duties in chapter 2 was initially intended primarily to assist, by portraying a little more realistically how rights function in practice, with the refutation of some bad arguments against balanced accounts of rights like those embraced by Locke, Roosevelt, and Carter/Vance, and of course embodied in international law. Several bad arguments depended upon, among other things, a highly overabstracted and thereby

