The Right to Subsistence: an authentic human right, not mere rhetoric

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As of today, throughout the world, an estimated 830 million human beings are chronically undernourished, 1.1 billion lack access to safe water, 2.6 billion lack access to basic sanitation, 1 billion lack adequate shelter, 1.6 billion lack electricity, and 2 billion lack access to essential drugs. Yet, some of us refuse to accept the right to subsistence as a human right. What are the objections to the human right to subsistence? Can these objections legitimately render it an ideal or an institutional right at best? Since there is confusion in distinguishing genuine human rights from spurious ones, these questions must be answered if we are to understand whether the right to subsistence is a human right or merely sweet sounding rhetoric.

In this essay I first sketch the definitions of human rights and the right to subsistence on the basis of Joseph Raz’s interest theory of rights, however I do not give complete justification for the right to subsistence. The main focus of the paper is to respond to the objections to the human right to subsistence. The first objection is Maurice Cranston’s claim that if everybody cannot satisfy socioeconomic rights, then there is no universal ought (no correlative universal duties from which a right can emerge). Hence, socioeconomic rights would not be human rights, but only ideals. I argue that this interpretation is untenable since there are some affluent governments somewhere that command the resources that could guarantee the right to subsistence to the world’s poor. Therefore, there is an ought for affluent countries that generates correlative duties and a right can emerge from it.

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Cranston has a second objection wherein he asserts that negative rights such as civil and political rights can easily be converted to legal positive rights but socioeconomic rights cannot. However, in light of my experiences in Turkey, I am convinced that neither negative rights nor positive rights can be translated into positive law simply by changes in government legislation, and I will show that this cannot be a criterion by which to argue against positive rights either.

Finally, the third objection is Onora O’Neill’s claim that in order to have a human right, we have to assign duties to everybody; while negative rights survive this constraint, socioeconomic rights do not. I will argue against O’Neil and show that claimability cannot be a precondition for the existence of human rights. I conclude that none of the above mentioned objections could legitimately render the right to subsistence mere rhetoric and not a human right.

What is a human right?

What is a moral right? Joseph Raz says “a right is a morally fundamental right if it is justified on the ground that it serves the right-holder’s interest in having that right in as much as that interest is considered to be of ultimate value, i.e., in as much as the value of that interest does not derive from some other interest of the right-holder or of other persons” (Raz 214). I am going to assume essentially Raz’s interest theory of rights because it allows for the existence of fundamental moral rights. He states that “the interests are part of the justification of the rights which are part of the justification of duties” (Raz 208). According to him a person has a right to X if and only if a person has an interest in X that is sufficient to ground duties in other people to respect, to protect, to promote that interest (Raz195). This definition identifies the interest on which the right is based as the reason for generating correlative duties (Raz 213). The question is: which interests are sufficient

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2 Joseph Raz, “On the Nature of Rights.” *Mind*, New Series, Vol. 93, No. 370 (Apr., 1984). I realize that the interest theory of rights is controversial, but discussing it further is beyond the scope of this paper.
to be the basis of a human right? John Tasioulas calls these interests universal interests. Only these interests\(^3\) that are related to human beings’ well-being are of ultimate value, therefore only they can be the basis of human rights. These interests have such a paramount importance in our lives that they impose duties on others to respect, protect and promote them.

I find Tasioulas’s definition of human rights to be the most plausible because it accommodates the dynamic aspect of rights and their ability to create new duties. In his account, the existence of human rights rests upon moral grounds, not the institutional facts that surround them. Human rights may have implications for the creation, modification or abolition of institutions; but institutional deficiencies or the dearth of institutions are irrelevant to determining the existence of human rights (Tasioulas 76). Nevertheless, human rights need to have some kind of recognizable conceptual components, which Tasioulas calls ‘tolerably determinate content,’ so that institutions can understand their meaning.

Moreover, human rights have a universal moral character. These two features distinguish them from institutionally dependent rights, such as the rights of university students. Unlike the rights of university students, human rights are moral entitlements possessed by all human beings simply by virtue of their humanity. The right to life is such a right. An individual’s special relationship to persons, to groups, or to institutions has no role in determining or justifying the

\(^3\) An interest is sufficient to base a right on if and only if there is a sound argument of which the conclusion is that a certain right exists and among its non redundant premises is a statement of some interest of the right holder, the other premises is a statement of some interest of the right holder, the other premises supplying grounds for attributing to it the required importance, or for holding it to be relevant to a particular person or class of persons so that they rather than others are obligated to the right holder. These premises must be sufficient by themselves to entail that if there are no contrary considerations then the individuals concerned have the right. To these premises one needs to add others stating or establishing that these grounds are not altogether outweighed by conflicting reasons. Together they establish the existence of the right (Raz 209).
existence of the right to life. A judge, a king, a teacher, an unemployed person or a child all possess the right to life.⁴

Besides Tasioulas, James Nickel also gives an account of human rights and he explains what the nature of grounding of the human rights is in detail. He provides a framework which suggests that people have secure, but abstract, moral claims on others in four areas: a) a secure claim to have a life, b) a secure claim to lead one’s life, c) a secure claim against severely cruel or degrading treatment, and d) a secure claim against severely unfair treatment. These claims do not need to be earned through any special relationship; they are available to people by virtue of their humanity. These four principles impose abstract obligations to respect and protect everyone. Each of them is centered on a fundamental human interest as Tasioulas describes because they are necessary conditions to a minimally decent human life. A minimally decent human life is a requirement of human dignity, which James Nickel⁵ defines as “any particular feature of persons that has distinctive value: (e.g.: their ability to suffer, their lives, their agency, their consciousness and reflective capacities, their use of complicated languages and symbolic systems, their rationality, their individuality, their social awareness.)” (Nickel 395) This is why the rights and duties associated with a minimally decent human life hold by virtue of the humanity of the person who holds the

⁴ Besides their universality, human rights also have a temporal character that constrains them. They have such a universal temporal constraint because they are almost always specified within a historical context. This context helps us understand which human rights existed at different times. For example, the human rights that exist for people today, and probably will into the foreseeable future, are different from the human rights of people who lived in the middle ages. The temporality constraint, then, means that “human rights would be possessed by humans qua human, but not necessarily at all times and in all societies throughout history. Instead, they would be possessed by all in certain broadly defined historical contexts. This historically constrained universality also would avoid the need to bifurcate ‘practicalities’ in such a way that non-universal features of the human condition cannot determine the existence of human rights.”⁶ Social and economic circumstances effect people’s lifestyles and how they define their personhood, needs and interests. By virtue of their humanity, there is a difference between the kind of human rights possessed by modern human beings and those possessed by medieval people.

human right because this is a requirement of their dignity.\footnote{Nickel’s definition is concerned with the conditions for a minimally good life; that is why it is more expansive than subsistence alone. It suggests that economic and social rights focus on survival, health and education (Nickel 387).} The basic interests serve to ground the human rights and their correlated duties.

In sum, Tasioulas defines characteristics of human rights thus: If a right is a human right, then we possess it \textit{by virtue of our humanity} and need only a \textit{moral justification} for its existence. This moral justification is grounded in universal human interests. According to Tasioulas’s interest based account \textit{universal human interest} is the keystone of the moral justification upon which human rights rest. A human right then, merits the imposition of duties on others because it protects the universal human interests. Since these interests have such a paramount importance in our lives, we share the same interests that give rise to the same human rights. Even though we have the same human interests, these universal interests do not symmetrically generate universal duties on others. This means that every single human being is not required to shoulder the correlative duties to the human rights enjoyed by all (Tasioulas 77). Since human rights have all of these characteristics they have a critical and normative power to set standards to which reality must be made to conform (Tasioulas 77). I believe the right to subsistence possesses all of these characteristics; therefore it is a human right with normative power. In the next section I will explain what I mean by the right to subsistence and why it is a human right.

\textbf{Right to Subsistence is a Human Right}

The object of the human right to subsistence is to provide one of the necessary conditions for a minimally decent human life where one’s vital needs for food, shelter, health-care and education are fulfilled. Every human being has a fundamental interest in having a minimally decent life because this is the only way one can lead a dignified existence. Since the right to subsistence
protects this fundamental and universal human interest in having a minimally decent human life, the right to subsistence is a human right.

The notion of ‘the fundamental human interest’ is the keystone that upholds the interest-based account of human rights. Tasioulas’s account morally justifies the right to subsistence, as in the following:

1- For all human beings, poverty consists in a significant level of material deprivation that poses a serious threat to a number of their interests: health, physical security, autonomy, understanding, friendship, etc.

2- The threat posed by extreme poverty to the interests enumerated in (1) is in the case of each being, pro tanto of sufficient gravity to justify the imposition of duties on others, for example to refrain from impoverishing them, protect them from impoverishment, and assist those already suffering from severe material deprivation.

3- The duties generated at (2) represent practicable claims on others given the constraints created by general and relatively entrenched facts of human nature and social life in the modern world. Therefore:

4- Each individual has right to be free from severe poverty. (Tasioulas 78)

As stated above, the fundamental human interest to live a minimally decent human life grounds the right to subsistence\(^7\). Since this is a significant, universal interest that everybody has in virtue of their humanity, the right to subsistence is morally justified and deserves to be respected, promoted and protected by the modern world. There is a question regarding whether this universal interest does symmetrically generate universal duties on others, i.e., whether all persons bear the duties

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\(^7\) Basic means of subsistence are: clean air and water, adequate food, clothing and shelter, basic minimum of health care.
correlative to the right to subsistence even if this right is enjoyed by all (Tasioulas 77). This is where Maurice Cranston and many like-minded political philosophers disagree with the proponents of the right to subsistence. They have several objections to the right to subsistence such as the practicability, feasibility and claimability objections, and I will address these objections now.

**Objections to the Right to Subsistence as a Human Right**

1.-Cranston’s Practicability Test and The Feasibility Objection

Cranston claims that the right to subsistence does not fit the definition of human rights. He defines human rights as negative moral rights that give rise to duties only to refrain from action. But socioeconomic rights require more. They require providing means for social security, providing job opportunities, providing school and health-care systems, creating welfare systems for the public, etc. These positive activities require government’s interference with man’s life and well being. Socioeconomic rights such as the right to subsistence cannot be secured and satisfied like civil and political rights can be. Governments can try to honor them here and now, but socioeconomic rights will be always beautiful ideals, never rights. They are not perfect duties, in Kantian terms. They are imperfect duties, like charity, which no one has a just claim to demand.

Cranston thinks the practicability test is a useful test that tells us which rights are authentic human rights. I shall focus on this test because his feasibility objection rests upon it. He lays it out as in the following:

It is not my duty to do what is physically impossible for me to do. You cannot reasonably say it was my duty to jump into the Thames at Richmond to rescue a drowning child if I was nowhere near Richmond at the time the child was drowning. What is true of duties is equally true of rights. If it is impossible for a thing to be done, it is absurd to claim it as a right. At
present it is utterly impossible, and will be for a long time yet, to provide ‘holidays with pay’ for everybody in the world. For millions of people who live in Asia, Africa, and South America where industrialization has hardly begun, such claims are vain and idle. (Cranston 50)

The test of practicability establishes a criterion for duties. If it is physically impossible to do something, then it cannot be a duty. Since what is true of duties is equally true of rights, he argues “if something is not possible to be done, then it is absurd to claim it as a right” (Cranston 50).

Cranston’s idea here is a plausible one, but it is ambiguous because we can interpret his claim “if something is not possible to be done,” in two different ways. The first version would be: ‘Everybody must be able to satisfy the human right.’ Here is where his disagreement with Tasioulas, Nickel, and all the proponents of right to subsistence comes to the surface. He says: “to speak of a universal right is to speak of a universal duty; to say all men have a right to life is to impose on all men the duty of respecting human life, to put all men under the same prohibition against attacking, injuring, or endangering the life of any other human being. Indeed, if this universal duty were not imposed, what sense could be made of the concept of a universal human right?”

This means if ‘ought implies can’, everybody needs to be able to satisfy the human right so that we can claim that right. If I have a right to X, then X must be possible for everybody to fulfill. If it is impossible for everybody to fulfill it then there is no universal ought (no universal correlative duties and so no universal right can emerge from it), and any demand for such a right is irrational and unjustified. If we look at the drowning child example this train of thought creates a rather bizarre conclusion.

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If we ask whether it would be possible for everybody to rescue a child when she was about to drown in the Thames river, the answer is no. However, some people, if not everybody, would be able to rescue her. Cranston was not passing by the Thames, and there were many others who were not passing by the Thames at the time of the incident. So while it was, in practice, impossible for everybody to rescue the child, it was possible for some people to rescue the child. According to Cranston’s practicability test, then the child cannot claim a universal right to be rescued since it was impossible for everybody to satisfy her right to life.

On the other hand, we can interpret the phrase “if something is not possible to be done, then it is absurd to claim it as a right” (Cranston 50) in a different way: If I have a right to X, then at least one person or a group of persons must be able to satisfy the right. If it is impossible for even one person or a group of persons to fulfill a right, then there is no ought (no correlative duty and no right can emerge from it). This means any demand for such a right is irrational and unjustified. If we use his drowning child example to illustrate this second interpretation of the practicability test, it will lead us to a conclusion that the child has a right to be rescued because at least one person or a group of persons can rescue the child. Therefore there is an ought that generates correlative duties and a right can emerge from it.

Cranston applies the first interpretation to test whether social and economic rights are human rights. That is, if I have a right to X, then X must be possible for everybody to satisfy. If everybody cannot satisfy socioeconomic rights, then there is no universal ought (no correlative universal duties and no right can emerge from it). Hence, he claims that any demand for socioeconomic rights is irrational and unjustified; they are not human rights, only ideals. He illustrates his claim with the example of India: “The government of India cannot command the resources that would guarantee
each one of the 480 million inhabitants of India ‘a standard of living adequate for the health and well-being of himself and his family,’ let alone ‘holidays with pay’” (Cranston 50-51).⁹

In the example given above, if there is a human right to subsistence, then there is an obligation on the Indian government to make good on that right. But since the Indian government does not have the means, then the Indian government cannot fulfill the right, therefore the Indian government cannot be held responsible to fulfill that right. Thus it follows that, at best, social and economic rights are ideals but not human rights because they do not create universal correlative duties for others. Once we accept ‘the right to subsistence’ as a human right many poor countries will find themselves violating this right because of the extreme scarcity of their resources. “What ought to be done, what is obligatory what is right, what is duty, what is just, is not what it would be nice to see done one day; it is what is demanded by the basic norms of morality or justice… An ideal is something one can aim at, but cannot by definition immediately realize. A right, on the contrary, is something that can, and from the moral point of view, must, be respected here and now” (Cranston 53). Therefore socioeconomic rights are not human rights but only ideals.

On the other hand, if Cranston applies the second interpretation of the test, then he has to say that something is a right if at least one person or a group of persons is able to satisfy the right. If we apply this idea to the government of India it goes like this: It is impossible for the government of India, which cannot command the resources that would guarantee all of its inhabitants ‘a standard of living adequate for the health and well-being of himself and his family,’ to satisfy the right to subsistence of its own people. However, there are affluent governments elsewhere that command the resources that could guarantee the right to subsistence to people in India. Therefore, there is an ought for affluent countries that generates correlative duties and a right can emerge from it. In the

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⁹ The population of India has obviously grown since the time of Cranston’s text, to currently over one billion.
end, Cranston applies the first interpretation of the practicability test and refuses to include socioeconomic rights and the right to subsistence in the pool of traditional human rights. I will argue that this interpretation is untenable.

Another concern Cranston has about socioeconomic rights is this: “it would be totally impossible to translate them in the same way into positive rights by analogous political and legal action” (Cranston 47). In other words, they cannot be translated into positive rights or positive law as easily as negative rights can be. To accomplish such a transition for negative rights we need only a fairly simple legislation that will restrain government’s actions. However, for socioeconomic rights we need the governments to do more than organize their legislation. They need to have wealth to provide social security for their people. If, on the other hand, they are positive rights, then Cranston’s definition of human rights as rights emerging from natural law tradition is untrue.

**Responses to Cranston’s Practicability Test and The Feasibility Objection**

Cranston’s definition of human rights and his test of practicability are misleading in terms of identifying what a genuine human right is. This is why he fails to identify the right to subsistence as a genuine human right. In this section I will state four major disagreements with Cranston:

a) Disagreement with the claim that negative rights can easily be converted to legal positive rights, b) Disagreement with the claim that negative rights can be always satisfied, c) Disagreement with the claim of inability to discharge the correlative duties to subsistence, and d) Disagreement with the claim that socioeconomic rights generate an unjustifiable burden.

**A-Disagreement with the claim that negative rights can easily be converted to legal positive rights**

Cranston argues that civil and political rights can be easily converted into positive law with some simple legislative changes, but socioeconomic rights cannot be. He seems to use the
convertibility as a criterion of genuine rights. Let’s apply his view to the right to religious choice in Iran. Bahá’ís have been deprived of this right since 1978 in Iran. The Iranian government regards Bahá’ís as apostates having abandoned Islam (an unacceptable sin in Islam), and defines them as ‘unprotected infidels’; it does not, in other words, accept Bahá’ís as a ‘religion.’ If the Iranian government agrees to recognize the right to religion for Bahá’ís and decides to enforce it, Cranston claims that all it has to do is to make fairly simple legislative changes that will make the government’s executive arm refrain from interfering with Bahá’ís devotional activities. But I argue that mere legislative changes are not enough to translate civil and political rights (i.e., the right to religion) into legal rights. The Iranian government needs to initially start securing the right to religion by legislation, but then it must take responsibility to either re-design existing institutions to comply with the new legislation, or to create new ones to implement the new legislation. After the changes are made, the government needs to disseminate and teach the new legislation to the whole nation, to its civil servants, to the police force and to the people who are responsible for implementing the new legislation. This means that not only legislative changes but also positive actions are required when a civil and political right is translated into positive law.

For instance, without an efficient system of education people will not learn what their rights and duties are and how to refrain from any kind of action that will jeopardize somebody’s secure access to her rights or violate them. The majority of women who live in Eastern Anatolia in Turkey lack the proper education to know what kind of civil and political rights they have; hence they would neither claim a right to vote for the political party of their choice nor recognize that their right to vote is violated when they are told to obey their husbands or fathers in voting. These women

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10 “All Bahá’í cemeteries, holy places and community properties were seized soon after the 1979 revolution. None have been returned, and many sites of the greatest historical significance to Bahá’ís have been destroyed.” http://iran.bahai.us/overview/
will not claim to have freedom of speech or freedom of assembly against their feudal land-owners or freedom to join a trade union. Without education, these women will not know and be able to exercise their civil and political rights. Because of my experiences in Turkey, I am convinced neither negative rights nor positive rights can be translated into positive law simply by changes in government legislation. And so this cannot be a criterion by which to argue against positive rights.

This criterion however, is not entirely consistent with Cranston’s conception of human rights. If human rights are negative moral rights, their convertibility to positive law must be irrelevant to their condition for existence. So now we will discuss a more central argument of Cranston’s against positive rights.

**B- Disagreement with the claim that negative rights can be always satisfied**

Cranston claims that the government of India cannot command the resources to fulfill the right to subsistence for all of its people at all times in all circumstances. It is impossible to satisfy such a demand. Therefore socioeconomic rights can be neither moral rights nor human rights, because, if we accept them as human rights they must be satisfied for everybody here and now. We all know it is impossible to secure the right to subsistence for everybody at all times in all situations even in one country.

Cranston fails to see that it is equally impossible for India to secure civil and political rights for the millions of people in India even if the government commands the social institutions, a legal system, properly working courts, and a police force. Let’s take the right to not be deprived of one’s freedom. Strictly speaking, it is impossible for the government of India not to violate someone’s liberty at some time. Innocent people are jailed because of mistakes or poor judgment of the witnesses, lack of evidence, or poor decision-making on the part of the jurors and judges. Government has to interfere to enforce the law and this enforcement can sometimes interfere with
the liberty of people. Thus, when Cranston claims that socioeconomic rights cannot be human rights because it is impossible for the government of India to secure them for all people all the time, the same conclusion applies to civil and political rights.

Cranston may reply that in India people’s right to liberty can be secured at all times because the right to liberty is violated only if an innocent person is intentionally deprived of their right. Then the correlative duty of the right is ‘not to intentionally deprive an innocent person of their liberty.’ That duty is not violated by a state if it puts the person in prison by mistake. This can be implemented by law; law usually encompasses restrictions such as ‘the duty not to deprive an innocent person of liberty’. Everyone can comply with this duty here and now if we keep ‘the intentional restriction’ in its definition. Therefore Cranston still can claim that civil and political rights can be secured at all times for all people in all situations.

Cranston seems to claim that the state does not violate the persons right to liberty by putting him into jail, if it did not intent to put an innocent person in jail. So he takes rights to be constraints on intentional action. Hence he argues that it could be the case that no agent intentionally violates these civil and political rights. Even though they will in some sense they will never intentionally do it. This could be possible in some straightforward circumstances; however, even for at least for many civil and political rights it is not a plausible conception for these rights. Free speech is a well-known example of this sort. A legitimate intention that has unintended but foreseen effects can violate this right.

\[\text{Cranston himself does not make this reply, this just a hypothetical reply. Maybe Robert Nozick has this narrower conception of rights. See for further reading Nozck, Robert. Anarchy State and Utopia. New York: Basic Books, 1974, chapter 3.}\]
As an example, there was an attempt to eliminate child pornography at public libraries in the United States.\textsuperscript{12} Public libraries were required to reconfigure their computers so that when users researched the world wide web the search engines would censor child pornography. As a result of this reconfiguration the search engines blocked access to a lot of information regarding children, sex and human anatomy as well as child pornography. This led the Supreme Court to rule against the ban on the grounds that it unintentionally violated the right to freedom of speech which protects secure access to information. This example illustrates that even where there is no intention to violate civil and political rights, the effects of an action can violate civil and political rights. The view that rights are constraints on intentions restricts the area of rights too narrowly, producing counterintuitive consequences.

These counterintuitive cases suggest that there is some importance to the protection of interests in rights and provide some support to the interest theory. The interest theory of human rights is grounded in human interests, not human intentions. This does not imply that intentions are unimportant but only that they are not necessary in defining rights. The intentional or unintentional violation of the right still amounts to its violation. This distinction does not mark the distinction between violation and the non-violation of human rights.

In Cranston’s definition of human rights, a human right is either fully realized for all people at all times in all circumstances or not. If it is impossible to realize the right for everybody then this right cannot create \textit{a universal ought}, which means the right cannot create universal correlative duties on others, and therefore cannot be a human right. However, as we see in the example of India, securing civil and political rights and socioeconomic rights for all the people at all times, in

\textsuperscript{12} For this example see Thomas Christiano, \textit{Constitution of Equality}. \textit{P.135}
all circumstances, is an impossible task. Then should we claim that people in India do not have any human rights?

Cranston’s definition of human rights as moral rights that must be honored here and now for all people at all times and in all circumstances sets an impossible criterion. According to his definition no moral right can be a human right because no government can secure moral rights (such as the right to liberty, or right to life, or right to free speech) all the time for all its people in all circumstances. These rights can be secured and realized only by degrees. Socioeconomic rights may fail to be realized more often than civil and political rights, but this does not mean that they fail to be human rights. Cranston’s definition is misleading in the sense that it asks us to conclude we either have no human rights or that no right can be classified as a human right.

Here, Cranston may say the following: Suppose we created a new international system where socioeconomic rights are universally acknowledged and enforced by positive law. What if a government, who agreed to accept socioeconomic rights as human rights, lacks the resources to fulfill these rights? What will poor governments like Haiti or India do? If they do not have the means, they cannot fulfill their duties to secure and satisfy socioeconomic rights such as the right to subsistence. This means they will unintentionally violate their own citizens’ right to subsistence. Therefore socioeconomic rights cannot pass the practicability test because they fail to create correlative duties on others since the means of poor governments are limited.

I disagree with this view because it is an undeniable fact that most of the countries in the world today are able to implement the right to subsistence. This means most countries could comply with it; however, feasibility is a challenging test for some of the poor countries in the world. Nickel draws an analogy between the least capable parents and the poor countries. He explains that
we cannot key the legal duties of parents to the least capable parents. Similarly, he suggests that we should not key the legal duties of other countries to the least capable ones.

Then we should rather ask whether most countries can comply. He divides countries into four groups. He places countries such as Canada, Denmark, Greece, Japan in the top group; Chile, Hungary, and Poland in the second group; and finally Brazil, China, Colombia, Fiji, Jordan, and Turkey in the third group. Countries in the top three groups are likely to implement basic and economic social rights such as the right to subsistence. He argues that the inability of a fourth group of countries such as India, Haiti and Nigeria cannot be taken as a criterion for the feasibility test. Their inability to fulfill these rights does not render the rights irrelevant. Their lack of success in satisfying the right to subsistence is considered to be a matter of regret; they can be temporarily excused but these rights still are regarded to be norms and ought to be realized in the near future. Besides, they generate duties on the secondary and back-up addressees, such as for affluent countries to provide assistance to satisfy these rights (Nickel 399-401). I agree with Nickel and argue that the existence of poor countries should be a reason for acknowledging, instead of invalidating, the right to subsistence.

C- Disagreement on the claim of inability to discharge the correlative duties to subsistence

If affluent countries take the route of rationalizing their inaction we can: a) question the truthfulness of their claims about inability by investigating their expenditure on things that arguably have lower priority than satisfying the human right to subsistence; and b) require them to be doing something by taking measurable steps to satisfy their duties (Nickel 401). For instance, I would

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13 Least capable parents: Some parents have financial difficulties and cannot maintain their family’s subsistence. These parents cannot send their kids to school because they need their kids’ manpower either to work at the farm to cultivate the land or at a job to earn money to support the family. These parents violate their legal duties to send their kids to school. These kids either work at the farm as the child laborer or work at the streets to sell merchandise or work at factories with their families.
suggest that we ask why an affluent country like the United States prefers to spend its taxpayer dollars on experiments for Star Wars or unjustified wars instead of eradicating poverty. We could argue that if we work on eradicating world poverty perhaps there will be no reason to have many of the wars that are fought. We could use our military and human resources to help people fight against poverty and famine. We could mobilize our scientific knowledge to help poor nations to grow new forests or cultivate their land to provide food for themselves. Military forces of all nations can provide the manpower to lift poor nations from poverty. Instead of pharmaceutical companies spending tens of millions of dollars on research on cosmetics, anti-aging creams, slimming pills and life-prolonging pills they could spend some of those millions helping to eradicate poverty. With such corporate funding we can build new international organizations and recruit scientists, ecologists, economists, agronomists, engineers, anthropologists, educators, etc, to help people understand and discharge their duties regarding the right to subsistence.

While addressing the feasibility objection we can also set a minimal object that can be satisfied by almost all countries, as Nickel suggests. He argues that dividing the right to subsistence into a minimum core and outer core “sets a more demanding goal which provides a broader focus for the right and which is supported by a duty to try” (Nickel 401). After setting this minimal core we can require immediate compliance to it. The minimum core regarding food, Nickel explains, might aim to prevent massive famines. This feasible minimal standard can be satisfied without delay. Besides the minimum core, we can set up an outer core as well. The outer core might aim to provide secure access to adequate food for all. This will give us a direction in which to realize the right to subsistence fully over a longer term (Nickel 401).
D- Disagreement on the claim that socioeconomic rights generate an unjustifiable burden

After we have undermined the feasibility objection, Cranston could possibly raise a further objection and claim that the right to subsistence generates an unjustifiable burden. In other words, if one has the duty to do X, but it is extremely expensive to carry out that duty, that often implies that one does not have the duty. Therefore, Cranston could claim that the cost of satisfying the right to subsistence is unbearably high if we are to supply means to subsistence to everybody; on the other hand, it does not cost much to satisfy civil and political rights. Hence he could argue that civil and political rights do not generate unjustifiable burden but socioeconomic rights do; therefore, socioeconomic rights cannot be human rights. However, I maintain that we cannot enjoy our rights to liberty if we only comply with our negative duties; we should include the costs of law and criminal justice, the police, and prison systems in the ‘cost’ of liberty. Once we add all of these costs to the cost of liberty it will be clear that the costs of institutions or duties to aid will be similar to the cost of satisfying our right to liberty.

Here, it seems Cranston misinterprets the aim of the right to subsistence. He believes it obliges everybody to supply to every other person a free supply of goods so that they can survive. However, this is not really what the right to subsistence aims to accomplish. As Nickel explains, “Guarantees of subsistence will be intolerably expensive and will undermine productivity if everyone simply receives a free supply”(Nickel 398). The right to subsistence only aims to create a sustainable system for survival so that people can claim that their secure right to a decent life should be satisfied when they find themselves unable to maintain their survival for some reason or another. These remarks end my disagreements with Cranston regarding his practicability test and the feasibility objection, and lead us to the claimability objection, which basically answers the
following questions in the negative: Can we claim a right if the duty bearers are unknown? Can we satisfy the right to subsistence if the duty bearers don’t know how to discharge them?

2- Claimability Objection

The main argument of the claimability objection is that rights are inherently claimable even though they may not be always effectively enforceable. While negative rights survive this constraint, socioeconomic rights do not. Onora O’Neill argues that it is impossible to have a universal obligation to provide food to satisfy everybody’s universal right to subsistence. Since socioeconomic rights require some sort of institutional structure to allocate duties and define their content they are better recognized as institutional rights, not as human rights. Unlike universal liberty rights, socioeconomic rights cannot be defined by pure moral reasoning, and therefore they can be recognized only as imperfect obligations (Tasioulas 80-90).

Moreover, although socioeconomic rights and universal liberty rights generate both negative and positive duties, in the case of liberty rights we know who the duty bearers are, but in the case of socioeconomic rights we do not. Even if they are unenforceable both of these rights exist. However, in the absence of appropriate institutional schemes, we do not know the precise content of the duties welfare rights generate, for instance, and who needs to shoulder these duties. In the case of liberty rights, however, we know who the duty bearers are: everybody. But there is an indeterminacy of allocation of correlative duties regarding the right to subsistence. According to O’Neill, this indeterminacy renders these rights “radically incomplete” because their existence is strictly dependent upon the process of institutionalization (Tasioulas 90). A right only exists if the duties associated with it are claimable. Since we lack the appropriate institutions, it is impossible to define and allocate these duties; therefore the right to subsistence is not claimable and cannot be a human right (Tasioulas 89). As a result O’Neill claims that the right to subsistence is a mere manifesto
right, and that the only thing it amounts to is mere rhetoric rather than just entitlement (Tasioulas 93).

**Responses to the Claimability Objection**

Onora O’Neill seems to misunderstand what socioeconomic rights imply. The socioeconomic rights do not imply that there are rights to welfare but only to *conditions to a minimally decent life*.\(^{14}\) They do not imply a commitment to a welfare state either. This means we are not required to provide food to satisfy everybody’s universal right to subsistence.

Socioeconomic rights are similar to liberty rights because they have correlative duties of both the positive and the negative sort. For example, to honor the right not to be tortured we not only fulfill the correlative negative duty to refrain from torturing but we also need a set of institutions such as police force, judiciary and penal system, and officials who operate these institutions. In this respect, welfare rights are not different from the right not to be tortured. Similarly, they also give rise to a negative duty not to obstruct others from certain activities to maintain their survival (Tasioulas 90). Besides these negative duties socioeconomic rights also generate positive duties and some institutions to satisfy the right fully; this renders them similar to liberty rights.

Secondly, the interest-based account of rights acknowledges that we often have enough information regarding the existence of a right before it is institutionally defined and allocated. It separates the conditions for institutionalization of the right from the conditions for its existence (Tasioulas 92). We know that everybody has a right to life, and as this interest has requisite

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\(^{14}\) The goal of the right to subsistence is to secure for all humans access to the means of subsistence, clean air and water, adequate food, clothing and shelter, and basic minimum of health care- thereby enabling them to have what is needed for ‘a decent chance at a reasonably healthy and active life of more or less normal length, barring tragic interventions’ Henry Shue, *Basic Rights*, 2nd edn. Princeton UP, 1996, p: 23
paramount importance for everybody it generates duties on others. Therefore it is a human right. This human interest’s existence is the primary condition for it to be recognized as a human right. “Who should shoulder these duties?” is a separate question we ask, after establishing the existence of this right, not prior to it; “a right may exist even though the allocation and specification of its correlative duties remains indeterminate” (Tasioulas 93). We do not need institutions to allocate duties, for even positive duties and principles of responsibility can be allocated independently of any institutional structure if we ground them in ethical reasoning (Tasioulas 93). There may be multiple schemes that can be suitable to allocate and specify the correlative duties of the right to subsistence, rather than only one optimal scheme. For instance, one can satisfy one’s right to food by earning enough money, having access to the use of land, or being a member of a family or a social group. The best scheme will depend not only on the established social phenomena of the community but also on the temporal conditions. This indeterminacy does not mean that welfare rights are not human rights; it only reflects that there is a variety of mechanisms for securing such a right and we can choose different ones according to local and temporal conditions.

Thirdly, the claim that socioeconomic rights are radically incomplete seems invalid. Because O’Neill asserts that since we have very limited knowledge about the counterpart obligations of welfare rights prior to the relevant institutions, these rights are not human rights. As Tasioulas points out, O’Neill exaggerates the importance of our pre-institutional knowledge of the correlative duties and downplays the amount of knowledge we can have about the normative power of these rights. Our pre-institutional knowledge should not be as significant in determining the existence of a right, because these issues are not relevant to moral justification of the existence condition of a human right. Therefore, knowledge regarding institutions cannot be a prior condition to understanding whether a human right exists.
Fourthly, there are some unallocated positive duties associated with liberty rights as well. In the absence of institutions that both allocate and sustain these duties their claimability does not have any importance and they will be violated even if they are claimable. Claimability cannot be a precondition for the existence of human rights. (Tasioulas 91). We should not conflate these two issues. A human right according to the interest-based account exists if “the interest is sufficient to generate duties to advance and protect that interest in various ways” (Tasioulas 91). It will be unfulfilled if the right holders cannot have secure access to the object of their rights. For example, the right to free speech is an interest every human being has, and it has a grave importance in our lives such that we all want to protect and promote that right. This right creates both negative and positive duties on others. Compliance with only the negative duties regarding this right will not be enough to fulfill one’s duties. Government needs to provide adequate education for people as well so that they can exercise their right. The same logic applies in the case of welfare rights. These rights generate both positive and negative duties on others, and compliance only with the obligation not to deprive people of essential resources for survival will not be enough, because positive duties have a “special salience in the case of welfare rights” (Tasioulas 91).

To sum up, proponents of the right to subsistence argue that:

1- The indeterminacy in terms of a right’s deontic implications is irrelevant to the conditions that justify a right’s existence. This indeterminacy is related to its dynamic normative character.

2- Duties that a right generates cannot be specified in only one optimal way. They may be variable in relation to the local and temporal circumstances of the right holders, as well as the nature of the agents and institutions.
3- We need to engage in “strategic reasoning,” as Shue calls it, to arrive at an adequate specification of duties and their allocation.

4- Even in a particular context, there may be different ways of specifying and allocating the same correlative duties.

5- Context sensitivity of welfare rights is not a reason to call them ‘manifesto rights’ or mere rhetoric (Tasioulas 92-94). It does not cause any insuperable difficulty either because: [W]hat drives the interest-based theory of rights are the interests a right protects rather than any specific set of normative applications they generate… If rights are conceived in this protean way, the thesis that their very existence at any given time depends on a specific assignment of duties loses its grip on us. What is crucial to the existence of rights is the duty grounding character of the underlying interest they protect not whether a particular distribution or specification of duties been fixed. (Tasioulas 94)

To answer the claimability objection further, Nickel asserts that all we need to satisfy the right to subsistence is a division of labor between several parties (Nickel 396). For Nickel, governments are the primary addressees of the human rights of their residents. Governments have a) duties to respect and to uphold their residents’ human rights, and b) negative duties to respect the rights of people from other countries. Besides governments, individuals have negative responsibilities to respect the human rights of people at home and abroad as well. Their responsibilities are not limited to their being voters, and include promoting human rights in their own country. Last but not least, governments, international organizations and individuals have back-up responsibilities for the fulfillment of human rights around the world (Nickel 396).
Conclusion

In this essay I have addressed the practicability, feasibility and claimability objections to the human right to subsistence. I have not provided a full defense of the human right to subsistence and of the interest theory. In light of Raz’s interest theory of rights I have argued that universal interests regarding human well-being generate human rights because they are of ultimate value to us. Human rights are grounds for correlative duties on the basis of this universal interest to respect, protect and promote our well-being. This is how we establish their existence according to the theory of interest. As a result the practicability, feasibility and claimability objections lose their grip on us because they have a non-foundational place in the process of determining the existence of human rights.

I have also argued that Cranston’s definition of human rights and his test of practicability are unhelpful in identifying what a genuine human right is, and as a result of this he fails to identify the right to subsistence as a genuine human right. I had four major disagreements with Cranston. First I disagreed with his claim that negative rights can easily be converted to legal positive rights, and I said that neither negative rights nor positive rights can be translated into positive law simply by changes in government legislation. Second, I disagreed with his claim that negative rights can always be satisfied, and I argued that Cranston fails to see that neither negative rights nor positive rights can always be satisfied. These rights can be secured and realized only by degrees. Socioeconomic rights may fail to be realized more often than civil and political rights, but this does not mean that they fail to be human rights. I then disagreed with his claim of inability to discharge the correlative duties to subsistence. Here I suggested that we should question the truthfulness of the inability claims of the affluent countries by investigating their expenditure on things that arguably have lower priority than satisfying the human right to subsistence, which would then require them to take measurable steps to satisfy their duties. Finally, I disagreed with the objection that
socioeconomic rights generate an unjustifiable burden, and I argued that the right to subsistence only aims to create a *sustainable system for survival* so that people can claim that their secure right to a decent life should be satisfied when they find themselves unable to maintain their survival for some reason or another.

I then responded to O’Neill’s claimability objection, which states that rights are inherently claimable even though they may not be always effectively enforceable, and that while negative rights survive this constraint, socioeconomic rights do not. I argued that only the duty-grounding character of the underlying interest human rights protect is crucial and fundamental in determining the existence of a human right. Institutional issues are not especially relevant to moral justification of the existence condition of a human right, and therefore claimability *cannot* be a precondition for the existence of human rights. In light of these reasons, it becomes clear that practicability, feasibility and claimability objections cannot legitimately render the right to subsistence mere rhetoric and not a human right.
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