

CARR CENTER FOR HUMAN RIGHTS POLICY HARVARD KENNEDY SCHOOL

Human Rights & Social Order: Philosophical, Practical, and Public Policy Dimensions

Mathias Risse

**Carr Center Discussion
Paper Series**

Reflections on the
2019 protests in Chile



Human Rights and Social Order: Philosophical, Practical, and Public Policy Dimensions

Some Reflections on the 2019 Protests in Chile

Mathias Risse

Lucius N. Littauer Professor of Philosophy and Public Administration

Director of the Carr Center for Human Rights Policy

Harvard University

December 2019

The views expressed in the Carr Center Discussion Paper Series are those of the author(s) and do not necessarily reflect those of the John F. Kennedy School of Government or of Harvard University. Faculty Research Working Papers have not undergone formal review and approval. Such papers are included in this series to elicit feedback and to encourage debate on important public policy challenges. Copyright belongs to the author(s). Papers may be downloaded for personal use only.

Table of Contents

1. Background: Protests in Chile	4
2. Order	5
3. Legitimacy	.
4. Criteria of Legitimacy	.
5. Human Rights	.
6. Chile and Human Rights	6
7. Legitimacy and the Value of Human Rights	.
8. The Value of Human Rights in Unequal Societies	8
9. Inequality in Chile	.
10. Protests in Chile: Why Now?	9
11. Capitalism and Inequality	10
12. Inequality (and Accompanying Unequal Value of Human Rights) is not Inevitable	.
13. Unequal Access to Natural Resources	11
14. Legitimacy-Based vs. Policy-Based Protest	12
15. Legitimacy-Based Protest and Non-Persuasive Means	.
16. Violent vs. Non-Violent Resistance: Addressing the Protesters' Standpoint	13
17. Violent vs. Non-Violent Resistance: Addressing the Government's Standpoint	15
18. Chile: The Adaptive Leadership Challenge	.
19. Conclusion	18
Literature	20

ABSTRACT: This paper was written in preparation for a talk at the Catholic University of Chile (Pontificia Universidad Católica de Chile) in December 2019. I was invited to reflect on the widespread and often violent protests that had occurred in Chile during the last three months of 2019 from a standpoint of political theory and the human rights movement. Key themes in this paper include the necessary conditions for the legitimacy of a government and the role of human rights (and the equal or unequal value that such rights may have for different people) in that context; a distinction between policy-based and legitimacy/justice-based protests and one between persuasive and non-persuasive means of protest, and how they apply to highly economically unequal societies in general and to the situation in Chile in particular; some considerations directed at protesters as they think about expanding non-persuasive means of protest to include destruction and violence; some considerations exploring the responsibilities of the government of Chile under these circumstances; and finally some thoughts drawing on the adaptive-leadership approach on current challenges for Chilean politics.

1. Background: Protests in Chile

The last three months of 2019 saw ongoing protests in response to a raise in Santiago's subway fares, protests that more generally were a response to increasing costs of living, the consequences from the wide-spread privatization that started under the dictatorship of Augusto Pinochet (under advice from the "Chicago Boys," neoliberal economists into whose economic judgement Pinochet put much stock), and to economic inequality. One often heard the slogan, "it's not about 30 pesos [the fare hike], but about 30 years," (of policy-making since the end of the Pinochet dictatorship). The protests were a cry for more redistribution and better public services.

On October 18, 2019—which by coincidence was also when the Carr Center hosted former Chilean president and current United Nations High Commission for Human Rights Michelle Bachelet—the protests escalated as organized groups vandalized city infrastructure in Santiago, including the torching of many subway stations. The protests displayed the worst civil unrest since the Pinochet dictatorship, both in terms of damage and the number of protesters, and also in terms of the measures taken by the government to restore order. The extent to which these protests were coordinated and the skill at which the assaults were executed quickly led observers to suspect that the groups responsible for them had received support from abroad, especially from Venezuela and Cuba.

Human rights organizations received numerous reports of violations committed by security forces, including torture and sexual assault. Especially prominent was the reporting on the use of pellets that apparently were fired at protesters' eyes from close range, leading in many cases to the loss of the eye.¹ In mid-November, Chile's most influential parties signed an agreement to replace the constitution. In a referendum scheduled for April 2020, Chileans will decide whether the existing congress or newly-elected legislators and selected citizens should draft the new constitution. On December 2, the Chilean government announced a \$5.5 billion recovery plan to compensate for the recent economic decline.

This paper mostly draws on general considerations about the relationship between human rights and social order and the legitimacy of protests. It is written from the perspective of an outsider grounded in Western political thought and in the traditions of the human rights movement. It was also written in preparation for an oral presentation that I gave on December 19, 2019, at the Pontificia Universidad Católica de Chile. Accordingly, I am limiting the contents of the footnotes and the bibliography to what is minimally necessary to substantiate the claims I make. No events that occurred after the middle of December 2019 (or were not broadly known then) are considered here.²

¹ The UN investigated these claims, ended up verifying many of them, and offered a list of recommendations. See United Nations Human Rights; Office of the High Commissioner, "Report of the Mission to Chile."

² I am grateful to Diana Acosta Navas, Erica Chenoweth, Daniela Paz, Sushma Raman, Tim Scanlon and Mario Valdivia for helpful comments on earlier versions of this paper, and for conversations ahead of my visit to Chile. I am equally grateful to the many participants in conversation I had while I was in Chile, and to Ana María Stiven and Eduardo Valenzuela, who were my commentators on December 19, 2019. Rector Ignacio Sánchez, Prorector Patricio Donoso and Ignacio Irarrázaval, Director of the Centro de Políticas Públicas UC graciously hosted me at the university. Most gratitude, however, must go to Mario Valdivia, who initiated and organized this visit and who was an unfailingly gracious host throughout.

2. Order

Political order can take on numerous forms, but is always hard to establish and simultaneously easy to lose. This is especially the case for groups at any larger scale. Genetically, humans are most comfortable operating in relatively small groups. The original bands for which our genetic set-up emerged over millions of years only comprised about 100-200 people. It is hard for humans to watch out for each other at a larger scale. Our disposition for tribalism makes it hard to maintain stability in larger groups, where structures beyond the tribe need to remain viable. A sense of shared purpose is hard to achieve in large groups. Loss of order in extreme cases can lead to civil war, which is often calamitous because it exposes people to spirals of violence at close proximity, with former neighbors killing and maiming each other.³

3. Legitimacy

But what we want, in any event, is not just any order—graveyards are orderly places, as are gulags. It is possible to have order without human rights, or for that matter order without meeting any sensible criteria of adequacy. History is full of examples. We want a *legitimate* order—an order in which the coercive political power that the state exercises can, in principle, be justified to each person subjected to it. Governments have the *right to rule* not simply because they can maintain order or are efficient. They have that right only if they do right by people. Legitimacy is a necessary condition for the right to rule.⁴

4. Criteria of Legitimacy

But what would it mean for a political order to be legitimate? Several criteria suggest themselves, especially these: legitimate government (a) meets the approval of the people through democratic elections, and more generally meets certain ideals that capture the idea that the government is recognizably “of the people, by the people, for the people” (as Abraham Lincoln put it so memorably in his Gettysburg Address);⁵ (b) actually delivers overall beneficial outcomes for the people collectively; (c) is responsive to *each citizen* by adopting adequate policies to advance each person’s human rights. To the extent that a government fails in these tasks, it

loses legitimacy, which is a matter of degree. If a government fails dramatically in these regards, it will lose legitimacy—and thus the right to rule—together. After all, to the extent that there are such failures, a government could not even plausibly say it is a government *for the people* at all, and to that extent would be concerned with fostering something other than the public good.

5. Human Rights

The point of human rights is that each person matters, in ways that entail certain protections and in ways that require certain provisions. Their purpose is to protect the special status of human life that is often expressed in terms of “human dignity.” One might disagree about what precisely should be covered in a list of human rights, but in the contemporary world, the Universal Declaration of Human Rights provides a broadly accepted point of orientation. States are not the only entities with obligations in the human rights domain. The realization of rights is a shared task among states, the private sector, international organizations, as well as NGOs and individuals. (The UDHR itself already talks about “all organs of society.”) But given the extent to which the enormous powers of the modern state shape what people can do, in our world it is indeed the state that has the largest share of human rights obligations, and its own right to rule is constrained by its success in doing so.⁶

In Chile, it seems, in the minds of many, the idea of human rights is still often rather strongly connected to the fact that the Pinochet regime violated them.

³ This section draws on Fukuyama, *The Origins of Political Order*; Fukuyama, *Political Order and Political Decay*; Greene, *Moral Tribes*; Boehm, *Hierarchy in the Forest*; Boehm, *Moral Origins. The Evolution of Virtue, Altruism, and Shame*.

⁴ For recent work on legitimacy, see Applbaum, *Legitimacy*. See also <https://plato.stanford.edu/entries/legitimacy/>

⁵ For the Gettysburg address, see <http://www.abrahamlincolnonline.org/lincoln/speeches/gettysburg.htm>

⁶ For the UDHR, see <https://www.un.org/en/universal-declaration-human-rights/>

6. Chile and Human Rights

In Chile, it seems that in the minds of many the idea of human rights is still often rather strongly connected to the fact that the Pinochet regime violated them. This is captured, for instance, in the name of the impressive Museo de la Memoria y los Derechos Humanos (Museum of Memory and Human Rights) in Santiago, which is devoted to the history of the Pinochet regime and its human rights violations. It therefore bears emphasizing not only that there is a broad vision for a decent human life (and a globally shared responsibility for making such a life possible for all people) behind the ideas surrounding human rights, but also that Chileans have played, and continue to play, a rather important role in the development and implementation of that vision.

The Universal Declaration is one of the great achievements of humanity. That each person would matter, and would matter in ways that are of international concern, is an astounding expression of the respect due to each person, and the accompanying obligations. It may well have been a Chilean jurist, Alejandro Álvarez (1868 – 1960), who was the first to propose the idea of the *international protection* of human rights.⁷

Later, another Chilean jurist, Hernán Santa Cruz (1906–1999) was a delegate to the Human Rights Commission led by Eleanor Roosevelt, which was charged with the drafting of the Universal Declaration. Santa Cruz was among the initial drafters of the document and received much credit for making sure socioeconomic rights were adequately integrated into the declaration. In other words, human rights were not only supposed to provide certain protection from arbitrary violations, but were also supposed to make sure that each person in some sense had enough material provisions to live a decent life.⁸

And perhaps needless to mention, the current United Nations High Commissioner for Human Rights is former Chilean president Michelle Bachelet.

7. Legitimacy and the Value of Human Rights

A state would find its right to rule diminished if it failed to take adequate measures to realize human rights; but it would also fail its citizens, or at least a subset of them, if what individuals could do with those rights varied enormously. That is, if the *value* human rights hold for citizens varied enormously. Modern societies are shaped by large-scale interconnectedness, with rules that are coercively enforced.

Anybody who find their needs are not met at all by a society or a government has no reason to comply with its laws.

What each of us can do depends on the compliance of many others, on infrastructure, and on what kind of legal regulation applies to our endeavors. How we design our economic and political realities—especially how we design property arrangements—is a conventional matter. How we design access to privilege is a conventional matter. There are many ways of designing the relevant rules, and each creates its own winners and losers.

Anybody who find their needs are not met at all by a society or a government has no reason to comply with its laws. People can be expected to comply with coercive enforcement only if laws are responsive to them.⁹ Violating human rights is one way of being unresponsive. Giving a wide range of value to human rights is another way. For human rights to have broadly unequal value for people means their membership in society, thus their citizenship, to have differential value. And a government that fails to take adequate measures to create a society in which the value of human rights is not broadly unequal would, to that extent, also lose its right to rule. For in that sense too, that government would cease to be a government that is recognizable “of the people, by the people, for the people.”¹⁰

⁷ Sikkink, *Evidence for Hope*, 62–64.

⁸ For Santa Cruz, see Morsink, *The Universal Declaration of Human Rights*. For the creation of the declaration, see also Glendon, *A World Made New*.

⁹ On this theme for the U.S. context, see Shelby, “Justice, Deviance, and the Dark Ghetto.”

¹⁰ For talk about the “value” of rights, see Rawls, *Restatement*. For the general outlook on society, see Rawls, *A Theory of Justice*.

"It is not always by
going from bad to
worse that a society
falls into revolution."

– Alexis de Tocqueville –

8. The Value of Human Rights in Unequal Societies

In highly economically unequal societies, human rights will tend to have unequal value across the citizenry. Ways in which their unequal value manifests itself include: (a) the government is apparently more concerned with some citizens than with others: it attends to welfare or protection of some people (neighborhoods or regions) more than others, or does a better job opening up opportunities or protections for some people (neighborhoods or regions) than others; (b) legal processes or processes of arbitration tend to favor some over others; (c) even though there are elections, opportunities for effective political participation—impact on the government—appear to be unevenly distributed.

The point of these concerns is not to say that society must champion economic equality. Instead, the point is that certain things will often go wrong in inequalitarian societies. The more they go wrong, the more inequalitarian they are. And if these things go wrong, they will need to be fixed for the government—or even the state as such—to maintain its legitimacy. And plausibly, one essential way of doing that would be to reduce inequality itself, with an eye on improving these matters.¹¹

Privatized education, health care, and pension systems disproportionately favor the wealthy, and leave much of the population impoverished or indebted.

9. Inequality in Chile

Chile is a highly unequal society, with a 2017 Gini coefficient of 0.47.¹² What to make of this fact depends on the comparison class. Chile is among the 30 most unequal countries in the world, all of them in Africa or Latin America. Within Latin America, Chile's inequality is on the higher side, though it's not especially unusual. Its Gini coefficient has fallen gradually since the end of the dictatorship, when it was about 0.56. Chile has also made strides in reducing poverty, whose rate is now lower than in most Latin American countries.

However, within the Organization for Economic Cooperation and Development (OECD), only Mexico has higher inequality, and only Turkey and the US come close. The OECD comprises a group of 36 mostly high-income countries with a very high development index: countries committed to democracy and market economy. That Chile would stand out among those countries suggests that there is policy space to decrease inequality.

Unsurprisingly, the complaints articulated by the protesters reflect some of the concerns articulated above, to wit, that privatized education, health care, and pension systems disproportionately favor the wealthy, and leave much of the population impoverished or indebted. Many Chileans need to incur substantial debt even to cover items in the basic social basket such as food, health, education, housing and transport. Complaints of that sort are examples of concerns registered earlier as plausibly arising from inequality, and as reasonable complaints about the inequality itself.

¹¹ This section draws to some extent on Scanlon, *Why Does Inequality Matter?*

¹² <https://data.worldbank.org/indicator/SI.POV.GINI?locations=CL>



Valparaíso, Chile | Ignacio Amenábar

Anthropologist Michael L. Tan describes "Tibak" as "the style of slang popular among young people... speaks of a rebellious time... The Tibak stories remind us there's more to transformation than slogans and the grim and determined politics of the streets.

10. Protests in Chile: Why Now?

Many wonder why it was in the fall of 2019 that anger reached a boiling point. This is a question that arises especially for those who draw attention to the long-term improvements in the Chilean economy, that is, the gradual decline of inequality in the post-Pinochet period and the reduction in the poverty rate. I am not equipped to address this question comprehensively but would like to offer a parallel that might be useful. In his 1856 work on the origins of the French Revolution, Alexis de Tocqueville investigates a similar question: why would the French stage a revolution just when they did, in the summer of 1789, when as a matter of longer-term trends, economic and political inclusion had actually improved?¹³

According to Tocqueville, pre-Revolutionary monarchies and their bureaucracies were better organized than any since the Roman Empire. They had even commenced to abolish many privileges under their jurisdiction, pledging themselves to Enlightenment ideals. But while eighteenth-century monarchies were strong enough to attempt reform, they were too weak to see it through in terms of the expectation set partly by the spirit of the age, and partly by the hopes

generated by the reforms themselves. "It is not always by going from bad to worse that a society falls into revolution," Tocqueville writes. "Feudalism at the height of its power had not inspired Frenchmen with so much hatred as it did on the eve of its eclipse. The slightest acts of arbitrary power under Louis XVI seemed less easy to endure than all the despotism of Louis XIV."

In other words, the Revolution happened not because things were getting worse, and not *although* they were improving, but *precisely because* they were improving. The sheer fact that there were improvements indicated that *more* improvements were within reach of political agency. And something similar might be happening in Chile. Many people seem to think it is precisely the changes that have happened over the last decades that opened up policy spaces for yet more changes. Some such additional changes were anticipated under the previous (Bachelet) administration but faded away under the current one (Piñera). These developments would disappoint people who shared this perception of newly opened policy spaces, leaving them with the impression that the ruling elite barely comprehended their concerns.

¹³ Tocqueville, *The Old Regime*.

11. Capitalism and Inequality

Capitalism is a system of economic production in which the means of production (that is, everything that creates economic value except human labor itself) are privately owned. Socialism broadly conceived advocates for collective control over means of production. There has been a struggle between capitalism and socialism ever since the beginning of the industrial revolution. Capitalism has largely prevailed because markets have proven their power to create wealth. But as Thomas Piketty has argued, capitalism tends to benefit those who own the means of production more than the economy as such grows, and more so than it benefits the people who “just work there.” Over time, there will be much ossification: life chances increasingly depend on circumstances of birth. Societies where wealth enduringly arises from inheritance differ fundamentally from societies where it arises from effort. We failed to notice these characteristics in the 20th century—the century that saw the broadest victory of capitalism—because large-scale destruction (through the Great Depression and the two world wars in particular) did not allow for the unfettered development of capitalism. But now this trend is increasingly clear all around the world.¹⁴

What this means for Chile is that, even though inequality has fallen since the end of the dictatorship, this fact is plausibly explained through the democratic transition with its increased sense of democratic accountability. The long-term trends of capitalism, according to Piketty’s analysis, are towards more inequality. Therefore, it will take a deliberate policy architecture to sustain and advance these trends towards a more egalitarian society.

Tendencies towards increasing inequality are not only problematic because they create unequal value of human rights (and generally of the benefits of citizenship), but also because more egalitarian societies generate higher average life satisfaction in terms of commonly appreciated indicators: more trust; less anxiety and (physical and mental) illness; less excessive consumption patterns; less drug abuse; higher levels of education; lower levels of imprisonment; lower levels of teenage pregnancies; higher levels of child well-being.¹⁵

Finally, it is worth mentioning that economically more inclusive societies (e.g. not excessively unequal societies) perform better economically. Above a certain level, inequality seem to undermine growth. Growing inequality implies large amounts of wasted potential and lower social mobility. According to a widely discussed 2015 OECD report, a rise in inequality between 1985 and 2005 in 19 OECD countries knocked off about 5% of cumulative growth. And the OECD is not known as a bastion of left-wing thinking.¹⁶

12. Inequality (and Accompanying Unequal Value of Human Rights) is not Inevitable

Even though capitalism inherently *tends* towards increasing inequality, this is not *automatic*. There must be mechanisms that bring about these results. Inequality results from political decisions that could be made differently, and that actively would have to be made differently to sustain and advance policies towards a more egalitarian society, and to prevent the tendency towards more inequality that is otherwise inherent in capitalism.

Measures creating more egalitarian societies would include: minimum wages, which would ideally be *living* wages, so workers and their families can live on their work; guaranteed basic income (so societies are not held back in pursuit of innovation if this changes employment prospects);¹⁷ internationally coordinated fights against tax evasion, so income is taxed where it is acquired;¹⁸ systematic policy design to undermine rent-seeking;¹⁹ use of sovereign wealth funds that invest for the benefit of the public (which Chile does already have);²⁰ and taxation of wealth but especially of large inheritances to prevent ossification (which is Piketty’s own proposal). Inheritance especially of large fortunes becomes problematic in societies that are known to be ossifying already. And then of course one could invest in public transportation, health care, pension systems, and education systems operating at a high level to counter-balance ossification and

¹⁴ Piketty, *Capital in the Twenty-First Century*. For what such ossification means in the US, see Putnam, *Our Kids*.

¹⁵ Wilkinson and Pickett, *The Spirit Level*.

¹⁶ Organization for Economic Cooperation and Development, *In It Together: Why Less Inequality Benefits All*.

¹⁷ See e.g., <http://harvardpolitics.com/world/automation/>

¹⁸ Zucman and Piketty, *The Hidden Wealth of Nations*; Saez and Zucman, *The Triumph of Injustice*.

¹⁹ Stiglitz, *The Price of Inequality*.

²⁰ See M. O’Neill, The Route to a More Equal Society <https://www.youtube.com/watch?v=OIuzJUOA6sY>.

create opportunities for people—measures that can also be seen as investments in long-term growth in ways that are economically and thereby also politically inclusive.

We should note also, however, that policies that substantially decrease inequality have historically tended to succeed only in times of enormous calamities, such as full-scale social collapse, wars, economic meltdowns and epidemics. In such times not only was there often an enormous amount of destruction of wealth, but there could then also be the kind of mobilization needed to bring about lasting change. In times without such calamities, it seems, those who dominate the political system and the economy are sufficiently well-organized to fend off demands for change at such a level.²¹

The long-term trends of capitalism, according to Piketty's analysis, are towards more inequality.

13. Unequal Access to Natural Resources

A long-standing issue in Chile and other Latin American countries (as well as in other places around the world) is the privatization of water and the price hike that often results from it. I should briefly comment on this topic here as well, not only because of its relevance for many Chileans (and people elsewhere), but also because earlier I discussed the fact that modern societies are shaped by large-scale interconnectedness, which implies that what any one person can achieve depends on what very many create together, and thus on many factors for which no individual can claim credit. A related point also applies to natural resources: nobody can take credit for their existence, and that point by itself should have some bearing on what property arrangements we find acceptable for them. In particular, this point should limit the extent to which water resources can be privatized.

As of 2010, the UN General Assembly recognizes rights to water and sanitation. The Human Rights Council holds both rights are implied by the right to an adequate standard of living. To be sure, the major human rights conventions do not clearly generate a human right to water. But there is good reason for governments—including that of Chile—to recognize such a right, and to consider ready access to water among the core services that governments should deliver to the people.

"Thousands have lived without love, not one without water," as W. H. Auden put in a line from his 1957 poem *First Things First*.²² And indeed, except for air, nothing is more vital to life than water. We can survive without other nutrients for a while, but without water we die within days. And moreover, water is part of nature—its existence is not owed to human accomplishments. So given that (a) water is valuable and necessary for all human activities to unfold; (b) water has come into existence without human interference; and (c) the satisfaction of human needs matters morally, there is a good case for a human right to water, appropriately modified.

To be sure, there needs to be an infrastructure so that water (and not just any water, but clean water) is available to people, which involves human efforts that should be incentivized and compensated. So, to *that* extent commodification, and thus at least partial privatization, of water is acceptable. But private markets must be constrained in such way that the human right to water is acknowledged. A human right to water is essential for any economically and politically inclusive society, given how essential water is for all human endeavors.²³

²¹ Scheidel, *Great Leveler*.

²² Auden, *Selected Poems*, 245–46.

²³ For elaboration on all this, see Risse, "The Human Right to Water and Common Ownership of the Earth."

Once we recognize that protests are of the legitimacy/justice sort, we should also acknowledge that the government has a responsibility to deal with the fallout from these protests.

14. Legitimacy-Based vs. Policy-Based Protest

Let us now turn to the protests directly. We can distinguish between at least two kind of protests, and the way in which we categorize a given protest matters enormously in determining how we judge it. *Policy-based* protests occur within a political community by way of resisting the adoption of particular policies. Typically, policy-based protests occur in response to disagreements about the public good. Such protests would not turn on any serious questioning of anybody's status as an equal member of society. Conversely, *legitimacy- or justice-based* protests occur within a political community if people are concerned (rightly and plausibly) that the processes through which decisions are made undermine the legitimacy of the government (as discussed previously). In that case, people have reason to complain that their equal status as members is jeopardized. There is little chance that in such a way, a society would come about in a manner that is recognizably committed to social justice, which is why discussion of justice-based protest is appropriate.²⁴

There will often be disagreement about whether a protest is policy- or legitimacy/justice-based. The line will be hard to draw, and yet it is a momentous decision to make. There will of course be many decisions that the government might make that would affect certain people rather severely (e.g., decisions that make it impossible for people to continue in a certain line of work), but such a rationale would not merely put them in a position to stage legitimacy/justice-based protests. However, the more the causes of the protest can be articulated in terms of the ways in which the typical conditions of legitimacy are absent, the more there is reason to believe a protest is legitimacy/justice-based—for instance, if the protest occurs in response to widespread violations of human rights, or in response to the increasing inequality in the value of human rights. There is then little chance that social justice will be served.

It is rather important that the political elite and the public as a whole make a clear-minded assessment of the situation, to assess whether the protests are policy- or legitimacy/justice-based. It will of course be automatically in the economic and political self-interest of those who find themselves on the

winning side of a given system to see protests as policy-based rather than legitimacy/justice-based. Each participant should take a big step back from their own situation and the ways in which they benefit from the current system. They should do so partly out of a concern to live in a society whose governance can actually be justified to all subject to its coercive enforcement (and is thus legitimate), but partly also out of enlightened self-interest. A society in which a large number of people consider themselves to have reason to engage in legitimacy/justice-based protests is bound to be a highly unstable society, one either scarred by ongoing protests or alternatively by simmering dissatisfaction that can erupt at any time.

Ultimately it will have to be a political decision from within the community in question as to what kind of protest is occurring. But from an outsider's perspective, it certainly seems—especially given the enormous inequality in the value of human rights—that the current protests in Chile are legitimacy/justice-based rather than merely policy-based.

15. Legitimacy-Based Protest and Non-Persuasive Means

In particular, the way in which we categorize a particular protest will determine whether only persuasive measures are appropriate, or possibly also non-persuasive ones. Persuasive measures—think of discussions or debates—aim to give new reasons to others (or have them reconsider the reasons they currently have) so that they change their minds. In contrast, non-persuasive means aim at getting the other side to act on one's own reasons even though they have not modified theirs. Such measures could be anything from disruptions (strikes, blockades, walk-ins, teach-ins or sit-ins) to destruction of property to violence against people.

In the case of policy-based protests, non-persuasive measures will always be tremendously problematic. And in such cases the government should not feel compelled to change its

²⁴. My distinction between these types of protest draws on Dworkin, "Civil Disobedience and Nuclear Protest."



2019 Protests in Santiago, Chile. Photo by Jorge Fernández Salas

course. In cases of legitimacy/justice-based protest, things are different in various ways. First of all, non-persuasive means now become debatable.²⁵ Moreover, the government ought to respond by taking steps to address the causes for legitimacy/justice-based protest, regardless of whether some protesters end up using non-persuasive means. After all, the nature of the protest gives protesters justification to be disruptive, and also makes it rather likely that ignoring the causes of the protest will radicalize some protesters and lead to more protests in the long run. This latter point applies in particular given the tendencies inherent in capitalism to generate more inequality, tendencies that will only exacerbate some of the typical causes of legitimacy-based protest.

Once we recognize that protests are of the legitimacy/justice sort, we should also acknowledge that the government has a responsibility to deal with the fallout from these protests. Low-income people will disproportionately suffer the consequences of street violence, for instance, as they may need to spend hours purchasing food after their neighborhood supermarket was vandalized. Similarly, small entrepreneurs lose their retail properties and their jobs. More generally, the violence will have a high short-term economic cost for many Chileans, in terms of unemployment, growth, and standard of living. Quite plausibly, the majority of Chileans will be worse off in terms of prosperity. The government should pass short-term aid and stimulation packages, and large companies should add support. But most importantly, the government should act as quickly as possible to address the underlying challenges (see below). In all cases of legitimacy/justice-based protests, the government's main order of business should be to remove the perception of its own lack of legitimacy.

16. Violent vs. Non-Violent Resistance: Addressing the Protesters' Standpoint

By submitting that the current protests in Chile are legitimacy/justice-based and by thereby suggesting that non-persuasive means are permissible, I am not *ipso facto* implying that destructive and violent rather than other disruptive means are permissible. Some protesters seem to think that lack of responsiveness from the government, accompanied by a perceived lack of empathy on the side of the ruling class, leaves them no choice but to turn disruption into destruction, escalating into the kind of protest where severe injury or loss of life are likely. They may also feel vindicated by the fact that the government responded to some of their demands once they turned to destruction and violence. The causes of human rights, some of them say, are advanced in the long term by taking such measures in the short term.

The complexity and uncertainty of this situation makes it hard to make a conclusive call on the justifiability of destruction or even violence, though obviously the threshold for violence would be substantially higher. Chile has seen many instances of non-violent protests that have not generated the desired results. Nonetheless, there are four considerations that strongly speak against destruction and violence, and that any conscientious political actor should consider carefully before turning to such actions.

The first is that sustained non-violent resistance generally has a greater chance of success than violent protest. Even in cases where it would seem that it is violent or destructive acts that generate change, it will normally be

²⁵ Natural targets for the deployment of non-persuasive means would then tend to be the key places that keep the kind of normal life functioning that protesters would want to disrupt: public transportation, supermarkets (and perhaps other places charged with the distribution of food, but especially supermarkets because of their additional association with capitalism and mass consumption), as well as energy distribution centers and also educational institutions.

the accompanying mass mobilization that does so, which could also have been brought about in other ways. Acts of violence or destruction alone typically trigger police action rather than mobilize mass protest that, in turn, would then trigger large-scale reforms. As shocking as the torching of metro stations and supermarkets is for many people, there will be nothing more to it than criminal transgression that the justice system should prosecute unless there is wide-spread discontent. This is especially true in cases of concerns about the underlying legitimacy of the system that would mobilize hundreds of thousands of people to take to the streets and demand structural changes. People who continually and peacefully refuse to abide by the established order succeed by eventually making it morally and practically impossible for decision makers to ignore them, and for officers to be deployed against them.²⁶ A typical and well-known example is the Montgomery bus boycott from the late 1950s.²⁷

Second, during disruptive protests, many will join with the intention of bringing destruction or violence without having concerns about state legitimacy. Their motives are different, and any kind of disruptive violence encourages and enables them anyway; this will be true especially once the choice has been made that destruction or violence are the way to go. People who will join such protests and who do not share the reasoning behind the escalation often drive the amplification much further than the political protesters. The spirits unleashed by a turn to destruction and violence might be very hard to reign in.

The third point is that violence, especially to the extent that it goes beyond destruction, will inevitably involve confronting particular individuals who will then be held to account for structural failures. But these are failures that in most cases will go beyond what could plausibly be blamed on any one person. There is immense immorality in humiliating, injuring, or in extreme cases killing particular individuals by way of blaming them for the wrongs committed by a whole political and economic system in which they will normally be mere cogs. Only in rare cases will their sheer complicity in the system justify such measures. And any progress that can nonetheless be made by such means will always be tarnished to the extent that it came about in such ways.

The fourth point is that protesters should consider what radicalization towards destruction and violence will do to their own movement, to themselves, and to their own characters. Turning to destruction and violence sets precedents for future political interaction, perpetuating the notion that certain non-persuasive means remain on the menu of political options, and making even more radical options seem as if they are not beyond the pale in light of former precedents. Among some of the protesters, channeling their anger towards destruction or violence might create temporary relief. But taking that step might also take them down a road that creates a lasting bitterness that would leave the protesters incapable of implementing positive change in the long run.

An example of where a turn towards violence was taken after much deliberation is the story of the African National Congress (ANC). The ANC deviated from its traditional non-violent path around 1960, under the leadership of Nelson Mandela.²⁸ From what we understand now, this turn did not do anything to hasten the end of apartheid. But it did lead to much radicalization, and it changed the agents involved quite substantially. Much as power has been said to corrupt, so rage has ways of being consuming, and thereby changing the personality of the protesters in ways that may not be reversible.²⁹ Inspired by Martin Luther King Jr., one might say that the end of resistance and protest must be reconciliation and redemption.³⁰ After the protests are over, we must all still live together.

**If no balance can be found,
the state will fall apart.**

²⁶ Chenoweth, *Civil Resistance*; Chenoweth and Stephan, *Why Civil Resistance Works*.

²⁷ Hare, *They Walked to Freedom*.

²⁸ For Mandela's own reflections on this turn, see Mandela, *Long Walk to Freedom*, Part 6.

²⁹ Silvermint, "Rage and Virtuous Resistance."

³⁰ See e.g., Carson, *The Autobiography of Martin Luther King, Jr.*, chapter 13.

17. Violent vs. Non-Violent Resistance: Addressing the Government's Standpoint

Once it is clear that the nature of the protest is legitimacy/justice-based, the government is in the difficult position of having to show the wisdom of recognizing that the protests are against its very own legitimacy. Politicians need to see themselves as statesmen and stateswomen first and foremost especially in times when their actions as politicians are seen as so problematic that the very legitimacy of the state is under threat. The government should therefore refrain from using the formidable powers at its disposal to quell protests. It should show restraint in responding, especially since forceful responses have a high error rate of hitting peaceful demonstrators. A close investigation of the government's responses is needed here. The recent report by the Office of the United Nations High Commissioner for Human Rights has addressed these matters, and offered a range of recommendations.³¹

In crises like these, the government should also be very careful in its rhetoric, and for instance refrain from talking about being involved at war with the protesters, as President Piñera did at some stage, which in fact denied the nature of the protests.³² In addition, the government should understand that any protest generates tendencies to radicalization, both on the side of the protesters but also on the side of the police. Such radicalization will be hard to contain other than through more draconian police responses.

So, for both moral and prudential reasons, the government should show extreme restraint in cases of legitimacy-based protests. Security forces are of course permitted—and as part of the role they play in the state, are in fact obligated—to protect lives and property. But the case for this permissibility and obligation would be clearest at the early stages of the protests before the government has made clear what its stance would be. As the protests continue, security forces would increasingly act on behalf of a more and more illegitimate regime if the government did not at the same time take measures to address the underlying causes of the legitimacy-based protests. The main order of business, again, is to address these causes. And to be fair to the government, they have moved into that direction already in some ways, especially by calling for a constitutional convention.

18. Chile: The Adaptive Leadership Challenge

Aristotle's *Politics* is a classic of Western political thought.³³ Its starting point is that in real-life politics, different groups make claims to power on multifarious grounds. If no balance can be found, the state will fall apart. Some claims are made on qualitative grounds, and here Aristotle mentions freedom, wealth, education, birth, military power, and virtue. Other claims are made on quantitative grounds, and here he refers to the numbers of the multitude. Aristotle discusses these matters for the *polis*, the Greek city state, but the kind of problem is still very much with us: to find a balance among different claims within the real-life politics of a given political community so that the state does not fall apart.

Chile seems to be very much in a situation where competing claims threaten to undermine the state, and thus a new balance is necessary. The protesters' demands for a renewal of legitimacy ought to be squared with plausible concerns that too much change might alienate other parts of the population, stifle the economy, and drive more and more wealthy Chileans to stop investing in the country and move their wealth abroad. What seems to be needed is what the leadership literature calls adaptive leadership.³⁴ Adaptive leadership is about identifying key challenges and getting people to see problems for themselves. This kind of leadership is dramatically different from wielding power, in fact, it is an approach driven by profound distrust in the ability of people in authority to adapt to new problems. After all, the current leaders are in their positions because they have been able to get ahead in the very system whose legitimacy is questioned.

Calling for a constitutional convention seems like a good move, even though there are some voices who submit that required reforms could also be implemented within the corpus of existing laws. But creating a new constitution—one that would distinctly leave behind a constitution that still goes back to the Pinochet years—gives proper expression to the magnitude of the underlying concerns. However, now that a constitutional convention is the consensus among the major players, what matters is that such a convention should make sure a state is created that is broadly acknowledged to be legitimate, especially by way of not only respecting and realizing human rights, but also by making sure that the value of human rights does not vary too widely among people.

³¹ See again United Nations Human Rights; Office of the High Commissioner, "Report of the Mission to Chile."

³² "Chile's Pinera extends state of emergency, says 'we are at war,'" Reuters, October 20, 2019, <https://www.reuters.com/article/us-chile-protests/chiles-pinera-extends-state-of-emergency-says-we-are-at-war-idUSKBN1WZOEP>.

³³ Aristotle, *Politics*. For my interpretation of the work, see Risse, "The Virtuous Group: Foundations for the 'Argument from the Wisdom of the Multitude.'"

³⁴ Heifetz and Linsky, *Leadership on the Line, With a New Preface*; Heifetz, Linsky, and Grashow, *The Practice of Adaptive Leadership*.

Realizing ideals of deliberative democracy.



Photographs of victims of Pinochet's regime
Photo by Carlos Teixidor Cadenas

That is, while human rights should be front and center, inequality would need to be tackled directly, through some of the measures discussed earlier and with an awareness that the natural tendency of capitalism is towards more inequality. Fair access to natural resources, especially water, to which there arguably indeed is a human right, would also need to be addressed. This might also be a good opportunity to think

The common goal would be for Chile to be an inclusive, participatory democracy and economy that sees its people as its most important assets.



about a large-scale effort at realizing ideals of deliberative democracy, a type of democratic governance shaped by widespread and comprehensive involvement of citizens into the political process. What is, in any event, needed is a broadly-based multi-stakeholder process involving civil society as well as academia, in addition to government representatives and the private sector, to reflect on the causes of the unrest and find ways forward. This process might then as well be used to deepen democratic participation in Chile in enduring ways. A thorough overhaul of civic education would presumably also be necessary. Young Chileans should see themselves as proud citizens jointly involved in a shared political endeavor. The Universal Declaration of Human Rights and the human rights movement as a whole lends itself to being central to both the education reforms and the overall structural reforms.

The common goal would be for Chile to be an inclusive, participatory democracy and economy that sees its own people as its most important assets, as citizens contributing to the flourishing of a polity and as economic actors advancing the country's collective well-being. One thing this might mean practically is a transformation of Chile into a political model that maintains a competitive market economy, but combines it with a much strengthened (perhaps European-style) welfare state, and all that embedded into a strongly deliberative understanding of democracy.

"The whole land is like one favored spot of human life."

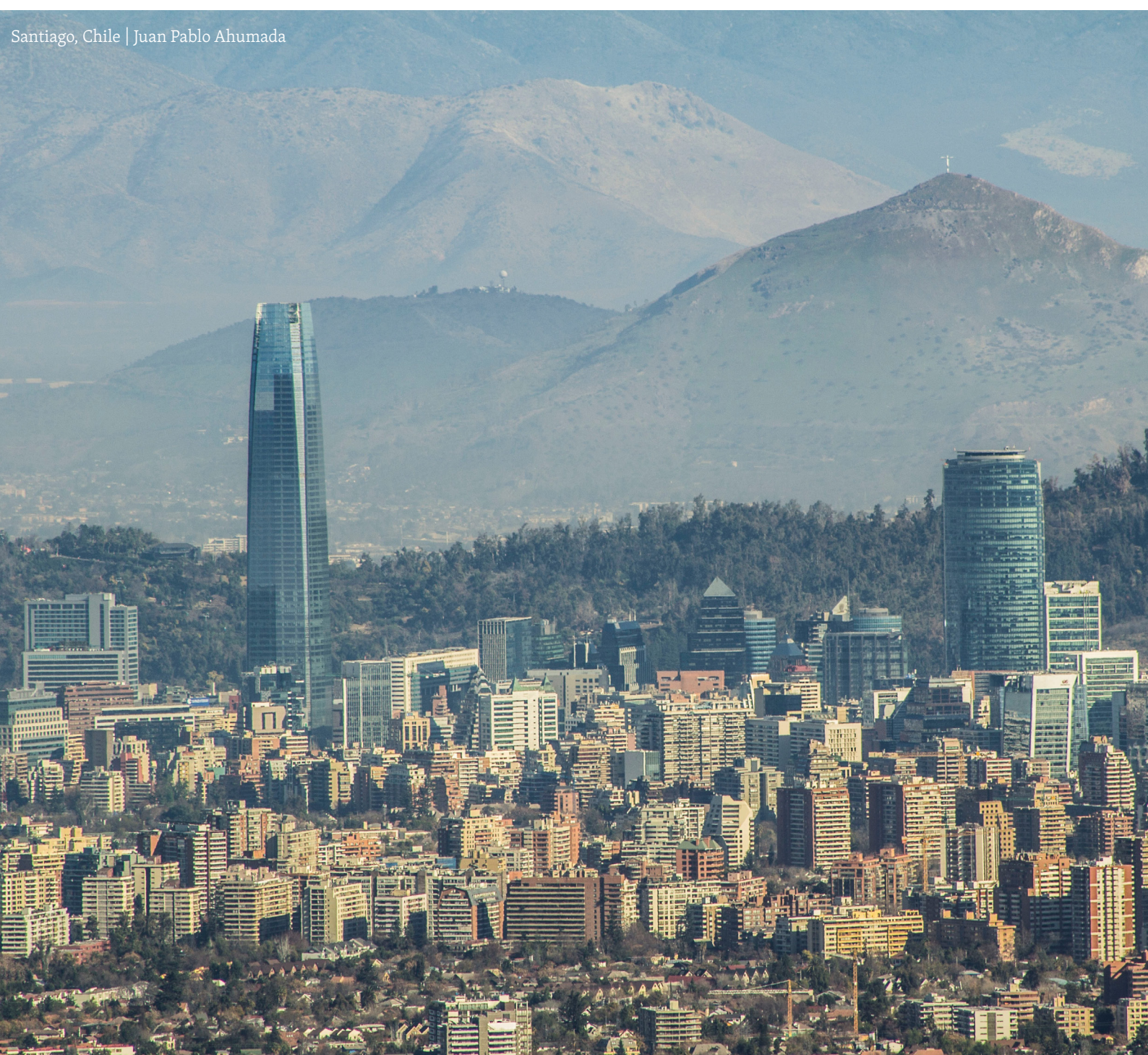
19. Conclusion

Chilean poet Gabriela Mistral, the first Latin-American author to receive the Nobel Prize in Literature, once wrote about her country: "The whole land is like one favored spot of human life."³⁵ And to be sure, by global standards Chile is a wealthy country with a stable economy. But for more stability in its future, it seems, its wealth—which after all is wealth in whose creation society as a whole and the infrastructures it provides are involved—would need to be more broadly shared. This will not be an easy course to steer for a country that was, after all, ground-zero for the actual application of the neoliberal model. And it will not be an easy course to steer also because many who see themselves in the middle or on the right of the political spectrum will fear that any efforts towards more egalitarian policies, towards a more equal realization of the value of human rights, will unleash unstoppable forces on the far left.

But the alternative seems to be only an endless spiral of ever more destructive and violent protests. Ideas of "Chilean exceptionalism" have become a lasting theme both in the rhetoric of politicians (on both the left and the right) and in more analytical approaches of historians and political scientists to Chile.³⁶ From an outsider's perspective, it seems now would be the time to muster all wisdom and leadership capacities available to advance a process of genuine reform, which would give a new meaning to Chilean exceptionalism. The process that should lead to such an outcome should put human rights front and center, to make sure the country can indeed be "one favored spot of human life" in a lasting manner.

³⁵ This is from her poem "The Poetry of Place," previously published as "My Country" in U.N. World (May 1950), reprinted in Hutchison et al., *The Chile Reader*, 22.

³⁶ This theme is nicely tracked through Chile's history in Hutchison et al., *The Chile Reader*.



Santiago, Chile | Juan Pablo Ahumada

Literature

- Applbaum, Arthur Isak. *Legitimacy: The Right to Rule in a Wanton World*. Cambridge, Massachusetts: Harvard University Press, 2019.
- Aristotle. *Politics*. Translated by H. Rackham. Cambridge (Mass.); London: Harvard University Press, 1932.
- Auden, W. H. *Selected Poems*. Edited by Edward Mendelson. Reprint edition. New York: Vintage, 2007.
- Boehm, Christopher. *Hierarchy in the Forest: The Evolution of Egalitarian Behavior*. Cambridge, Mass.: Harvard University Press, 1999.
- . *Moral Origins. The Evolution of Virtue, Altruism, and Shame*. New York: Basic Books, 2012.
- Carson, Clayborne, ed. *The Autobiography of Martin Luther King, Jr.* New York: Warner Books, 2001.
- Chenoweth, Erica. *Civil Resistance: What Everyone Needs to Know*. Oxford University Press, 2020.
- Chenoweth, Erica, and Maria Stephan. *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*. Reprint edition. New York, NY: Columbia University Press, 2012.
- Dworkin, Ronald. "Civil Disobedience and Nuclear Protest." In *A Matter of Principle*, 104–16. Cambridge: Harvard University Press, 1985.
- Fukuyama, Francis. *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy*. New York: Farrar, Straus and Giroux, 2014.
- . *The Origins of Political Order: From Pre-Human Times to the French Revolution*. New York: Farrar, Straus and Giroux, 2012.
- Glendon, Mary Ann. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House Trade Paperbacks, 2002.
- Greene, Joshua. *Moral Tribes: Emotion, Reason and the Gap Between Us and Them*. New York: Penguin, 2014.
- Hare, Kenneth M. *They Walked to Freedom 1955-1956: The Story of the Montgomery Bus Boycott*. Champaign, IL: Spotlight, 2005.
- Heifetz, Ronald A., and Marty Linsky. *Leadership on the Line, With a New Preface: Staying Alive Through the Dangers of Change*. Revised edition. Boston, Massachusetts: Harvard Business Review Press, 2017.
- Heifetz, Ronald A., Marty Linsky, and Alexander Grashow. *The Practice of Adaptive Leadership: Tools and Tactics for Changing Your Organization and the World*. 1st edition. Boston, Mass: Harvard Business Press, 2009.
- Hutchison, Elizabeth Quay, Thomas Miller Klubock, Nara B. Milanich, and Peter Winn, eds. *The Chile Reader: History, Culture, Politics*. Durham: Duke University Press Books, 2013.
- Mandela, Nelson. *Long Walk to Freedom: The Autobiography of Nelson Mandela*. 1st Paperback Ed edition. Boston: Back Bay Books, 1995.
- Morsink, Johannes. *The Universal Declaration of Human Rights*. Philadelphia: University of Pennsylvania Press, 1999.
- Organization for Economic Cooperation and Development. *In It Together: Why Less Inequality Benefits All*, 2015.
- Piketty, Thomas. *Capital in the Twenty-First Century*. Cambridge: Belknap, 2014.
- Putnam, Robert. *Our Kids: The American Dream in Crisis*. New York: Simon and Schuster, 2016.
- Rawls, John. *A Theory of Justice*. Revised Edition. Cambridge: Harvard University Press, 1999.
- . *Justice as Fairness: A Restatement*. Edited by Erin Kelly. Cambridge: Belknap, 2001.

- Risse, Mathias. "The Human Right to Water and Common Ownership of the Earth." *Journal of Political Philosophy* 22, no. 2 (2014): 178–203. <https://doi.org/10.1111/jopp.12022>.
- . "The Virtuous Group: Foundations for the 'Argument from the Wisdom of the Multitude.'" *Canadian Journal of Philosophy*, no. 1 (2001): 53–84.
- Saez, Emmanuel, and Gabriel Zucman. *The Triumph of Injustice: How the Rich Dodge Taxes and How to Make Them Pay*. 1st edition. New York, NY: W. W. Norton & Company, 2019.
- Scanlon, T. M. *Why Does Inequality Matter?* New York, NY: Oxford, 2018.
- Scheidel, Walter. *Great Leveler: Violence and the History of Inequality from the Stone Age to the Twenty-First Century*. Princeton, NJ: Princeton Univers. Press, 2017.
- Shelby, Tommie. "Justice, Deviance, and the Dark Ghetto." *Philosophy & Public Affairs* 35, no. 2 (2007): 126–60.
- Sikkink, Kathryn. *Evidence for Hope: Making Human Rights Work in the 21st Century*. Princeton: Princeton University Press, 2017.
- Silvermint, Michael. "Rage and Virtuous Resistance." *Journal of Political Philosophy* 25, no. 4 (2017): 461–86.
- Stiglitz, Joseph. *The Price of Inequality: How Today's Divided Society Endangers Our Future*. New York: Norton, 2012.
- "Tibak Rising: Activism in the Days of Martial Law ed. by Ferdinand C. Llanes." *Philippine Studies: Historical and Ethnographic Viewpoints* 63, no. 2 (2015): 291–291.
- Tocqueville, Alexis de. *The Old Regime and the French Revolution*. Translated by Stuart Gilbert. Garden City, N.Y.: Anchor, 1983.
- United Nations Human Rights; Office of the High Commissioner. "Report of the Mission to Chile: 30 October - 22 November 2019," n.d.
- Wilkinson, Richard, and Kate Pickett. *The Spirit Level: Why Greater Equality Makes Societies Stronger*. New York, NY: Bloomsbury Publishing, 2011.
- Zucman, Gabriel, and Thomas Piketty. *The Hidden Wealth of Nations: The Scourge of Tax Havens*. Translated by Teresa Lavender Fagan. Chicago: University Of Chicago Press, 2015.

Carr Center Discussion Paper Series

**Carr Center for Human Rights Policy
Harvard Kennedy School
79 JFK Street
Cambridge, MA 02138**

Statements and views expressed in this report are solely those of the author and do not imply endorsement by Harvard University, the Harvard Kennedy School, or the Carr Center for Human Rights Policy.

Copyright 2020, President and Fellows of Harvard College
Printed in the United States of America

**This publication was published by the Carr Center for
Human Rights Policy at the John F. Kennedy School of
Government at Harvard University**

Copyright 2020, President and Fellows of Harvard College
Printed in the United States of America

79 JFK Street
Cambridge, MA 02138

617.495.5819
<https://carrcenter.hks.harvard.edu>

