

CARR CENTER FOR HUMAN RIGHTS POLICY

Human Rights as Membership Rights in the World Society

Mathias Risse



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

www.carrcenter.hks.harvard.edu

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Mathias Risse is Professor of Philosophy and Public Policy at the Harvard Kennedy School. His work primarily addresses questions of global justice ranging from human rights, inequality, taxation, trade and immigration to climate change, obligations to future generations and the future of technology. He has also worked on questions in ethics, decision theory and 19th century German philosophy, with a focus on Nietzsche (on whose work he regularly teaches a freshman seminar at Harvard). In addition to HKS, he teaches at Harvard College and the Harvard Extension School, and he is affiliated with the Harvard philosophy department. He has also been involved with executive education both at Harvard and in other places in the world. Risse is the author of *On Global Justice* and *Global Political Philosophy*, both published in 2012.



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INTRODUCTION: THE GROUNDS-OF-JUSTICE APPROACH

My book *On Global Justice* offers a view of how justice applies at the global level. Central to my theory is an account of *grounds of justice*. Grounds are properties of individuals that make it the case that certain demands of justice apply among those individuals. Grounds I distinguish include shared membership in states, common humanity, shared involvement with trading systems, membership in the global order and humanity's collective ownership of the earth. Each is associated with different principles of justice. A theory of global justice emerges from reflection on the various grounds. I call my theory "pluralist internationalism" to capture the enduring relevance of states for justice while also recognizing other grounds.¹

The grounds-of-justice approach integrates various ways of conceptualizing the world as a whole. Common humanity appeared in the writings of the Stoics as much as in early Chinese thought. Whatever obligations we have in *virtue of common humanity* apply to everybody. Their basis is by definition not transactional or associational. To the extent that there are such obligations people have always had them. But thinking about such obligations globally made little sense for most of history since there were no sufficiently tight and expansive structures to allow for a meaningful distribution of obligations among far-flung populations. Nowadays there are such structures. So common humanity as a ground of justice must have its due.

The institutional framework that holds us together is the "global political and economic order" – the system of states that covers up the inhabitable earth, and many parts beyond, as well as the system of international organizations that aims at global problem solving. Such an order not only renders meaningful an assignment of duties owing to common humanity; it also generates duties in virtue of being an association. Increasing interconnectedness means a person in Nova Scotia has multifarious ties with people in Istanbul or Abuja. States have lost much competence to regional and global rule-making. Still, state-level bureaucratic structures have continuously expanded: states now do more than ever before. Shared membership in states is a ground of justice. So is membership in the global order, with an appropriately thinner notion of membership that ensures everybody is counted a member. Human rights I have conceptualized as *membership rights in the global order*, though as I explain below, now

¹ This is a rough-and-ready version of my view of human rights in Risse, *On Global Justice*. For the sake of easier flow I omit the specialized philosophical development of the core concepts, and there are only minimally few footnotes and an equally limited bibliography. For a more extended version of this paper, see Risse, "Human Rights as Membership Rights in the World Society." In *On Global justice* I still talk about human rights as membership rights in the global order. For reasons I explain below, a reference to world society now strikes me as more appropriate.

thinking of them as membership rights in the world society seems to me more appropriate. Obligations for their realizations accrue to a multiplicity of entities in that order (states, companies, international organizations, individuals). The nature of their duties depends on the nature of the entities.

Trade has made the world. Trade allows us to build lives beyond elementary self-preservation. To the extent that trade occurs beyond borders it is governed by market reliance mechanisms maintained by states and international organizations that capture the rules according to which trade unfolds. It is in virtue of the fact that trade is governed by such mechanisms, as well as in light of its relevance for human life, that it is a ground of justice.²

For much of history humans would not have been able to envisage the earth as a planet in a solar system. Nowadays everybody with a modicum of education can picture our globe, colored in atmospheric blue and surrounded by galactic darkness. Our planet has become increasingly crowded, and how its spaces and resources ought to be divided among now billions of human inhabitants has long been an issue. And we have learned that we can obliterate our habitat. What we do with the planet therefore must be central to a theory of global justice.

Those who worry about thinking about the planet under the heading of ownership should note that I use a very abstract understanding of ownership. What matters is what claims states, individuals and other entities can make to fit within legal regimes. Such regimes are up for moral assessment. Assessing them in terms of a pre-legal understanding of world-ownership keeps the link to that motivating thought in sight. My secularized view of collective ownership can give proper regard to non-human entities. The core idea is that *to the extent* that humans have claims to original resources and spaces, they all have the same claims, no matter when and where they live.

What has struck some as misguided is that I run together many issues under “justice,” in fact “distributive justice.” Even human rights enter that way. The principle associated with membership in the global order is that the distribution in the global population of things to which human rights (membership rights) generate entitlements is *just* only if everyone has enough of them for these rights to be realized. But there clearly is a distributive dimension to human rights in precisely this sense.

A worry is that moral vocabulary loses sharpness if applied too broadly. But an expansive deployment of considerations of distributive justice follows from making the global central to political philosophy. Justice, in my view, captures the most stringent moral demands. The perennial quest for justice is a quest to make sure each individual has an appropriate place in what our uniquely human capacities for mobilizing common effort for deliberate purposes allow us to build and produce. Demands of justice arise in multifarious ways, including now several that are global in nature. In all cases, there is a

² Forthcoming work with Gabriel Wollner explores trade as a ground of justice in more detail; see Risse and Wollner, *On Trade Justice: A Philosophical Plea for a New Global Deal*.

distributive dimension of sorts. Counting a broad range of issues under distributive justice captures our global moral reality where diverse matters must receive the priority required by justice. My view sees individuals as members of states, members of the global order, co-owners of the earth, participants in trade and as human beings. In all these roles they are subject to demands of distributive justice. We can no longer think about justice in terms of city-states, states or empires only, without making explicit the manifold ways in which “we are the world.”

2. HUMAN RIGHTS

Let me elaborate on the place of human rights. Human rights language focuses on abuse committed by those in authority: of otherwise identical acts, only one might violate human rights. There is a difference, say, between thefts committed by petty criminals and thefts that are part of abusive patterns of government behavior or expressions of socially entrenched oppression. I take the *concept* of human rights to refer to rights *with regard to the organization of society* that are invariant with respect to local conventions, institutions, culture, or religion. A host of questions arises. Why would we hold such rights? Are there human features on which they are based? What ought to be their function in the world? What rights arise in this way?

A *conception* of human rights provides answers. It consists of four elements: a list of such rights; an account of what features make individuals rights holders; an account of why that list has that composition, a principle or process that generates that list; and an account of who must do what to realize rights. Using these distinctions one could classify much recent philosophical work on human rights.

According to *orthodox* conceptions, human rights protect the distinctively human life. Much has to be said about what that life is, what protection in terms of rights amounts to, and why it is required. What matters now is merely that for orthodox conceptions human rights are *natural* rights. For natural rights, the range of duty-bearers is not restricted by transactions or membership in associations. Therefore, all human beings are potential duty-bearers: protecting the distinctively human life is a global responsibility. The global order is the obvious addressee for these rights. But we may ask: how *else* could rights become a global responsibility? Instead of thinking of human rights exclusively as rights individuals hold *in virtue of being human*, we could understand them as rights for which there is a genuinely global responsibility – that is, as *membership rights in the global order*.

Human rights thus understood are rights that are indeed accompanied by genuinely global responsibilities, *rather than* rights people would hold everywhere but accompanied only by respectively local responsibilities. Rights of that second sort are rights of citizens and thus matters of social justice. Membership rights in the global order derive from different *sources*, one being the distinctively human life. But if there are other ways of deriving rights that entail a global responsibility, that kind of life becomes one in several sources of membership rights. Orthodox conceptions do not appeal to

contingencies other than laws of nature, facts about human nature, or the fact that certain beings are human. A conception in terms of membership in the global order, by recognizing other sources, uses contingent facts more freely, enlisting features of a contingent but abiding order.

One additional source is enlightened self-interest. For this source, one first shows that certain matters give rise to moral rights domestically. A self-interest argument then shows why this matter is globally relevant. Preserving the peace may require that authority is exercised in certain ways, perhaps because unchecked governments will create negative externalities. Concerns about peace, and the impossibility of containing certain evils domestically drove the founding of the League of Nations. Such concerns also triggered more expansive efforts after World War II. The UDHR's preamble acknowledges ties between "justice and peace in the world."

Troubled states are a global liability. They spread refugees and draw others into conflicts. Financial crises are internationally transmitted. Drug-trafficking, illegal migration, arms trade, trafficking, money laundering and terrorism must be fought globally because the networks behind them operate globally. Disease control is a global problem as much as environmental sustainability. Conversely, development delivers gains from trade, from cooperation in science, culture, business, or tourism. Martin Luther King overstates the matter insisting that "injustice anywhere is a threat to justice everywhere."³ Still, enlightened self-interest is a powerful way of showing that something comes with global responsibilities.

Another source is *interconnectedness*. Something may come with global responsibilities if the global order as such is causally responsible for certain problems in country A for which an assignment of rights would be the solution, as well as the sense in which this imposes obligations on people elsewhere. Enlightened self-interest and interconnectedness often apply jointly. To illustrate, consider an argument for a human right against any form of slavery, no matter how benign. To begin with, considerations about membership in states show individuals have claims against their state for protection also against benign slavery. The increasing intensity of transnational interactions creates opportunities for trafficking. Since in any given country individuals have a right to protection against enslavement, it is in each country's enlightened self-interest to combat trafficking. Otherwise the number of de facto slaves *in their midst* will increase. The combination of enlightened self-interest and interconnectedness supports a human right not to be enslaved in any way.

Finally, one way in which concerns can become global is for them to be regarded as such by an authoritative process. We can enlist *procedural* sources to argue that human rights express membership "as the global order sees it."

³ King, *Why We Can't Wait*, 79.

3. ACCEPTABILITY TO CONFUCIANS

The conception of human rights as membership rights that I have now sketched, I believe, does not turn on any particularly Western philosophical baggage. In this section I elaborate on this point in particular by way of exploring how the idea of human rights could be acceptable to *Confucians*.

Natural rights, to be sure, could be understood as rights that the Christian God has endowed his people with. That is not how I understand them. Alternatively, natural rights could be understood as rights for whose derivation we do not need to talk about the existence of political, economic or other structures. That is how I have understood them. The kind of argument I have advanced here may of course turn out to be flawed. But even if so, I think this would not be the case because the starting points are already culture-bound. In particular, the idea of a distinctively human life and the idea of natural rights itself, as I understand it, do not depend on any particular Western intellectual or religious baggage.

One way of thinking about the idea of human rights as I have developed it in my conception of human rights as membership rights in the global order is this: Basic and equal respect for human life requires that we make a collective effort to protect individuals from abuse of organized power. Living in a system of states means we are organized in a global regime that captures mutual indifference. This is compatible with basic and equal respect for human life only if we do not leave people to the mercy of the state where they happen to be born. Human rights fulfill this function: they exist to protect human beings from abuse of organized power. The obligations that come from making good on them accrue globally. Since this is a shared task, those with more of an ability to contribute should contribute more than those with less.

It is this idea of human rights that I submit should be broadly acceptable. It is also true that political traditions that, one way or another, are shaped by rights vary widely in nature. They vary widely in particular in the manner in which they allow for there to be a widespread culture of litigation. A fair amount of the misgivings the rest of the world has towards the American rights culture is the excessive presence of litigation, which in turn indicates that quite a number of individuals are willing to capitalize on relatively minor failings of other individuals or of elements of the public systems to secure monetary benefits for themselves. But once one realizes that the excessive culture of litigation is a peculiarity of contemporary American society (one that many Americans also wish to escape from) rather than a general feature of rights-driven cultures, one may also become more sympathetic to the idea that my proposed conception of human rights could be acceptable specifically to Confucians.

So let me offer some positive considerations as to why human rights as I have discussed them should be acceptable to Confucians. Again, there is nothing particularly Western about the idea of respect of human life, and about the fact that states can be abusive. Confucius and Mencius talked about government being *for the people*, and they used the idea of all “all beneath heaven.” The idea of “all

beneath heaven” as the relevant unity of discourse came to the Chinese tradition much more easily than to the Western tradition. Chinese thinking, in the days of Confucius and Mencius, already was imperial in nature. Emperors would derive their right to rule from a mandate from heaven. Heaven, naturally, was concerned with all under it. In Europe political thinking started in cities, and the idea that corresponds to “all beneath heaven” is that of the “cosmo-polis” – in Greek, the world as a city. The city was there first, and then the world was added, as one may say. If we can connect the idea of human rights as membership rights in the global order to that ancient idea of “all under heaven” we will have found a way of making the former idea acceptable to Confucians.

The Confucian tradition emphasizes the significance of relationships. Obligations are the more demanding the more significant the relationship. Family comes first, but there are obligations also to fellow citizens. People in a politically and economically interconnected world also are in a relationship. They are members of the global order. Human rights as I understand them – and that is the connection between human rights and the idea of “all beneath heaven” -- make a proposal for what obligations apply in that relationship. The relationship between ruler and subject that is one of the five central relationships of Confucianism nowadays must be treated in such a way that the existence and importance of the global order are acknowledged. The “ruler” now is a complex structure with a significant global component

Let me add one other consideration. The idea of human rights has come a long way. Even hard-nosed international-relations realists should recognize that the idea has become so widely accepted that nowadays it arguably has an impact. Many countries have made human rights goals part of their foreign policy. International civil society is populated by well-funded and outspoken human rights organizations. We have recently witnessed the creation of an entirely new institution, the International Criminal Court, as well as the acceptance, at the UN level, of guiding principles to formulate human rights obligations of businesses. Around the world, more and more local concerns are formulated in the language of human rights, a phenomenon known as the vernacularization, or localization, of human rights. Ordinary people increasingly express concerns in terms of human rights rather than a language that earlier might have come more natural to them. They are not just helping themselves to a legal and political machinery. They also make clear that they are articulating concerns others have in similar ways where they live.

The human rights language, by making an appeal to our shared species-being *as humans*, has a way of generating sympathy. That is one reason why so many individuals find it is easy to adopt human rights into their understanding of the world. To what extent all this talk about human rights is window-dressing or reality is the subject of much research done by international relations scholars. But clearly this talk bears *much* more on reality now than it did decades ago. Its stock is rising. Even those who just paid lip-service might find that if many people talk the talk, they eventually walk the walk.

In Confucian terms, one might say, then, that human rights have the best prospects of creating *global harmony*. That is, the idea of human rights has by far the greatest prospects for rallying people around the globe behind one idea of spelling out what it means to protect human life from abuse of power. This is the kind of area where unity creates better results, to make sure that “all beneath heaven” are

properly protected. A unified moral framework, and generally more global cohesion, will plausibly be an important stepping stone towards bringing humanity together and create a proper mind-set to tackle global challenges, such as climate change. Human rights are “the big game in town,” one may say, as far as that kind of protection is concerned. In Confucian terms, that by itself is an important recommendation.

4. MEMBERSHIP IN WORLD SOCIETY

World society analysis, developed by John Meyer and others, adopts an ontology conducive to pluralist internationalism.⁴ This approach views the world as one social system with a unified cultural framework (world society) implemented in a myriad of frequently conflicting variations. A society is a system within which values and norms are defined and implemented through collective mechanisms that confer authority. A world society is such a system with global dimensions. In a pluralist spirit this approach theorizes various kinds of actors (whose interplay confers authority), including nations, companies, intergovernmental and non-governmental organizations and individuals. This is a rich ontology, and the connection to pluralist internationalism’s similarly encompassing ontology should be obvious.

World society analysis is an empirical theory to explain change. Pluralist internationalism is normative. Both kinds of theory must be argued for on their own terms. But similarities in ontologies imply that, if they can both be so supported, they would not stand awkwardly next to each other, as would be the case if international relations realism were the best explanatory theory and pluralist internationalism the best normative account. Explanations that hold in the world would then give little sense of how we could ever realize a just world.

World society theory and grounds-of-justice approaches both make room for normative ideas, especially justice. Normative theory makes proposals for right action. Empirical theory makes proposals for why events and processes occur the way they do. This *particular* empirical theory helps itself to normative ideas because it finds confirmation that people act on them. World society analysis gives ideas explanatory roles instead of finding explanations only in power, interests or economic structures. Praiseworthiness in norms, values and roles is taken to help explain why some get accepted and others do not. Ideas about legitimacy, justice, and rights enter prominently.

Meyer and collaborators talk about world society rather than global order. For my purposes I now think this is the better term. The global order is *embedded* into world society. But talking about a global order thus defined under-describes the extent to which ours is a world of persons. Even talk about a “world of states” is misleading in this way, and is more suitable as a way of describing the ontology used by

⁴ Krücken and Drori, *World Society*.

realists. So rather than membership rights in the global order, human rights are better described as membership rights *in world society*.

5. A CONNECTION TO RAWLSIAN POLITICAL LIBERALISM

Consider one way of how the recognition of ideas of justice for explanatory purposes and normative inquiry can converge. In *Political Liberalism*, Rawls offers an account of justice designed to apply only within constitutional democracies.⁵ He justifies his theory by reference to ideas implicit in the culture of constitutional democracies. This includes conceptualizing persons as free and equal citizens.

Moral theories must adopt a view of persons that is either factual or normative. A liberal theory may, empirically, see persons as autonomous choosers. Religious fundamentalists see persons differently, say, as creatures of divine grace. It seems practically impossible to settle this dispute. Alternatively, a theory may treat individuals *as* persons with certain capacities for theory-purposes, but defend that view without appeal to facts. Then we need to identify a place in the world to give the set of concepts a grounding in reality. This is what Rawls does when he identifies a liberal conception of personhood as discourse of democratic states.

Rawls' view is supposed to be plausible only to those accustomed to democratic practices. For Rawls, individuals are not *empirically* free and equal. Instead, there are practices accompanied by moral ideas about citizenship. It is within those ideas – which refer to persons in idealizing ways – that individuals are *seen as* persons with certain powers. But there is also a connection between these ideas and the practices that individuals engage in so that, again, it makes sense to say that being persons with such powers is an idealization of the role individuals actually occupy. From there one can assess Rawls' arguments for why relations among free and equal citizens should be regulated by his principles.

In *On Global Justice* I apply this approach to the context of humanity's ownership of the earth. Just as it is implicit in constitutional democracies that individuals are considered free and equal citizens, so it is implicit in world society that individuals are seen as co-owners. The idea that individuals are co-owners is an idealization: empirically it might be false that individuals are respected as co-owners in any sense. But it is an idealization that not only emerges from, and speaks to, our practices, but that we ought to care about in virtue of the considerations supporting the idea of collective ownership of the earth. Just as principles of domestic justice make states acceptable to citizens, so human rights make the global order acceptable to co-owners.

⁵ Rawls, *Political Liberalism*.

In light of the ontological ties between world society analysis and grounds-of-justice approach we can make another parallel case for world society as a whole. We can identify idealizations of personhood and individuality implicit in practices of the world society. Research done by world society analysts offers ample evidence. From there we can argue that human rights as membership rights in world society should be acceptable to human beings parallel to how principles of domestic justice should be to citizens and principles regulating resources and spaces of the earth to co-owners. Thereby a parallel argument to what Rawls did in *Political Liberalism* for citizenship and what I already did in *On Global Justice* for co-ownership becomes available for personhood.

6. DECOUPLING

A powerful notion that becomes available on the world society approach is “decoupling.” Decoupling occurs if observable practices deviate from avowed adopted scripts. Decoupling is common, especially where scripts were adopted only recently or conflict with prevailing practices or other scripts.

“Decoupling” is a useful notion for reflecting on how philosophy bears on reality. Realists tend to dismiss ideas as pipedreams unless backed by artillery and factories. Marxists see them as part of the *Überbau* that merely reveals predilections of ruling circles. But world society analysis makes room for ideas even where they are not, or not yet, uniformly implemented. Agents might struggle to adjust to roles but fail. They might be indifferent, not supported by their environment, not know what to do, or lack means. But diverse and diffuse patterns in role and norm acceptance are natural if adaptation to successful scripts drives change.

A related but different notion is *Ideologiekritik*. *Ideologiekritik* occurs when we criticize agents for accepting viewpoints effectively merely because those reflect their socio-economic status (regardless of whether they are aware). Both notions diagnose mismatches in roles or norms an agent occupies or endorses. In one case it is a mismatch with argumentative support, in the other, with implementation.

For reasons of time, let me merely illustrate the usefulness of the term by looking at an excerpt from Carl Schmitt. In *Nomos of the Earth*, Schmitt discusses the idea of humanity.⁶ European conquest of the Americas raised the question of how to treat indigenous people. One stance was the Aristotelean view that “barbarians” were natural slaves, argued by Sepúlveda. Emphasizing that Sepúlveda was a *humanist* Schmitt insists the idea of humanity generates a dialectic he seeks to capture in terms of his master notion of the political as driven by friend/enemy distinctions. The thought that humanity matters leads to the thought that humanity comes in degrees. Christianity poses limits to such thinking (each human created in God’s image). But within a movement that makes *humanity* a central reflection on human types readily leads to the idea of a lowest type, *Unmensch* (inhuman). Once the *Unmensch* is seen as non-human, the dialectic reappears in the distinction between *Übermensch* and *Untermensch* (super-, sub-human).

For Schmitt all this demonstrates the normative uselessness of “humanity.” But Schmitt may just have his analysis wrong. All these phenomena can be explained in terms of decoupling: people are expected to endorse normative vocabulary they cannot appropriately integrate into their motivational structure. No negative implications for the usefulness of the term “humanity” follow.

As far as human rights are concerned, decoupling can convey some optimism. There has been debate about the success of the human rights movement now that we are approaching UDHR’s 70th anniversary. Some argue that not enough change has come about, that human rights talk is window-dressing. But one might also say there is much decoupling going on as part of a long process of making these norms stick. Argumentative self-entrapment might gradually occur. More importantly, human rights norms are part and parcel of a world culture that worships individuality *obsessively*. And as long as we worship individuality obsessively there is reason to be optimistic that human rights will catch on more.

⁶ Schmitt, *Nomos Der Erde*.



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Harvard Kennedy School
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Cambridge, MA 02138**

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