

Pablo Gilabert “The Human Right to Democracy and the Pursuit of Global Justice”

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1. Introduction

This paper addresses two interconnected questions about human rights and the pursuit of global justice: Is there a human right to democracy? How does the achievement of human rights, including the human right to democracy, contribute to the pursuit of global justice? In section 2, the paper answers the first question in the affirmative. It identifies three reasons for favoring democracy and explores the significance of those reasons for defending it as a human right. It answers important worries that acknowledging a human right to democracy would lead to intolerance and lack of respect for peoples’ self-determination, exaggerate the importance of democracy for securing other rights, generalize institutional arrangements that only work in some contexts, and tie human rights to specific ideas of freedom and equality that do not have the same universal appeal and urgency. In section 3, the paper answers the second question. It distinguishes between basic and non-basic global justice and argues that democracy is significant for both. It claims that the fulfillment of human rights constitutes basic global justice, explains how a human right to democracy has significance for the legitimacy of international besides domestic institutions, and shows how forms of global democracy and the exploration of cosmopolitan and humanist commitments underlying human rights may enable and motivate the pursuit of non-basic demands of global justice (such as those concerning socioeconomic equality). The key claim in the paper is that the fulfillment of the human right to democratic political empowerment is crucial for the pursuit of global justice.

2. The human right to democracy

2.1. General case for democracy

A system of political decision-making is democratic when those subject to it have effective and equal opportunities to participate in it and shape its results. There are at least three important reasons for favoring democracy over other ways of organizing decision-making structures that do not involve this idea of effective political equality. That democracy is preferable on these reasons does not mean that no democracy ever fails to honor them. Actual democracies can be better or worse at honoring these concerns; the point is that feasible nondemocratic regimes are likely to do worse. Here are the three reasons, stated as features of democracy:

(a) *Expressive recognition and respect (Intrinsic significance)*: Democracy involves an expressive recognition of and respect for human beings as agents with the capacity for political judgment and self-determination.

(b) *Strong accountability (Instrumental significance 1)*: Democracy involves strong mechanisms of accountability of decision-makers to decision-takers.

(c) *Epistemic enhancement (Instrumental significance 2)*: Democratic rights, institutions, and practices help political agents to identify and justify to themselves and to each other what political principles, agendas, and policies are appropriate.

The first consideration addresses the intrinsic value of a political decision-making procedure, and the other two capture its instrumental value: the former concerns how people treat each other within the practice of decision-making, and the latter concerns the issue whether decision-making tracks the interests or good of those subject to it. An underlying principle is, of course, that the worth and interests of all subjects deserves equal respect and concern within some range.

These three kinds of considerations should be familiar, even if I formulate them in my own words.¹ My concern in this paper will be to show how they link to the theory and practice

of human rights. I think that the three reasons are very important, even though in the context of human rights the focus had tended to be on (b). Democracy's strong accountability certainly is crucial, as it involves a powerful incentive mechanism for decision-makers to cater for the interests of decision-takers (they may be sacked if they don't). But the other features are important as well. The intrinsic dimension in (a) is crucial: an adult person's self-respect may be deeply wounded if they are treated as a second-class citizen, if their public status in their social world is that of someone who cannot or should not participate on equal terms with every other adult in the shaping of the coercive rules that frame that world. The epistemic dimension in (c) is important (inter alia) because we need strong political freedoms to gain understanding of the political process via active experience in it, to deliberate with each other about our political views so as to make up our minds, reach agreements or narrow disagreement, find fair compromises, and develop less crude or biased pictures about what we and others need and are entitled to. Of course, these features interact. For example, political agents with enhanced political knowledge will have more of the information they need to hold decision-makers accountable; and the opportunity to do the latter will be an incentive to seek political information. Agents who recognize each other as able to make political judgments and as worthy of political self-determination will treat each other in certain ways, for example by pursuing forms of accountability and public debate that involve appropriate levels of civility.

2.2. Developing the case for a human right to democracy

2.2.1. Is democracy a human right?

The three reasons for democracy mentioned support the view that a society that is democratic is in some respects more just than a society that is not. But not every right of justice is a human

right. In general, a right is a legitimate claim that one person can make against others.² A right is justified when the conditions and interests its fulfillment protects or promotes, and more generally the reasons it is based on, are sufficiently important to warrant negative or positive duties on the part of certain duty-bearers. Is the right to democracy also a moral human right? This depends on whether it has the standard features that characterize moral human rights, such as being universal, having high normative priority or great normative weight, being primarily a critical rather than a positive standard, and being often at least in part to be pursued through political action and institutions. I believe that a right to democracy has these features. The last two features are obviously held by a right to democracy: it is a right to be largely articulated institutionally and it can function as a critical standard for appraising different social structures even when those structures do not explicitly recognize it and when people do not currently endorse it. The real difficulty is to show that there is a right to democracy that has the features of universality and high priority. Is democracy a right that holds for everyone in the contemporary world? Is its pursuit a matter of global concern? Does it have the great weight that other, less controversial human rights such as the civil right to religious freedom or the socioeconomic right to subsistence have?³

To show that a right to democracy has these features I will proceed dialectically, by addressing the four most important recent challenges to the idea that there is a human right to democracy (hereafter HRD). All of these challenges precisely deny that the right to democracy is both universal and of high priority. Underlying the polemical engagement with these challenges there is a positive argument for a HRD. It is in fact quite simple, and can be stated succinctly. The main idea is that we should accept a HRD because (at least contemporary) social life involves circumstances that make considerations (a)-(c) (stated in section 2.1) practically

relevant in a widespread and urgent way. These common circumstances include the tendencies to (i) exclude groups of people from political power and other social advantages, (ii) be self-serving and biased when wielding decision-making power, (iii) disagree on moral matters, and (iv) have limited knowledge of the needs and views of others. These tendencies impose standard threats: wielders of political power may monopolize control of social regulations, brand some persons as second-class citizens, impose agendas and policies that fail to take account of the basic needs and the normative views of others, and render many of those subject to the resulting social order impotent to evaluate and to change it. The three dimensions of democracy are essential to respond to these threats. When they are in place, political power wielders are more likely to guarantee basic conditions of respect and concern for all persons. To the extent that people are recognized as having irreplaceable political status as equals, they are able to keep decision-makers in check, and they have the capability to join the public debate about what is the just way to arrange their social lives, it is that much harder to block their achievement of a decent life of basic human dignity. Given these threats and the significance of dimensions (a)-(c) to respond to them, when people can but are not granted democratic political opportunities they are seriously wronged: they are denied what they are owed to live a decent or basically dignified life. The remainder of this section fleshes out this argument.

2.2.2. Toleration, peoples' self-determination, and intervention

The first challenge says that accepting a HRD would lead to supporting problematic forms of international intervention. Since a human right merits global concern and action, pursuing the fulfillment of a HRD would license forceful international intervention in countries that are not democratic, and this would involve intolerance toward other forms of political organization and

the violation of peoples' self-determination. If we value international toleration and peoples' self-determination, we should be skeptical about a HRD.

Each key aspect of this challenge is problematic. Although the ideas of toleration and peoples' self-determination are of course valuable, they do not support the denial of a HRD, and the pursuit of the latter does not require the obliteration of the former. Regarding toleration, there is the immediate worry that in nondemocratic countries governments do not tolerate a wide range of political actions by their members. Why accept an entitlement to toleration for a regime that does not tolerate its own people?⁴ It would not help to focus on the toleration of *peoples* as the fundamental concern. Human rights are primarily held by individual human beings, not by peoples, societies, or states. On the other hand, the ideal of toleration is quite vague. To be made precise it needs a substantive account of the conditions that must be met for the conduct of other agents to be acceptable even if they are different from one's own.⁵ I do not deny the importance of the value of toleration and that it could be given a reasonable construal. But clearly any plausible account of what may be tolerated will be constrained by the recognition of the independent and high priority rights that people have, and this surely includes their human rights. One of the obvious functions of human rights is precisely to set reasonable limits to claims of toleration. So we should be skeptical about limits on an account of the content of human rights that draws on toleration; the direction of limitation is the opposite.

Consider next the idea of peoples' self-determination. First, there is the obvious but important point that there is no necessary conflict between the fulfillment of a people's right to self-determination and the HRD, as a people can determine itself while being democratically ordered. Second, notice also that the problem of taking peoples rather than people as the unit of fundamental concern applies here as well, and this undermines the force of the invocation of

collective self-determination in the face of violation of a HRD. If in a certain circumstance the invocations of the two claims collide, we should consider whether catering for individuals' interest in their independence as a group should be qualified, or at least joined by serious attempts to pursue the honoring of their interest in democratic political opportunities. The multiple considerations spelled out in this paper in favor of a HRD also tell in favor of such combination (which does not automatically ground a permission for foreign intervention—see two paragraphs down). If the members of a people are not themselves self-determining, then the self-determination of the group has less moral standing: there is less self-determination when the members of a group are blocked from shaping its political life than when they are allowed to control the group they constitute. This does not entail that there is no morally relevant way in which a society can be self-determining if it is not democratic. The point is that an invocation of collective self-determination cannot mute the concern with democratic freedom.

There is, then, a serious, and internal, problem with bypassing the wills of the members, as nondemocratic regimes do, and then proceed to claim that that group's will (that is, the will of the rulers) expresses them.⁶ The rulers of the nondemocratic country may object that their subjects themselves accept the nondemocratic nature of their government. But this maneuver would be problematic on several counts. First, how do we know that the subjects prefer a nondemocratic system if they are not allowed to fully participate in the political process? In the absence of strong accountability, they may be afraid to express their views fully even if they are allowed to speak publicly. Second, without experience in wielding political power, how do they themselves manage to form reflective judgments about political justice? Nondemocratic regimes are epistemically deficient. Third, if the legitimation of the regime appeals to what the people living under it take to be just, then why deprive the people of the kind of regime (i.e. a

democracy) whose procedures and outcomes are really powered by what the people think?⁷ A view of collective self-determination that crushes the political self-determination of the members of the collective does not take seriously the freedom of human beings.

The worry about forceful international intervention is real, however. Such interventions often fail to achieve their publicly avowed goals, involve serious violations of other rights, and cement relations of arrogant patronage. But these problems do not really show that there is no HRD unless we assume that if something is a human right then its violation makes international forceful intervention permissible. And this assumption goes against the grain of the legal and political practice of human rights and it is in any case morally unwarranted. Justifiable intolerance toward human rights violation need not be coupled with international coercion. There are other options.

As many critics have argued in response to Rawls's narrow construal of human rights in terms of the conditions for coercive intervention, there are many ways in which domestic and international action can respond to human rights violations; "human rights serve *many* international roles, some of them unconnected to enforceability."⁸ Forceful intervention is just one kind of response, which is likely to be warranted only in extreme cases (such as genocide), and even then only as a result of a delicate balancing of many considerations. Human rights are primarily obligatory goals that should inform various forms of national and international political action. They are not primarily triggers of international coercion.

This is as it should be, as human rights are best achieved from the ground up. Institutional structures that fulfill the HRD are likely to be best generated primarily domestically, as the achievement of a people's members' own political struggle. This of course does not mean that international solidarity is not warranted.⁹ At a minimum, features of the international

institutional order that foreseeably and avoidably create means and incentives for domestic elites to impose non-democratic regimes on their people should be eliminated.¹⁰ The dilemma between aggressive international interventionism and international passivity is a spurious one.¹¹ We can understand how belief in something like it may have arisen as a result of the recent history of American military adventurism, which has sometimes been carried out in the name of democracy. But we can reject such aggressive adventurism without letting down fellow human beings in other countries who are fighting for their rights. Human rights indeed ground global concern. In the case of democracy, such concern can be expressed in innumerable ways that stop short of intervention. Several forms are already being explored, from protests and mutual assistance by pro-democracy social movements in different countries, to attempts at persuasion in several forums of international civil society, to economic and political incentives such as making membership in advantageous regional organizations conditional upon democratic reforms.¹²

2.2.3. Instrumental considerations about the protection of other rights

One of the strongest defenses of the HRD is that we should accept it because democracy helps prevent unacceptable outcomes in terms of uncontroversial human rights, such as famines and brutally oppressive tyrannies. This instrumental argument relies on aspects (b) and (c) of democracy: where there is a functioning democracy, decision-makers tend to avoid engaging in serious abuses because they anticipate that if they do so it will be known and discussed, and they will be held accountable. Sen famously argues that because of incentive mechanisms such as these, there has been no famine in a functioning democracy.¹³ So, if we want to avoid the underfulfillment of civil and socioeconomic human rights, we should accept a HRD. Democracy inherits the great weight of the rights it protects.

This instrumental argument for a HRD has recently come under fire from Joshua Cohen.¹⁴ Cohen's first challenge says that we can imagine a regime that involves collective self-determination, is not democratic, and protects human rights. Collective self-determination involves three conditions:

1. "[B]inding collective decisions result from, and are accountable to, a political process that represents the diverse interests and opinions of those who are subject to the society's laws and regulations and expected to comply with them"
2. "[R]ights to dissent from, and appeal, those collective decisions are assured for all"
3. "[G]overnment normally provides public explanations for its decisions, and those explanations—intended to show why decisions are justified—are founded on a conception of the common good of the whole society".¹⁵

These conditions can be fulfilled even if there is political inequality (for example, if members of a certain ethnic group are denied access to decision-making positions in government). As long as there are mechanisms of representation of interests, dissent and appeal, and explanations that track fundamental interests such as those protected by basic civil and socioeconomic rights, the human rights of those partially excluded are not violated. They do not have a human right to be treated as political equals.

A concern about this view is whether it is realistic to expect that conditions 1-3 will reliably be satisfied, and lead to the protection of people's fundamental interests, without political equality. It is not enough to wonder whether it is *possible* for this to happen. For example, an enlightened despot certainly *could* exist that satisfies these conditions without democratic accountability. But it would be irresponsible to determine what political rights to recognize on the basis of just this possibility. We must also consider the *relative probability* that different political arrangements will protect fundamental interests. And it seems that the burden of proof

is here on the side of those who entertain the avoidance of democracy. Given the overwhelming wealth of historical evidence about the tendency to bias and abuse of political power, it is imprudent for agents not to favor regimes including mechanisms of strong accountability through equal rights to affect the political process of the kind only democracy affords.¹⁶ As historical experience concerning manual workers and women suggests, those who lack equal and effective rights to affect the political process are more likely to be ignored by decision-makers. Their interests are less likely to be duly represented, and they are less likely to be consulted or offered explanations. And to be consulted, allowed to dissent and appeal, and given explanations is not enough. People also have reason to be able to sack decision-makers who do not in fact cater to the fundamental interests they pledge to track. Thus instrumental considerations regarding the fulfillment of civil and socioeconomic rights in principle tell in favor of accepting strong political rights.

Cohen has a second challenge. He worries that “it is not clear how strong a case we have for the claim that a society that ensured a relatively rich set of human rights, including conditions of collective self-determination short of democracy, would nevertheless be so clearly unacceptable as to bear so much argumentative weight in the case for a human right to democracy”.¹⁷ The instrumental argument for democracy discussed here assumes that it is the lack of specifically democratic rights that is crucial when explaining the occurrence of famine, tyranny, etc. But, Cohen notes, when these terrible outcomes ensue we often find other factors that might be explanatorily relevant, such as weak or absent rule of law, freedom of the press, and collective self-determination.

Does this challenge succeed at overturning the received wisdom that in the absence of democracy the fundamental interests of all are less likely to be reliably protected? We cannot

answer this question without looking at the empirical evidence. In a recent paper, Christiano has argued that in fact the empirical evidence available supports the instrumental case for democracy. The empirical debate is set to continue.¹⁸ I would like to add, however, that we should not put endorsement of a HRD aside until the empirical dispute is settled. First, the instrumental argument should not be construed in unduly strong terms. From a practical standpoint, to support democracy instrumentally we do not need to find that famines and other terrible outcomes can only occur when and only because democracy is absent. It is enough if the evidence shows that democracy is an important (even if not the only) relevant contributory factor so that in its absence the likelihood of such conditions increases significantly. Second, in the face of uncertainty about the precise composition of the explanatory factors leading to severe underfulfillment of human rights, and given that so far research appears to show that democracy is an important factor,¹⁹ it is only prudent to be risk averse and err on the side of keeping the list of rights ample (including democracy besides the rule of law, freedom of the press, and the other important factors). It would be a reckless bet to choose a nondemocratic regime before the empirical evidence develops enough to actually tip the balance away from the received wisdom that those with less political power are less secure in the enjoyment of their rights.

2.2.4. Institutional specificity and the problem of generalization

Another challenge to a HRD is that it may lack universal application and high priority because it relies on too specific an account of the institutions of collective self-determination needed to protect other, uncontroversial human rights (such as basic civil, socioeconomic, and other political rights). In some, perhaps most, cases, democratic institutions will likely do best, but in some cases they may not. Beitz has recently pressed this charge, arguing that we cannot generalize the instrumental argument discussed in 2.2.3 because there may be cases of

nondemocratic societies in which either (i) economic conditions are such that the instauration of democracy may not lead to a stable regime or might involve lower protection of uncontroversial rights than some alternative, feasible regime; or (ii) the political culture is one in which the strong political equality that HRD involves is widely rejected, while the less demanding form of collective self-determination discussed by Cohen enjoys wide allegiance.²⁰ I think that the most serious worry concerns (i). As stated the second puzzle risks a conventionalist view of the validity of human rights that is incompatible with seeing them as critical standards. The existence of rights does not depend on people believing that they exist. Slavery would involve a violation of rights even if most people (including the slaves) did not think there is a right against it. Such beliefs are relevant for the feasibility of implementing rights in the short term, but that is a different matter.

Let us grant, for the sake of argument, that in the short term the instauration of democracy in a certain country would likely lead to higher costs in terms of other, uncontroversial rights than the instauration of an authoritarian regime that approximates the features of collective self-determination discussed in 2.2.3. How could a defender of a HRD respond? The first thing to say is that the high priority of human rights should not be interpreted too narrowly, as meaning that to have it, a demand should be immediately and fully implementable. Human rights set up a normative agenda for the political future. What is crucial is that we recognize them as setting political goals of great importance, which we can achieve some time in the future and should pursue to the extent that we reasonably can from now on. When we encounter circumstances in which an obligatory goal cannot be achieved, we should acknowledge *dynamic duties* to progressively change them so that the obligatory goal becomes achievable.²¹ Cases like the one we are here granting for the sake of argument can be seen as part of the nonideal theory of

human rights. Such nonideal theory would depend on an ideal theory that sets the optimal feasible targets of long-term reform, and it would deal with cases of partial compliance and conditions in which the fulfillment of the ideal demands is not immediately feasible. Given that democratic regimes are feasible in the long-term, and that (as Beitz recognizes) they are more likely than the alternatives to reliably protect the whole set of other urgent rights when stable, we should take them as the target for long-term reform. But since in the case under consideration we face nonideal circumstances, we should adopt a transitional standpoint that explores the process rendering the final target accessible. Such process need not start with an immediate push for democratic institutions if the likely outcomes are worse on balance.

Second, the long-term view favoring democracy is not idle in the short term. It would have immediate bite in at least two ways. First, it would impose high evidentiary standards for choosing nondemocratic alternatives in the short term. The presumption would be that democracy should be pursued unless compelling evidence is given that an alternative regime would be better overall in the short term. Second, it would demand that among the several feasible nondemocratic regimes that would do better, in the short term, at catering for other rights, we choose the one that is most likely to ease the transition to democracy in the future.²² Thus, the goal of achieving democracy plays an immediate role in determining whether we should favor a nondemocratic regime in the short term, and which one we should favor if we must indeed favor some.

Third, including democracy in the long-term political agenda of human rights would not only be reasonable given its likelihood to do better than the alternatives in the instrumental ways discussed so far once a stable form of it is achieved. In addition, democracy has intrinsic significance. An account of collective self-determination that is nondemocratic (accepting, for

example, unequal rights to vote or hold public office for people of different ethnic, religious, or other groups) violates the normative individualism and the commitment to some forms of equality and liberty that are constitutive of the human rights perspective. I will explore this point in 2.2.5. But if this is correct, a consequence for the present discussion is that even if we construe human rights as making immediate demands of full implementation, the problem discussed in the hypothetical case would not be whether democracy is a right, but what is its relative weight when other rights (such as certain civil and socioeconomic rights that would be better served by a nondemocratic regime) conflict with it in practice.²³ (It would also not need to be an issue whether democracy involves a high right: Democracy could be a member of a package of high priority rights even if in some circumstances its implementation has less priority than that of other rights in the same package.) The loss in terms of the intrinsic value of democracy leaves a reminder when a different regime is chosen that does better in the short term with respect to instrumental considerations concerning other rights. We are here facing a tragic choice rather a mere tradeoff, and thus that reminder must be acknowledged. The first and second points mentioned above then reapply, this time regarding the future satisfaction of what has been left out in terms of the intrinsic concern.²⁴

Fourth, and finally, there is the issue of institutional specificity. The problem with the hypothetical case discussed here may be less likely to arise if we notice that the HRD can be stated at different levels of institutional abstraction. At the level of principle, HRD can be stated in a relatively vague way that captures the key idea of political equality. The specific institutional form that political equality should take depends on the circumstances of the context in hand.²⁵ So if one specific institutional form of democracy (say, a certain electoral system, or organization of the relation between the legislative, executive, and judicial branches of

government) is not likely to be stable in a certain context, this does not entail that democracy as such has no immediate stable application. Perhaps another specific articulation of political equality will be immediately stable. This *argumentative triangulation* (responding to the immediate unworkability of a certain institutional implementation by moving up one level to the relevant animating principle and then envisaging alternative re-specifications of it to see whether one is workable) must be pursued before moving to the concessive, nonideal parts of the exercise discussed above. When we think about the universality of democracy, we should ask whether the key principle has general hold, not whether any of its specific incarnations is generalizable.²⁶

2.2.5. Intrinsic considerations of freedom and equality

The intrinsic argument for democracy supports democracy because it involves an organization of the ultimate political decision-making structures and practices of society such that through them human persons express the respect and recognition due to human persons given their capacity to form political judgments and determine themselves politically. Beings with these capacities (and most human beings have them to a sufficient degree—although of course they differ beyond it) are seriously harmed when they are treated as political puppets or inferiors. This thought involves ideas of political freedom and equality. Democratic institutions aim at giving the adults subject to the political system equal political freedoms, which amount to equal and effective opportunities to participate in shaping the political process and its outcomes. A political system is procedurally unfair if it gives some of its subjects more rights of participation than others: all agents with the capacity of political judgment and self-determination deserve equal rights. Of course those capacities can and should be developed. And democracies will be in one way better, or deeper, to the extent that they facilitate such development.

The intrinsic argument for a HRD is more controversial than the instrumental one. To see this we can address another important recent challenge posed by Cohen. The worry is that in invoking ideas of freedom and equality, this defense of a HRD may present an unduly maximalist view of human rights in which the distinction between human rights and justice is simply erased. But intuitively we think such a distinction exists, that human rights are only a proper subset of what justice demands, and that this distinction is important for the role of human rights as especially weighty demands of both domestic and global political action. Ideas of freedom and equality seem better located at the complement of human rights in the wider set of demands of liberal-egalitarian justice, which do not so readily seem to have the kind of global priority that human rights are meant to have. A right to democracy is then best seen not as a human right, but as a wider (less weighty, not so uncontroversially universal) demand of justice.

I discuss the details of Cohen's challenge elsewhere.²⁷ Here I want to make three positive, but related, points. The first is that ideas of freedom and equality are already operative in the founding document of the contemporary human rights political practice, the Universal Declaration, and that it is natural to see them as helping in making the intrinsic argument for a HRD. Cohen takes political democracy to depend on the following two ideas: (a) "each member is understood as entitled to be treated with equal respect, and therefore as entitled to the same basic rights, regardless of social position"; (b) "the basis of equality lies, in particular, in ... political capacity: we owe equal respect to those who have sufficient capacity to understand the requirements of mutually beneficial and fair cooperation, grasp their rationale, and follow them in their conduct".²⁸ Now consider the Preamble and Articles 1 and 2 of the Universal Declaration. The Preamble opens by referring to the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family" as being "the foundation of

freedom, justice and peace in the world.” Article 1 says that “[a]ll human beings are born free and equal in dignity and rights,” and “are endowed with reason and conscience and should act toward one another in a spirit of brotherhood,” and Article 2 claims that “everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” These three framing clauses evidently support an idea of equal respect of the kind envisaged in (a), according to which all should be seen as equal in rights regardless of their social position and background. Article 1’s reference to certain cognitive and volitional endowments, if applied to human adults who are not severely mentally impaired (i.e. those in whom the endowments are clearly present), also identifies aspects of the idea of political capacity targeted by (b). If all such human adults are free and equal in dignity and rights, and have reason and conscience, and can (given that they ought to) act toward each other in a spirit of brotherhood, then arguably they have enough political capacity to be responsible citizens in a democratic polity. These points can clearly be used to support the idea that a HRD has intrinsic significance.

Could the ideas mentioned be reasonably accepted, in global public reasoning, by people who disagree in their comprehensive religious, moral, and philosophical outlooks, and who have also disagreements about what justice in the wide sense demands? The second point is that the ideas of freedom and equality just mentioned are relatively thin in two ways that are relevant for making a case for their universality and high priority. The first way concerns the levels of depth of ideas and principles in normative argument. The ideas of freedom and equality mentioned could be intermediate premises by reference to which we can justify the view that political decision-making should be democratic. But such intermediate premises can in turn be defended

by appeal to different, and often incompatible, deeper commitments. A Kantian might say that democratic freedom is derived from the more fundamental idea of autonomy as the source of value and normative validity. Defenders of some forms of religious morality could say that humans are equal in the eyes of God, who designed them with certain powers of autonomous political decision-making that is their duty to respect and use. Agreement on the idea of political freedom and equality does not require agreement at the level of these deeper comprehensive doctrines. The second way in which the ideas of political freedom and equality are relatively thin concerns the relation between political and other social institutions. Some may challenge the view that people should be equally free to determine decision-making in every domain of social action. Some hierarchies may be justifiable in some settings. But this point is not incompatible with political freedom and equality. What has high priority is that equal freedom be recognized at the level of the main political institutions. Why is it crucial that equal freedom exist at that level? Because politics is the master social institution; it sets conditions on every other social institution in a society. This is why agents have very strong reason to be equally free at the political level. At other levels it is less important, and sometimes not even desirable, to live in conditions of equal freedom.

A consequence of the previous point is that although the thin ideas of freedom and equality support a HRD, they do not obliterate the distinction between human rights and maximalist claims of justice. There clearly are more demanding views of freedom and equality as a matter of justice. The third point is that in fact equal political freedom helps frame the discussion about maximal justice in a fair way. Disagreement about justice is an enduring fact of contemporary social life. People disagree on whether, and how, ideas of freedom and equality (and other ideas of justice) are to be elaborated in different spheres of society (including, prominently, the

economic one). Human rights are not meant to settle such disagreements. They can, however, enable their fair treatment. They do this by securing a *floor of dignity* on which disagreeing agents can stand. Such a floor of dignity clearly includes basic civil and socioeconomic rights such as bodily integrity and subsistence. But it should also include robust political rights of the kind democracy secures. Without them, the elaboration of disputes about wider justice would not give all a fair chance to contribute to the debate and to decide what proposals in it should be tried out, and later on perhaps repelled or amended, by the coercive decision-making political institutions.

At this point the intrinsic argument for democracy joins forces with the instrumental argument in both its accountability and epistemic dimensions. We should have democratic forms of egalitarian politics to recognize and respect, and give full play, to the cognitive and volitional capacities of all political agents: democracy enables us to learn from each other, and to negotiate our disagreements in fair and informed ways. More specifically, democracy is important in the following ways. First, the intrinsic value of democracy is evident once we try to explain why of two final outcomes that are equal in every respect in terms of rights protection (other than democracy) the one reached through a decision-making process that involves equal political liberty is better than the other that does not. Being publicly recognized and empowered as an equal in shaping one's social world is something we have reason to care about. Second, equal participation, including public deliberation, is of great importance. It helps identify appropriate (desirable and feasible) specifications of abstract rights for the circumstances we face. It helps us find appropriate balancing acts if the implementation of several rights must conflict in practice. It enables us to reach fair compromises when full agreement is not viable. It provides us with a way to learn about the specific circumstances, beliefs and needs of others in

diverse multicultural settings in which we cannot simply assume that everyone shares our worldview. Finally, democratic institutions and practices help cement a public culture of respect and attention to the interests and voice of each that makes social cooperation more stable. That public culture helps make cooperation more dynamic and productive as well; democratic power does not only help us protect ourselves from threats by others; it also enables us to join with others to design and pursue social projects that improve people's lives in various ways. These points have general significance for the pursuit of global justice, the topic to which I now turn.

3. Human rights, democracy, and the pursuit of global justice

3.1. Basic and non-basic global justice

How does the recognition of a HRD affect the pursuit of global justice? To answer this question, we first need to distinguish between *basic* and *non-basic*, including *maximal*, global justice. Basic global justice targets the most urgent global demands concerning the conditions for a decent life for all, i.e. the fulfillment of human rights, whereas non-basic global justice includes but goes beyond that. Consider economic justice. The universal fulfillment of the human right to an adequate standard of living including basic levels of nutrition, education, health care, and housing (stated in Article 25 of the Universal Declaration) would be an achievement of basic global justice. Beyond that, we can imagine more demanding claims of global justice. Some say that we should, as a matter of justice, aim for global equality of access or opportunity regarding goods such as advanced education and health care, income, wealth, forms of work involving self-realization, etc. These goods go beyond the objects of human rights. If access to them is an entitlement of global justice, it must be one of non-basic global justice. How does democracy fit this distinction? First, if it is a human right, democracy is a matter of basic global justice. As we

saw, some critics disagree; they think that it is not weighty or universal enough to be a human right and that it might perhaps, at best, be seen instead as a demand of non-basic global justice. The response to such worries presented in section 2 amounts to defending a right to democracy as a demand of basic global justice. But we still need to consider what is the significance of democracy for the design of international institutions, if any. How does a HRD affect the reform and creation of international institutions? A second question is: how does a HRD affect the pursuit of non-basic global justice? In what follows I present a brief exploration of these two questions. Answering them is important for completing the defense of a HRD. Given limits of space, my remarks will be short, but I hope they offer illuminating hypotheses for future discussion.

3.2. The pursuit of basic global justice

How should we think about international institutions if we aim at the global fulfillment of human rights? What is the role of a HRD in this exercise? Consider Article 28 of the Universal Declaration, according to which “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” From the discussion in section 2 we can claim that domestic social orders should be democratic. We can also claim that a just “international order” would be one that promotes democracy in domestic settings. These are not minor results. But should we think of the institutions making up the international order as themselves bound by democratic norms? If so, how and why?²⁹

Should international institutions such as the World Trade Organization be democratically organized? In an illuminating recent article considering this question, Thomas Christiano identifies two kinds of answers and important challenges they face.³⁰ I will reconstruct Christiano’s points and then (in the next paragraph) offer a critical assessment of them. One

option is a revision of the common “voluntary association model,” which legitimizes international institutions and their actions on the basis of the consent to them given by member states. This model seems relatively feasible given the importance of states for any stable international institution (it would not last without their cooperation) and desirable given that states may be quite successful at defending the interests of their subjects. However, this model faces two serious problems. The “representativeness problem” arises when some of the participating states are not democratic. The “asymmetric bargaining problem” arises when states have enormous differences in bargaining power that allow stronger states to dragoon weaker ones into accepting conditions of international association that are unfair. For example, negotiations in the WTO may yield exploitative conditions for poorer countries. This model could be revised into a “fair democratic association” model in which member states are democratic and certain institutional restrictions on unfair bargaining are imposed. However, the accessibility of this model is problematic given the existing global inequalities in economic and political power. Still, Christiano thinks that it is overall better to work toward realizing this model than to pursue another, more ambitious model of “global democracy” calling for the legitimation of the international global order through a global parliament with representatives of constituencies of individuals. This model faces insurmountable problems. The most serious are these. First, democracy is a valid ideal for institutions only if those bound by them have roughly equal stakes in their decisions. This condition is met by modern states but not by international institutions. (For example, some countries are much more involved in international trade than others.) Second, there is not enough in the way of an international civil society (in terms of political parties, interests groups, and media outlets) to establish a sufficiently meaningful

communication between global institutions and individuals across the world. Again, the contrast with the domestic case is too deep.

I think that Christiano is right that we should pursue some version of the fair democratic association model (and that we should do it for the reasons he states). But his rejection of global democracy is too quick. First, the condition of equal stakes could be met by a global parliament if its remit is properly circumscribed.³¹ Importantly for our discussion, it could be focused on legislating on conditions on any *other* international institution (such as the WTO) so that its activities are consistent with the promotion and protection of *human rights*.³² Everyone has a strong and equal stake in that. And international institutions directly representing individuals rather than states are appropriate here because it is the former, not the latter, that have human rights.

Second, the problem of weak civil society could be progressively resolved over time. The current process of globalization is already generating many forms of supranational political action, forums, and organizations. This could be accelerated by the creation of a global parliament focused on human rights, whose presence and action would create an incentive for the creation of new arenas of international civil society. That parliament could at first be only deliberative and perform tasks of recommendation, and develop the power to yield binding regulation only later on, when international civil society thickens to a sufficient degree. Interestingly, this progressive pursuit of a circumscribed global parliament might have positive interactions with the pursuit of the conditions for fair bargaining within the inter-state association. The former could press for action to remove conditions of extreme vulnerability, and thus bolster the negotiation power of the excluded or exploited.

Two key ideas underlying the position I suggested in the previous paragraphs concern (a) the natural duties based on the cosmopolitanism of human rights and (b) the dynamic and long-term nature of the political practice they ground. Regarding (a): If we owe equal moral concern and respect to every human being at least when it comes to the fulfillment of their human rights, then the idea of an “international order” invoked in Article 28 of the Universal Declaration should be interpreted as demanding not only the reform of existing international institutions, but also the creation of new ones (when this can be done at reasonable cost to those affected) that will *respond* to the preexisting equal stake of every person in (either existing or feasible to create) institutions protecting human dignity. Such institutions should be democratic in order to target that goal—and the three dimensions of democracy discussed in this paper point in that direction.

Regarding (b): Global institutions focused on human rights, if they include the third, epistemic dimension of democracy, will help us navigate more lucidly the uncertainties concerning what is the most reasonable way to protect human rights in the world. Given the first and the second dimensions, they will also also make such protection lose the aura of unilateral imposition that human rights policies sometimes have in contemporary politics. They would constitute a form of global egalitarian empowerment through which the members of the global community of human beings (and there always is such a community from the moral point of view) pursue, in an autonomous way, the fulfillment of the human rights of each.

3.3. The pursuit of non-basic global justice

The previous discussion concerns human rights and basic global justice. But the pursuit of basic global justice affects the pursuit of non-basic global justice in important ways.

First, the generation of institutions and practices of supranational democracy (of the two kinds discussed) provide a *political bridge* between the pursuit of basic and non-basic justice. A world where basic global justice is achieved is one in which people have a floor of dignity to stand on. That floor is also a *floor of power*, as these people are in control of the political shape of their social world, both domestic and international.³³ That power gives them the capability to explore together, on fair terms, the issue whether global justice involves more than human rights, and if so what. The three aspects of democratic empowerment are important for this exploration: the exploration can be undertaken by those who will be subject to its results, whoever makes decisions on the implementation of emerging proposals will be accountable to those subjected to them, and everyone will have effective opportunities to improve through political experience and public deliberation everyone's epistemic grasp of the practical alternatives and their likely consequences on agents placed in different circumstances.³⁴

The global fulfillment of human rights, including a HRD, constitutes a bridge in the movement from basic to non-basic global justice. But secondly, although human rights are only a proper subset of the demands of global justice, they rely on ideas that can, and arguably should, be developed further at the level of non-basic global justice. I conclude by suggesting the importance of two such ideas: cosmopolitanism and humanism. First, human rights mark the entrance of cosmopolitanism in domestic and international politics.³⁵ This has an important consequence for the kinds of duties the pursuit of basic justice should involve. Those duties should be not only agent-relative but also agent-neutral: human rights in the cosmopolitan sense should be respected and promoted by everyone toward everyone else. Duty-bearers may have responsibilities to right-holders whether they are intertwined in certain associative ventures or not. There are pro tanto duties to promote human rights with strictly universal scope. This

prompts the hypothesis that there are some duties of non-basic global justice that also have a cosmopolitan nature. This point is already part of the practice of global movements focused on introducing and deepening democracy.³⁶

Second, and relatedly, the pursuit of non-basic global justice may also inherit the humanism of human rights (i.e. the view that some claims are based in our shared humanity). Consider global economic justice. Some pro tanto demands of global economic equality may be worth considering, in which certain conditions for human flourishing that all human beings as such have reason to value (such as advanced forms of health care and education) are pursued, whether their promotion occurs amongst those who already share associative frameworks or not. Once we acknowledge universal socioeconomic humanist rights with a sufficientarian target, why not acknowledge some universal egalitarian entitlements?

Of course, I am not here attempting to show that these two suggestions about how the cosmopolitanism and humanism of human rights might shape the pursuit of non-basic global justice are true. The aim is simply to suggest that these are relevant hypotheses to explore. And the political conditions for such an exploration, as I have argued above, is precisely one of the achievements that the fulfillment of a HRD would deliver for all. The central conclusion is, then, that the fulfillment of the human right to democratic political empowerment is crucial for the pursuit of global justice.³⁷

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¹ See Beitz (1989); Christiano (2008); Habermas (1996); and Sen (1999).

² Waldron (2007, p. 746).

³ In this paper I assume that the universality of human rights ranges over all persons in the contemporary world. A wider scope could be argued for, but I restrict my argument to the weaker account of universality that most critics of a human right to democracy accept. I also assume that that the high priority of human rights depends on their ranging over the conditions enabling a decent or basically dignified life. The focus is on conditions enabling a minimally good life rather than (as arguably wider demands of justice concern themselves with) a flourishing life. On the last point see Nickel (2007, p. 62). The idea of human dignity in its basic and maximal forms is explored in Gilabert (2015a, 2015b).

⁴ I am not claiming that a nondemocratic regime necessarily is intolerant towards its own people in every important respect. A nondemocratic regime could, for example, tolerate many of its residents' exercise of their civil rights (such as their freedom of religion). But toleration with respect to civil (and other) rights does not entail that intolerance with respect to political participation does not exist. So the nondemocratic regime is still intolerant in an important respect. (Furthermore, one should worry about how secure other rights are when residents do not have effective power to respond to a regime that changes course and decides to violate them.) A possible difficult question is how to respond to practical circumstances in which the two immediately feasible options are (a) a democratic regime under which serious underfulfilment of civil and social rights is likely to occur and (b) a nondemocratic regime under which significantly greater fulfillment of civil and social rights is likely. I tackle this question in section 2.2.4 below.

⁵ Forst (2004).

⁶ A sentiment of this kind may underlie the struggle of many oppressed groups. Consider, for example, MP Sophia Abdi's reaction after the Kenyan government decided to ban female genital mutilation: "Today is independence day for women. Men got their independence in 1963—but today women have achieved independence from the cruel hands of society." Cited in Boseley (2011, p. 13).

⁷ I thank Carol Gould for discussion on this point. There is the conceptual possibility that a people democratically choose to become nondemocratic. Would this be acceptable or should it be as problematic as the case of voluntary slavery? My intuitive answer is that the latter is true, but the issue requires further discussion.

⁸ James Nickel (2007, p. 101). For Rawls's view see Rawls (1999, pp. 78-81). An important function of human rights is that they warrant global concern and action, but the latter can take many forms. See Beitz (2009, pp. 31-42).

⁹ Democracy most often comes from the streets, not from foreign warships. The recent Arab Spring (e.g. in Tunisia), like the transition to democracy in Latin America and Eastern Europe around the 1980s, are possible examples. The achievements of the movements behinds these transitions were supported by various forms of international solidarity, but they were not the outcome of international coercive intervention.

¹⁰ These include, for example, the international "resources", "arms," and "borrowing" privileges through which elites in poor countries can sell natural resources, purchase weapons, and contract debt in their peoples name, which enable them to cement their despotic rule. See Pogge (2008).

¹¹ I share Benhabib's worry that a "laudable concern for liberal toleration and peaceful coexistence can also lead to liberal indifference, and ... to an unjustified toleration for the world's repressive regimes such as many 'decent, hierarchical peoples' (Rawls) may be and often are." Benhabib (2011, p. 78).

¹² Rich (2001, pp. 20-34). An important and hopeful recent development in Latin America is the introduction (in 2010) of the "democratic clause" within the UNASUR (Union de Naciones Suramericanas--Union of South American Nations). It authorizes coordinated responses to threats to the democratic institutions of any member state. See http://www.unasursg.org/index.php?option=com_content&view=article&id=292&Itemid=340

¹³ Sen (2009, ch. 16).

¹⁴ What follows draws, with revisions, on my more detailed discussion on Cohen's views in Gilabert (2012b, pp. 10-3, 22-3).

¹⁵ Cohen (2010, pp. 357-8). See also Rawls (1999, sect. 9).

¹⁶ "The fundamental interests of adults who are denied opportunities to participate in governing will *not* be adequately protected and advanced by those who govern. The historical evidence on this point is overwhelming." Dahl (1998, p. 77; see further pp. 77-8 and 52-3).

¹⁷ Cohen (2010, p. 371).

¹⁸ Christiano (2011). Christiano's conclusions are not undisputed. A worry (discussed in the next section) is that the comparison between democratic and nondemocratic regimes in terms of overall human rights fulfillment may be less favorable to democratic regimes in very poor societies than in middle- and upper-income ones.

¹⁹ For the strong correlation between democratization and support for international human rights law see Simmons (2009, pp. 24-7). Simmons does not claim that democracy causes, but she says that it supports, the legalization of international human rights, and she explores some possible mechanisms (such as strong accountability) underpinning this contribution.

²⁰ Beitz (2009, sect. 26).

²¹ On the idea of *dynamic duties* see Gilabert (2009). A worry could be that it is unrealistic to expect that we will know enough about what is likely to happen in the future for considerations about the long term to affect our current choices. I am not sure this is always the case. But when it is, we may still have dynamic duties to expand our level of political knowledge. Second, we must also factor in the undesirability of the status quo. The worse it is, the less strict we need to be about our foresight of the future to choose to make moves away from it. Even if the status quo is desirable, notice, third, that if we are unable to foresee the future, this may include inability to foresee whether the status quo will continue if we don't choose to change it, or if we choose to keep it. A radical skepticism about foresight would hamper *any* choice.

²² This example assumes that the feasible nondemocratic regimes are roughly equivalent in terms of catering for the other rights.

²³ Christiano (*op.cit.*, p. 170) also discusses the potential conflict between a HRD and other strong rights, but my conclusion differs from his. Since his paper focuses only on the instrumental argument for a HRD, he concludes that in the circumstances a HRD is defeated rather than merely outweighed (as it would not serve the purpose that determines its value, which is to protect other strong rights).

²⁴ A possible objection is that since Beitz and Cohen accept that democracy is a demand of justice, they would also agree that it gives rise to obligatory goals of reform over the long-term. But if the goals are not also seen as responding to human rights (which are a subset of the claims of justice), then their great weight will not be recognized: their pursuit will be seen as having a lower level of priority and will be more easily put aside to attend to other goals.

²⁵ See Dahl's illuminating general framework, which includes a distinction between democratic "principles," "criteria," and "institutions." For discussion of specific institutions that are appropriate in different contexts see Dahl (1998, chs. 8-11). For a distinction between principles and institutions concerning the HRD see Buchanan (2004, pp. 145-7). We can also distinguish between minimal and maximal democratic political equality, seeing only the former as the focus of a HRD. Christiano (2011, p. 146) suggests that the former demands institutions securing effective and equal voting, equal opportunity to engage in consequential forms of political organization and action, and a rule of law supporting independent judicial control over the executive power.

²⁶ The Universal Declaration's Articles 19-21 (which can be interpreted as formulating specific democratic rights) might be too specific.

²⁷ Gilabert (2012b, sect. 3.2). This paragraph partly draws on p. 19.

²⁸ Cohen (2010, p. 365).

²⁹ One way to motivate this question is to say that our globalizing world involves a "democratic deficit," as decision-makers on issues of great importance (such as environmental protection and trade) are not democratically accountable to decision-takers. Beitz (2011) criticizes this approach.

³⁰ Christiano (2010).

³¹ Another possible response would rely on a proportional view of democratic rights. According to this view, some may be entitled to more say on a certain issue to be decided upon than others if they have more stakes in it. Global democratic arrangements giving different say to different people could then be argued for. On this view, some form of global democratic governance would be appropriate because some issues importantly affect everyone in the world, although since some would have more stakes in some of those issues than others, rights of political participation in decision-making would not be strictly equal with respect to all global issues. On the proportionality

view see Brighouse and Fleurbaey (2010). For a response to Christiano that develops this view see Valentini (2014, p. 795).

³² On the human rights focus for global democratic governance see also Gould (2004, p. 178), and Habermas (2009, ch. 7).

³³ For further discussion on human rights and empowerment, see Gilibert: forthcoming.

³⁴ For another argument that securing human rights and fair global governance provides an appropriate starting point for the pursuit global justice see Forst (2012, ch. 12). My argument is compatible with Forst's, but it is different because it does not rely on a constructivist approach to justice.

³⁵ Cosmopolitanism is the moral view that all individuals are ultimate units of equal moral concern and respect for everyone. See Pogge (2008, p. 175).

³⁶ For example, the pursuit of democratic empowerment occurs in countries moving away from nondemocratic rule, as in the recent Arab Spring. It also seeks to deepen democracy in countries that already have democratic institutions but face the domestication of the political process by the rich, as illustrated by the recent Occupy movement in the United States. Furthermore, and interestingly, the Occupy movement campaigned in solidarity with democratic movements in other countries. These movements converge in calling for democratic governance both at the domestic and international level. For example, the manifesto "United for # Global Democracy" said in 2011 that "Undemocratic international institutions are our global Mubarak, our global Assad, our global Gaddafi. These include: the IMF, the WTO, global markets, multinational banks, the G8/G20, the European Central Bank and the UN security Council. Like Mubarak and Assad, these institutions must not be allowed to run people's lives without their consent. We are all born equal, rich or poor, woman or man. Every African and Asian is equal to every European or American. Our global institutions must reflect this, or be overturned." See <http://www.guardian.co.uk/commentisfree/2011/oct/14/manifesto-global-regime-change>

A further clarification: The cosmopolitan duties (and the humanist ones mentioned in the next paragraph) are pro tanto because they can be limited by considerations of feasibility and reasonable costs, and because they have to be weighted against agent-relative and associative duties, which can sometimes (perhaps often) be stronger. (Notice that agent-relative and associative duties may rely on the generic value of certain special relationships, and be thus significant even from the cosmopolitan and humanist point of view.) For explorations of cosmopolitanism and humanism in relation to human rights and egalitarian distributive justice see Gilibert (2011, 2013, 2012a).

³⁷ For helpful comments or conversations I thank Charles Beitz, Luis Cabrera, Rowan Cruft, Maks Del Mar, Carol Gould, Stephen Macedo, Dean Machin, and audiences in workshops with the International Studies Association and the Princeton University Center for Human Values.