**An Instrumental Argument for a Human Right to Democracy**

Thomas Christiano[[1]](#endnote-1)

(*Philosophy and Public Affairs* Spring 2011)

Despite its increasing importance in contemporary political philosophy and its central role in international human rights law there has been significant resistance among political theorists and philosophers to the idea that there is a moral human right to democracy. In John Rawls’s late political philosophy of international justice and in the views of many who are sympathetic to his position, the idea that there is a moral human right to democracy is vigorously rejected.[[2]](#endnote-2) Other major recent treatments of human rights have either rejected the human right to democracy[[3]](#endnote-3) or shied away from making arguments one way or the other.[[4]](#endnote-4) One key concern animating the opposition to a moral human right to democracy is that the assertion of such a right in international society conflicts with the rights of peoples to collective self-determination. It is asserted that some peoples reject democracy or the equality on which it is founded so that recognition of a human right to democracy would impose upon them a set of norms that are alien to their political cultures. Another concern is articulated in popular writings suggesting that new democracies often violate the basic moral rights of citizens. This majority tyranny worry suggests a strong conflict between democracy and other basic rights.

I argue here that there are good grounds for thinking that there is a moral human right to democracy and that this does not imply any impingement on the right of collective self-determination. The argument I give here is a fully instrumental argument relying heavily on empirical studies that support the theses that (1) democracies are normally reliable protectors of certain very urgent and widely accepted human rights and (2) non-democracies and many partial democracies are reliable in failing to protect these rights. The moral human right to democracy is grounded in the central role democracy plays in political societies and in international society in the protection of other fundamental moral rights.[[5]](#endnote-5) I think that there is also an argument for the human right to democracy that makes democratic rights fundamental but it must proceed from more controversial premises.[[6]](#endnote-6) It is worthwhile making out a separate strong instrumental argument for the right to democracy based on the minimal premise that democracy is essential to the protection of very urgent and widely accepted human rights.[[7]](#endnote-7)

 In what follows I will articulate and defend a set of sufficient conditions for the assertion of a human right. I do not affirm or deny that these may also be necessary conditions. I will also explain the conception of democracy I am working with and the idea of a human right to democracy. I will give a three-step argument for the thesis that there is a human right to democracy: the domestic peace argument, the international significance argument and arguments against potential objections to my instrumental arguments. I will also explain the implications of this argument for the Rawlsian thesis that societies with inclusive but non-egalitarian collective decision making can be expected to respect the most widely accepted and basic human rights. I will close with a fuller discussion of the self-determination objection to the idea that there is a human right to democracy.

*What Is the Human Right to Democracy?*

In this paper, I will not attempt a full account of the concept of a human right. Instead I will defend a set of jointly sufficient conditions, which are particularly salient for my argument. Two jointly sufficient formal conditions for a human right to x are: (1) there is strong moral justification for any state to establish, respect, protect and promote a legal or conventional right to x (or a set of legal and conventional rights that can be usefully summarized as a right to x) and (2) there is moral justification for the international community to respect, protect and promote the above legal or conventional right to x in all persons. By “international community” I mean states other than the one in question, international non-governmental organizations and international organizations.

The institutional structure constituted by the conventional or legal rights has a strong moral justification when it is a normally necessary and reliable arrangement for protecting very urgent moral goods.[[8]](#endnote-8) Without it, it is very unlikely that the very urgent moral goods will be protected, with it, it is very likely that the very urgent moral goods will receive a great deal of protection. An institution or action has a moral justification when it is morally desirable that it be constructed or undertaken in order to protect morally urgent goods.

I will not settle here for a particular account of the very urgent moral goods. Very urgent moral goods can include the protection of human dignity, the satisfaction of fundamental interests, natural rights or not being treated as a moral inferior. I will rely here on an intuitive and very widely accepted list of very urgent moral goods to make my argument: the protections of the right not to be tortured, the rights not to be murdered or disappeared by the state and the right not to be arbitrarily imprisoned. I will call these rights of personal integrity. The elements of this list may be grounded in any one of the above purported kinds of morally very urgent goods.[[9]](#endnote-9) In sum, and telegraphing a bit, I will argue that there is a human right to democracy because the institutional structure made up by the legal and conventional rights that constitute democracy are normally necessary and reliable in protecting the basic rights to personal integrity and so it is strongly morally justified. And I will argue that the international community is morally justified in respecting, protecting and promoting that institutional structure in political societies.

To be clear, this account does not require the existence of states or international institutions recognizing the right in question. In the absence of an international institution or even of a functioning state, one may still say that the human right to x exists since one is saying that the construction of institutions that include a conventional right to x is strongly morally justified. And I think one may even say that the right is violated or infringed by those who block the construction of these institutions.

 In order to have a human right the morally justified institutions must specify legal or conventional rights that are to be protected. There may be morally justified international institutions that help avoid interstate wars, civil wars or the environment but this does not imply that there is a human right to avoidance of war or pollution. The institution that is morally justified must specify a right.

The human right to democracy that I will argue for asserts that there is a strong moral justification for states to adopt or maintain the institutions of minimally egalitarian democracy and it is morally justified for the international community to respect, protect and promote the right of each person to participate in minimally egalitarian democratic decision-making concerning their society. By “minimally egalitarian democracy” I mean a democracy that has a formal or informal constitutional structure that ensures three conditions. (1) Persons have formally equal votes that are effective in the aggregate in determining who is in power, the normal result of which is a high level of participation of the populace in the electoral process. (2) Persons have equal opportunities to run for office, to determine the agenda of decision-making and equal opportunities to influence the processes of deliberation. Individuals are free to organize political parties and interest group associations without legal impediment or fear of serious violence and they are free to abandon their previous political associations. They have freedom of expression at least regarding political matters. In such a society there is normally robust competition among parties so that a variety of political parties have a significant presence in the legislature. (3) Such a society also acts in accordance with the rule of law and supports an independent judiciary that acts as a check on executive power. This cluster of rights, which enable one to participate as an equal in a political society, is what I am summarizing in the term a legal or conventional right to democracy. To have a human right to democracy is for it to be strongly morally justified that such a cluster of rights be realized in one’s political society.

Such a society need not be fully just by any means nor need it live up fully to the ideals of democracy. For that reason I call it minimally egalitarian. Such a society may limit some opportunities to participate due to inequalities of wealth. It need not be fully liberal since it may restrict non-political activities and violate liberal rights that are not connected to the democratic process. But it is not merely majoritarian with universal suffrage and elections. Minorities must have the protections of the rule of law, free association and expression as well as equal opportunities for organizing politically effective groups and there must be free and fair competition for power among a variety of groups that compete on an equal footing. Normally this will result in minorities having a significant place in the legislature.

This conception of a human right to x as entailing a strong moral justification for a legal or conventional right to x first at the state level and then a moral justification to protect and promote those rights at the international level is supported by four considerations. One, it implies that we are talking about rights because it says that normally one must have a legal or conventional right to x in order to protect and promote the very urgent moral goods. The very urgent moral goods are sufficient to ground duties in each to protect the minimally egalitarian democratic rights of each. Two, the proposed conceptiom implies that we are talking about universally held rights. Three, the rights are pre-institutional in the sense that they do not depend for their existence on actual institutions. Four, the moral structures of these rights correspond to the structure of moral justification that is common for many if not most of the human rights we observe in contemporary international human rights practice. These impose upon states the duties to realize certain fundamental moral goods by instituting and protecting various rights and they impose on the international community the duties to help states do this.[[10]](#endnote-10) If we can successfully show that there is strong moral justification for states to be minimally democratic and that the international community is morally justified in promoting and protecting democracy then we have an argument for a human right to democracy that fits within the mainstream concept of human rights.

*The Instrumental Argument for a Human Right to Democracy*

The instrumental argument for a human right to democracy comes in three steps. I employ two empirical arguments for the thesis that there is a human right to democracy. The first empirical argument is the *domestic peace argument*. It says that minimally egalitarian democracy is a normally reliable method by which the least controversial of human rights are protected and societies whose institutions are not minimally egalitarian are normally unreliable in this respect. The second empirical part of the argument is the *international significance* argument. It argues that the international community has good moral reason to be concerned with whether a society is democratic or not. A third set of empirical arguments will attempt to show that the argument for the right to democracy is not defeated by any highly problematic effects democracy might have for other rights.

To bolster the idea that this three part argument supports a genuine human right I draw an analogy with another widely accepted human right that is largely instrumentally based: the right to a fair trial. Fair trials are imperfect but reliable methods of assessing the guilt and innocence of persons. Like democracy fair trials protect rights by giving persons opportunities and choices by means of which they can defend their rights. Yet few would deny them status as human rights.

*The Domestic Peace Argument*

The domestic peace argument is based on a number of studies that give strong evidence for the thesis that minimally egalitarian democracies reliably protect personal integrity rights and societies that are not minimally egalitarian democracies do not reliably protect these especially urgent rights. These studies argue further that democracy is an important cause of this protection. The domestic peace argument has four main elements: (1) a very strong correlation between minimally egalitarian democracy and the protection of personal integrity rights and the normal failure of non-democracies to protect these rights; (2) the identification of democracy as a key independent variable in explaining the protection of personal integrity rights; (3) a sequencing argument showing that newly minted minimally egalitarian democracies achieve their protection of personal integrity rights fully only after a period of about five years after they come into existence; and (4) a model that explains how minimally egalitarian democracies protect human rights and non-democracies do not. These four elements give us good reason for thinking that minimally egalitarian democracy has the effect of protecting human rights and other societies do not.

Rights of personal integrity are rights not to be murdered or disappeared by the state, state sponsored agents or state-like agents, rights not to be imprisoned for political reasons and rights not to be tortured by the state, state sponsored agents or state-like agents. They are all rights held against the state primarily. Personal integrity rights are given a special urgency in the international system and are uncontroversial in international society. They receive special protection in the International Covenant on Civil and Political Rights. The corresponding legal rights are described as non-derogable rights in the covenant, which means they may not be suspended even in times of severe crisis.[[11]](#endnote-11) And some of these legal rights have the status of *jus cogens* norms in international law, norms so fundamental that no state can agree to contravene them.[[12]](#endnote-12) Furthermore, these rights are universally accepted among philosophers and societies as among the minimal list of human rights.

Here are the four elements of the domestic peace argument.

(1) A number of scholars have attempted large-scale statistical studies of the best predictors of the protection of the rights to personal integrity. Steven Poe et al. have argued from probably the largest of such studies that there is a general linear and negative relationship between democracy and the violation of rights to personal integrity.[[13]](#endnote-13) The more democracy there is, the less repression of the human rights to personal integrity there is.

The concept of democracy is operationalized in two crucially distinct data sets. The first is the Polity IV dataset and country reports. These datasets attempt to define a continuum of quality of democratic institutions in particular years from 0 to 10 wherein the United States, most western European countries and Japan come out to be 10 and Russia is a 6 between 2000 and 2006 and declines after that. Ukraine fluctuates between 6 and 7 between 1995 and 2007. Columbia was at 8 in the eighties, a 9 in the early nineties and a 7 since then. Brazil has been an 8 since the late eighties.[[14]](#endnote-14) Polity also includes a continuum of increasingly authoritarian states from 0 to -10. Iran fluctuates between a -10 in the sixties and seventies to a -6 in the eighties and nineties and a brief period of +3 in the early 2000’s. Pakistan fluctuated dramatically between -6 and +8 between the fifties and the nineties. The Polity IV measure is a composite index that includes level of participation, competition for office, and judicial checks on the executive. The second is the Vanhanen Index of Democratization, which measures the proportion of the population that participates in elections and the proportion of votes received by all minority parties.[[15]](#endnote-15) In both of these sets, democracy is treated as a continuous variable on a scale from quite weak democracies to very strong ones.

Violations of personal integrity rights are measured for each country every year in what is called the Political Terror Scale. The political terror scale is a kind of aggregate measure of the violations of the different rights of personal integrity described above. The data on which the terror scale is constructed come from Amnesty International’s yearly country reports and the US State Department’s yearly reports. The numerical measures are constructed from these reports. They are on a scale from 1 (best) to 5 (worst) that is a composite index of the measures of violations of each of the different rights.[[16]](#endnote-16) These datasets and the criteria they use deserve greater study and analysis than philosophers and political theorists have so far given them.[[17]](#endnote-17)

More recent studies have suggested that the picture is more complex and much more interesting than a merely linear negative relation between democracy and violations of human rights. In these studies the relationship between democracy and violations of personal integrity exhibits an important discontinuity that has not shown up in previous studies. The idea is that only once democracy meets a certain threshold of quality on the scale does the linear negative relationship between democracy and violations of personal integrity rights begin to emerge and then it emerges as a very steep inverse relationship.[[18]](#endnote-18) The level roughly at which a serious linear and negative relationship between democracy and human rights violations appears is at the Polity IV level of 8, which Brazil has satisfied since the late ‘80s. Up to and including 7 the relationship is roughly that of a flat line, which suggests that differences in regime do not make much difference to levels of violation of human rights to personal integrity. After 7 a steep downward sloping curve expresses a very strong inverse relationship between the increasing quality of democracy and numbers of violations of human rights to personal integrity. The very same threshold effect is evident in using the Vanhanen index as in the use of Polity IV index.[[19]](#endnote-19)

Meeting the basic threshold requires that: (i) The legislature and the executive are electorally accountable to the electorate. There is a fairly high level of participation in the populace in elections. (ii) Electoral processes are competitive in the sense they are free and fair, which means that special obstacles are not put in the way of any of the individuals or parties in the electoral process and that more than one party contests elections and minorities have a significant presence in the legislature. (iii) There are serious checks on executive power.

These conditions describe societies at the threshold, when minimally egalitarian democracy begins to appear. The empirical literature does not refer to equality in the process of decision-making. It focuses on the importance of free and fair elections with robust multiparty competition as well as the accountability of legislative and executive offices to the population. I interpret the accountability provision to imply that there is equality in a voting procedure that genuinely chooses legislative and executive officers. I interpret the idea of free and fair competition among a multiplicity of political parties as a realization of equal opportunity to run for office, to form and revise civic associations and political parties and to influence collective decision-making. In free and fair elections there are no religious or ideological obstacles set up by the political system and no serious threat of violence associated with the formation of political parties or to the competition of political parties for the votes of citizens.

 (2) In multivariate analyses, minimally egalitarian democracy turns out to be a very strong independent variable explaining the protection of human rights to personal integrity. Other factors have been taken account of in these studies: population size, per capita GDP, civil war, interstate war and the presence of international intergovernmental organizations.[[20]](#endnote-20) The question is, what effects do we see when we control for these variables?

Per capita GDP has been associated with a small effect on lessening of human rights violations. But it seems to play a significantly smaller role than minimally egalitarian democracy from the multiple regression analyses.[[21]](#endnote-21) And population size seems to have little effect on human rights violations. The presence of INGO’s has some effect in diminishing human rights violations, but it must be remembered that the influence of these INGO’s is generally through the domestic institutions of the societies and thus most often through democratic regimes.

Interstate war appears not to have as large an impact as minimally egalitarian democracy on the violation of personal integrity rights. Civil war seems to be the most important factor of all in explaining human rights violations, even greater than minimally egalitarian democracy. But, while states tend to increase repressive activity and violations of personal integrity rights under these conditions, democratic societies tend to do so much less than other kinds of states. So even under the harshest of adverse circumstances, democracies have a significant effect in reducing state violations of personal integrity rights.[[22]](#endnote-22)

The most important point is that when one controls for all of these different variables in multiple regression analyses, minimally egalitarian democracy emerges as the most important variable after previous repression and civil war. Again, the threshold effect here is in evidence. Moving up on the scale of Polity VI up to the point before the threshold does not have significant independent effect on violations of personal integrity, but moving past the threshold has a massive effect even when controlling for the other variables.[[23]](#endnote-23)

Furthermore, (3) there is a clear and measurable effect over time of introducing minimally egalitarian democracy in a society on the level of violations of personal integrity rights in that society. Violations of personal integrity rights taper off quite significantly within about 5 years of the introduction of minimally egalitarian democracy.[[24]](#endnote-24) And violations of personal integrity rights increase quite dramatically within five years of a loss of this kind of democracy. This sequencing argument adds some weight to the argument that minimally egalitarian democracy is a significant cause of the decrease in violations of human rights to personal integrity. It suggests that it is democracy that is bringing about the protection of these rights and not vice versa.

The conclusion of the above arguments is that democracy (once it reaches the level of minimally egalitarian democracy) is a really good bet for the protection of the human rights to personal integrity, in contrast to other forms of government. To be sure, it is not a strictly necessary condition nor is it a strictly sufficient condition. Before moving on to the last part of the domestic peace argument, I want to pause briefly to discuss some difficulties with the statistical arguments.

*Some Worries about the Statistical Arguments*

As with any statistical argument, it could turn out that there is another more important independent variable that explains why democracy is associated with human rights protection but that undermines the causal importance of democracy. Not every possible variable has been considered and some potentially explanatory variables are very hard to get a grip on. Nevertheless, we may say that we have good evidence for the causal impact of democracy on human rights protection. Another concern is that it could turn out that it is not democracy that is strongly associated with human rights protection but something more limited such as wealthy democracy. But the best empirical evidence we have at the moment suggests no such further division. Per capita GDP, population and war have been controlled for and these have not undermined the significant effects of minimally egalitarian democracy.

 Another more immediate worry is that what is measured by the Political Terror Scale (PTS) may overlap too much with what is measured by the Polity IV measures. For instance, the PTS counts political imprisonment as a violation of personal integrity. But surely many and perhaps most instances of political imprisonment would also qualify as violations of freedom of speech or freedom of association and count as undermining the freedom and fairness of the elections (not all since some opponents of a regime may not be interested in competing in elections). And of course many instances of torture, killings and disappearances by the state could qualify as undermining free and fair elections. There is a danger of triviality if the two data sets do not use sufficiently distinct criteria. The argument here attempts to show that societies with feature A have C as a causal consequence of A and –A societies have consequence -C. Since everyone is agreed that C is of great importance even though they do not agree on A, they now have reason to think that there is strong reason to realize A. If the overlap of these elements is too great then we would merely be saying that a society with features A and C has feature C and societies without A and C do not have C. The whole instrumental argument for A is undermined.[[25]](#endnote-25) Caution is clearly in order here.

But three considerations mitigate this worry. First, as noted above, the same strong correlation between minimally egalitarian democracy and the protection of human rights to personal integrity appears when we use the Vanhanen Index of Democratization to measure democracy and it does not use criteria that overlap with the personal integrity rights. And the importance of democracy as a key independent variable explaining protection of personal integrity rights also appears in multivariate analysis when using this index. Second, torture, extra-judicial murder and disappearance are often inflicted by states for non-political reasons as when suspected criminals are tortured in detention centers. This is the reason why the United States (which is an outlier in these arguments) scores a 3 on the Political Terror Scale while being a 10 on Polity IV. And some opponents of a regime may not be interested in competing in elections, so political imprisonment need not be against potential opponents in an election. Third, the five-year lag effect that we noted above suggests that democracies that score from 8 to10 on the Polity IV score go through initial phases where they still engage in violations of personal integrity.

*The Role of Minimal Equality*

All the features of minimally egalitarian democracy are important in the protection of human rights, including the kinds of constraints on executive power we associate with checks and balances. But, in multivariate analyses, the most important component in explaining democratic protection of human rights to personal integrity are the egalitarian variables of participation and of free and fair multiparty competition and not judicial constraints on the executive.[[26]](#endnote-26)

Some have argued that equality in the processes of collective decision-making is not essential to the protection of basic human rights. John Rawls and Joshua Cohen both argue that societies Rawls calls consultation hierarchies can normally be decent in the sense of also protecting basic human rights. On their account, a consultative hierarchical regime has essentially four features (and here I follow them in separating out consultation hierarchy from the other condition of decency that is the protection of basic human rights). One, the rulers make decisions in a way that is accountable to all the members of society in the sense that the rulers must consult with the representatives of the members of society. Citizens may be represented functionally or territorially or in some other way but all must be included. And the representatives need not be chosen in competitive elections. Consultation is never defined in this account, but I am assuming that it implies that the representatives do not have a vote in the process of decision-making. I assume that it is primarily explained in terms of the next two conditions. Two, everyone has a right to dissent from or appeal the decisions of the rulers. Three, the rulers are committed to giving public reasons for its decisions in terms of a widely shared common good conception of justice. Four, it is never made clear how these rulers accede to their offices. It seems that they may be selected from among the leading members of the dominant religious or ideological organization in that society. I assume that they need not be popularly elected to these offices. The other leading members of the organization may simply select them according to merit. [[27]](#endnote-27)

This regime is not egalitarian for a variety of reasons. Citizens do not choose or throw out rulers at all or in any case through a competitive electoral process. Citizens need not choose their representatives in competitive elections. Their representatives do not have a vote in the decision-making. Citizens do not have equal opportunities to run for office, to form political parties or associations. Religious or ideological qualifications may be necessary even to become a representative.

A consultation hierarchy comes closest to what in Polity IV is an “incoherent regime.” It has elements of democracy and autocracy. All citizens are included in the process of consultation, because they have representatives that are consulted by the rulers. But the process of selection of representatives need not be one of competitive election. And the most powerful elites take themselves to be accountable to the people in the sense of having to listen to dissent and give reasons for policies when challenged, but they cannot be popularly voted out of office. Ideologically based states like Yugoslavia in the 1980s and the later Soviet Union as well as Islamic states such as Iran in the 1990s and early 2000s would seem to qualify as consultation hierarchies on this account. They have popular assemblies elected in quite uncompetitive elections and political parties that are also partly popularly based. Their elites claim to rule in the name of a conception of the common good defined by the established religion or by an ideological party.[[28]](#endnote-28)

There may not be a perfect fit here between the regimes on the Polity IV scale and the consultation hierarchy, mostly because we have only the slightest sketch of the latter. But it isn’t clear that we need a perfect fit here. This is because all the regimes that fall short of minimally egalitarian democracy simply do not protect widely accepted human rights very much.

There is no conceptual or a metaphysical impossibility here. A decent consultation hierarchy is not impossible; it is just very unlikely. The normal operation of a consultation hierarchy is incompatible with the protection of the basic human rights involved with decency. Oman is sometimes mentioned as a regime of this sort, though its political system is closer to an absolute monarchy. Its sultan has over the last forty years been relatively light on political repression and violence and has attempted to open up some avenues for broad participation in the society.[[29]](#endnote-29) But this seems to depend on the will of the sultan; his father was an arbitrary and repressive ruler for an equally long time.[[30]](#endnote-30) And it is alone among hereditary monarchies to have such a good record. In Rawls’s terms it seems that a decent consultation hierarchy is not a stable well-ordered society.[[31]](#endnote-31) It is a kind of social-political anomaly. A consultation hierarchy is not likely to be decent.

Partly this conviction results from the fact that we have a good model for how this works, which also seems to be borne out by the evidence. This is the last component of the argument: (4). The basic model is that minimally egalitarian political institutions effectively make rulers accountable to their citizens in an egalitarian way; they constrain rulers by giving incentives to others to call rulers out for human rights abuses and they threaten rulers with loss of office if serious allegations hold up. The basic assumptions of this model are that politicians are tempted to use repression to quiet dissent and assure their tenures in office for whatever purposes they have. At the same time, people very strongly do not want to be tortured and they do not want those who are close to them to be tortured. Furthermore, most people do not want others to be tortured (though that need not be a strong preference) and some people very strongly do not want others to be tortured. And the same holds for the other rights of personal integrity. This has a much greater impact in an egalitarian democracy than in other societies. There is no barrier to associations with strong views in opposition to torture or to political parties that oppose human rights abuses. This ensures that the society over time is relatively transparent, since everyone is making an effort to reveal problems particularly in the activities of their opponents. Furthermore, these competing groups have the capacities to mobilize citizens to punish politicians who violate rights egregiously. The fact that the participation and competition elements of democracy have the most effect in protecting human rights gives some support to this model.[[32]](#endnote-32)

In autocracies, in contrast, since competition among opposing groups is stifled because of high ideological or religious barriers to running for office or simply because of arbitrary exclusions, the facts of human rights violations are much more difficult to uncover. And even when they are uncovered, the barriers to entry for particular politicians and parties diminish the accountability of those in power. And top elites cannot be thrown out at all, barring very serious social upheaval. So the temptation to use repression is relatively unchecked. For these reasons, Rawls’s basic mechanism of the consultation of rulers with representatives of the people is not adequate for the protection of basic human rights. There too many ways in which opposition is constrained so the truth may never come out. And rulers are too independent of the people so they have little fear of loss of office.

We have here also a way of understanding the idea of the normally necessary. As with perhaps all social scientific claims, what is normally necessary admits of outliers. What qualifies a connection as normally necessary is that the connection holds because of the structure of the arrangement and the outliers are anomalous. Usually they are passing outliers that are rectified by the system.

Now the four elements of the argument for the instrumental value of minimally egalitarian democracy are in place. We have seen that (1) minimally egalitarian democracies are correlated with the protection of personal integrity rights and other societies are not; (2) minimally egalitarian democracy is an important independent variable that explains protection of these rights; (3) there is evidence for the idea that normally one must first introduce minimally egalitarian democracy before protection of human rights becomes complete; and (4) we have a model for why minimally egalitarian democracy has these effects and other societies do not.

The four parts of the argument give good reason to think that minimally egalitarian democracy is a major cause of respect for human rights to personal integrity. The first two parts, in establishing the threshold effect of minimally egalitarian democracy, give us good reason to think that minimally egalitarian democracy is a normally necessary and reliable condition for the protection of human rights to personal integrity. So we can see that there is a strong moral justification for bringing about, or sustaining minimally egalitarian democracy.

I want to reiterate that regimes that score highest on the Polity IV measure of democracy and on the Vanhanen index may fall short of complete justice in a variety of ways. They often do not fully live up to democratic ideals. They may give disproportionate influence to the wealthy. They may have less then optimal systems of representation. And they will inevitably pass unjust legislation since they are characterized by a great deal of disagreement. Their minimally egalitarian democratic credentials, though strong on the various empirical measures of democracy, only imply that they meet a minimum threshold of justice.[[33]](#endnote-33)

*The International Significance of Democracy for Human Rights*

I have argued that there is strong moral justification for states to be minimally egalitarian democracies. In this section I will defend the second step in the instrumental argument for a human right to democracy. I will argue that there is moral justification for the international community to respect, and to attempt to protect and promote the existence of minimally egalitarian democracies.

 We can start with a very simple argument based on the arguments presented so far. Assume that it is morally justified for the international system to respect and to try to protect and promote the human rights to personal integrity. The arguments above suggest that efforts to protect and promote these rights are highly unlikely to bear fruit unless societies are minimally egalitarian democracies. They are also likely to bear significant fruit if they are such democracies. If there is a moral justification for the international community to protect and promote human rights to personal integrity then there is a moral justification for the international community to protect and promote minimally egalitarian democracy.

There is another consideration in favor of attempting indirectly to protect and promote the human rights to personal integrity through promotion and protection of democracy. The basic idea is that the indirect strategy aligns moral considerations with the interests of the members of the international system and thus is a plausible mechanism for improving the protection of human rights.

This argument asserts that (1) the international system works at the moment primarily as a system of reciprocity. States are willing to comply with international law and sanction violators to the extent that they expect to benefit from other states doing their part or to the extent that they think that they will be sanctioned for nonperformance by other states. International institutions similarly act only when there is reciprocity among states. This does not imply that states merely act in their self-interests. They may reciprocate in certain conditions in which they must make some sacrifices. And they may only sanction other states for violations of international norms.[[34]](#endnote-34) But in the main, the whole system has to be working in the long run interests of each political society.[[35]](#endnote-35)

But (2) human rights treaties are not reciprocating treaties. They consist primarily in treaties that say you must not violate the human rights of your citizens and we must not violate the human rights of our citizens.[[36]](#endnote-36) These two points suggest that the international system, as it is currently operating, will not enforce human rights treaties. And it will not act to protect the urgent human rights to personal integrity. In the last ten years a substantial body of evidence has developed that supports these contentions, which some call the “realist insight” concerning human rights treaties.[[37]](#endnote-37) They have argued that human rights treaties do not generally make much difference to the human rights performance of the states that have signed on to them.[[38]](#endnote-38) [[39]](#endnote-39)

Though the members of the international system have little interest in the protection of human rights outside their borders, they do have significant interests in the promotion and protection of democracy. These interests are grounded in the democratic peace and the facts of democratic compliance with international law.

The democratic peace thesis asserts that democracies do not go to war with one another and that this distinguishes democracies from other types of regime. Democracies do go to war with non-democracies. And non-democracies go to war with each other. Democracies don’t go to war with each other. There are really two elements to the thesis. One is the observed empirical regularity and the other is the idea that it is something about democracy that explains that regularity. War is usually defined, using the standard Correlates of War dataset, as having a thousand battlefield deaths or more. The definitions of democracy in the empirical research are broadly similar to minimally egalitarian democracy, though many definitions are a bit less restrictive. The empirical finding in the democratic peace thesis is robust because the empirical results are not sensitive to minor variations in the definition of democracy. There are very few exceptions to the democratic peace hypothesis and they are controversial and at best involve borderline cases of democracies.[[40]](#endnote-40) Two prominent scholars of war in their review of the current scholarly status of the thesis say: “There is now a strong consensus that democracies rarely if ever fight each other and that this regularity is not the spurious result of other factors like relative power, alliances and contiguity.”[[41]](#endnote-41) How democracy produces peace remains a matter of debate: some argue for a prominent role for democratic cultural norms, others argue it has more to do with the democratic institutions of accountability. Though there are some distinguished dissenters to this thesis,[[42]](#endnote-42) I think it is reasonable for us to use the democratic peace thesis as a widely supported premise in this argument.

The democratic peace thesis provides support for the idea that the widespread presence of democracy is a global collective good. War is one of the most damaging kinds of events that can occur to human societies. Moreover, since war is itself a catalyst for human rights violations, an international system that diminishes the prospects for war diminishes the likelihood for human rights violations. Hence democratic states have an interest in seeing democracy become more widespread.

Similarly, democracies are more likely to observe treaties than non-democracies.[[43]](#endnote-43) They are more likely to comply with international treaties than non-democratic governments and they are also more likely to create and sustain international institutions than non-democracies. Since societies have interests in international treaties being observed and international institutions being sustained, and democracy is an important pillar of the stability of these institutions, the maintenance of democracy is an important global collective good.

From these claims, I think we have a good argument for the second step in the argument for a human right to democracy. We have good reason to think that the international community is morally justified in attempting to respect, protect and assist in the creation of democracies. It is a good indirect strategy for protecting and promoting the human rights to personal integrity because it aligns the interests of states with moral reasons. This is because (1) minimally egalitarian democracies are normally necessary and reliable institutional schemes for protecting human rights of personal integrity. And we can now see that (2) the members of the international system have a genuine interest in respecting, protecting and promoting democracy, while they seem not to have a genuine interest in directly promoting the protection of the rights of personal integrity.

 To be clear, the alignment of moral reasons and interests is not a necessary condition of moral justification, though in the present circumstances it greatly enhances the mechanism by which morally desirable outcomes can be achieved. This need not imply that the international system is evil or that states are evil. It may be an implication of the fact that states are primarily devoted to the establishment of justice within their jurisdictions and act as representatives of their peoples when dealing with other societies. Moreover, because states have no obvious mechanisms of accountability to the interests or opinions of those who are not citizens, except in their relations with democratic states, there is something desirable in a state’s primarily self-interested behavior. The desirability of this restraint has its limits, as in the case of neglect of large-scale genocide or ethnic cleansing.

*Does the Argument Establish a Genuine Right?*

Taking stock, I have argued that minimally egalitarian democracy is normally necessary to the protection of the human rights to personal integrity and so, strongly morally justified, and that the international community has good moral reason to promote minimally egalitarian democracy.

 That we are justifying a conventional right by appeal to what is necessary to and reliable in protecting other moral rights distinguishes the case for a right to democracy from two other kinds of argument that do not establish a right. First, it distinguishes the instrumental argument for a right to democracy from an argument for something that it would be merely morally desirable to bring about. The need for a right to democracy has a necessity that merely desirable things do not have. Second, it distinguishes the argument for a right to democracy from an argument for establishing peace, which also brings about improvements in human rights performance. Normally we would not say that individuals have a right to peace. Our argument establishes the need for something that has the structure of a right.

 Some might worry that the argument, in being instrumental and dependent on contingent facts, cannot support a genuine right to democracy. But this seems mistaken. The instrumental argument, though contingent, makes use of a kind of necessity, which I have called the normally necessary. Moreover, there are a number of rights of great importance that may be primarily based on their instrumental value such as the rights to a fair trial or at least the component rights such as the right to confront one’s accuser or the right to remain silent. These are commonly in the lists of human rights but the first arguments one would give for these are instrumental ones. In this respect the rights argued for are protective rights, they enable persons to defend their rights to personal integrity from violation by others.

 Some might worry that the right to democracy is not really an individual right because the right to participate is normally effective in promoting the morally very urgent goods only if many others exercise the same right. But the rights to a fair trial, freedom of association and freedom of expression are similar. My right to a fair trial will not be effective if others do not have the same right and are frightened into giving false testimony or not giving exculpatory testimony. Another worry is that my urgent interests would be no less protected if I alone lose the right to participate in a large society. But this is also true of freedom of expression. Many traditional individual rights have collective dimensions to the extent the effectiveness of each person’s rights depends on others having the same rights and exercising them.[[44]](#endnote-44)

*Possible Worries*

Charles Beitz has observed that the process of democratization in many countries has stalled over the last thirty years or so. It has issued in highly unsatisfactory political regimes that are as likely to violate the human rights to personal integrity as autocratic regimes. He argues that this effect is seen more in the case of poor countries than others. So he concludes that if we take poor countries as a group, we may have reason to think that the international community is not really capable of bringing about lasting democratic reform. As a consequence, we may have reason to think that the international community is not morally justified in attempting to promote or protect democracy in poor societies. And so there isn’t a general moral justification for the international community to promote and protect democracies.[[45]](#endnote-45)

 In response, it is true that there is some positive association between income and democracy, though scholars differ as to whether there is any causal connection.[[46]](#endnote-46) But there have been a number of successful transitions to democracy among poor countries in the last two decades.[[47]](#endnote-47) And these transitions took place in all the different regions of the world. Moreover, the international community played some role in assisting these transitions. For example, nearly all of them involved international assistance with and monitoring of elections. Some of them involved the forceful intervention of the international community (e.g. Kosovo and Sierra Leone).

Furthermore, a number of recent studies argue that very poor democracies outperform very poor autocracies on all the human development measures and on the measure of GDP per capita growth, though they do caution that a context sensitive application of democratic principles is necessary.[[48]](#endnote-48) Moreover, the arguments above support the idea that democracies tend to protect the human rights to personal integrity even when per capita GDP is controlled for.[[49]](#endnote-49) It just doesn’t look like poverty normally rules out a transition to effective democracy or the positive involvement of the international community in helping improve the prospects of democracy, though it may make it more difficult.

The fact that democracy is less likely to succeed in poor countries than in middle income or wealthy countries does not imply that there isn’t a moral justification for the international community to attempt to protect and promote democracy in poor countries. To have a moral justification for attempting to achieve a certain outcome x does not entail that one must always be doing something to achieve x. Parents have a moral justification in trying to get their children to be decent human beings. But there are many times when the best thing to do is just to stand back and hope for the best. A captive has a right that the police do what they can to extract him safely. But there will be circumstances where the police ought to do nothing lest the captor kill the captive. The captive does not thereby lose the right against the police to be free. In the circumstances, there is at least always moral justification for thinking about how best to achieve the outcome and then to pursue a course of action if it is a plausible one.

It may be true that in some cases the international community ought not to do anything until certain conditions obtain or it ought not to take the lead in bringing about democracy in some countries. In some cases, non-democratic elites would react with such ferocity they could manage to stall the transition in a highly unsatisfactory and violent middle state or even block it altogether. But this would not be a reason for thinking that the international community was not morally justified in trying to do whatever it could to bring about democracy.

And it is certainly true that the international community ought to use different strategies in the cases of different countries. In some, no doubt very rare cases, it might sanction forceful intervention. It can certainly give assistance to countries in setting up and monitoring the electoral process, writing a constitution or providing other kinds of assistance. It may also condition certain kinds of aid on democratization. Regional associations may condition membership on democratization. It can also impose sanctions on societies for backsliding on their democratic commitments. More generally international cooperation with recalcitrant states can be limited in various ways.

A second worry is whether democracy does better in some respects but worse in others. If democracy does much worse on other rights, this could defeat the instrumental argument for the human right to democracy. But it does not appear that there are any respects in which democracy does worse. Democracy does better than autocracy on civil and political rights. Recent scholarship argues persuasively that democracy does no worse on per capita economic growth in poor societies and many now argue that it does better.[[50]](#endnote-50) Furthermore, democracy is thought to do better by many and no worse by some in protecting their citizens from violent crime.[[51]](#endnote-51)

One modification of the thesis I have been defending may be called for. Statistical arguments allow for outliers that do not conform to the statistical generalization. So we can at least imagine a minimally egalitarian democracy in which there are major human rights violations taking place on a regular basis and a feasible authoritarian alternative in which the human rights violations would decrease very significantly. This is a very strange case without a doubt, but it is worth reflecting on since it might give us some insight into the structure of the right.

My inclination is to say that in this case the human right to democracy would be defeated. The right would not merely be overridden as might happen were some weightier consideration to be balanced against it. The defeater would undermine the ground of the right altogether and thus eliminate it without remainder for as long as the circumstances obtained. This is the implication of the fact that the grounds adduced here are essentially instrumental.

Does this defeasibility undermine the thesis that there is a human right to democracy? It does not because, in this respect, the right to democracy is not much different from many other rights. Most think that if the moral considerations on the other side are sufficiently weighty, even the rights not to be tortured or murdered for political reasons can be defeated.[[52]](#endnote-52) Moreover even a non-instrumentally grounded right like a person’s right to freedom of movement can be undercut if that person has engaged in serious criminal activity or threatens to engage in such behavior. And we can imagine a case in which a fair trial would without doubt get the wrong outcome for an individual for various reasons and that a trial procedure that was not fair would have a better and more just set of outcomes. We can even imagine a system of fair trials more generally that produces problematic outcomes under certain circumstances. In this case, it would seem that the right to a fair trial would be undercut by its loss of instrumental value.[[53]](#endnote-53)

Still we are talking about a right because in the normal case it is essential that officials be committed to protecting democracy and respecting its decisions even in those circumstances where they think they could do better otherwise. The accountability of rulers to citizens in democracy depends on the rulers not having discretion to suspend democratic rights. And without the accountability, the protection of human rights to personal integrity would be compromised. So the defeasibility of the human right to democracy in highly unusual circumstances does not undermine the thesis that there is a genuine right here.

*Self-Determination Objection*

Some have objected that the human right to democracy interferes with the legitimate self-determination of peoples. On one conception of self-determination, a people is self-determining when (1) their political institutions accord with political ideals they share and that have survived their critical reflection and (2) when the political institutions are such that all the different groups in society are consulted in the making of decisions.[[54]](#endnote-54)

The argument is that one must tolerate societies in which the members share political ideals (even if they are different from ours) and which are responsive to the persons in them just as one must tolerate individuals that hold different religious beliefs in domestic societies. It is claimed that some societies share non-democratic political ideals because they reject egalitarian ideas. If there is a human right to democracy, it is argued, then the international community is morally committed to protecting and promoting minimally egalitarian democracy. But if the international community is committed to protecting and promoting minimally egalitarian democracy, then it does not tolerate non-democratic societies. But non-toleration of non-democracies is a threat to their legitimate self-determination. Therefore, the idea that there is a human right to democracy is a threat to the legitimate self-determination of peoples.

*Responses to the Self-Determination Objection*

I do not think that a human right to democracy limits a legitimate right to collective self-determination. But we must ask what the conditions for legitimacy are here. One, legitimate collective self-determination usually implies that the society respects uncontroversial and very urgent human rights. Two, considerations of legitimate self-determination are usually thought to require unanimity or near unanimity on the alternative arrangements. In the absence of near unanimity, it is unclear that many would argue against the need for democracy. In this respect the above conditions of near unanimity and broad participation are usually thought to be sufficient but not necessary conditions.

In reply then to the objection, the first thing to note is that if the arguments of this paper are correct then there is substantial reason to think that in tolerating non-democratic societies citizens of democratic societies are tolerating societies that normally violate uncontroversial and very urgent human rights. In the normal case, toleration of non-democracies amounts to toleration of severe human rights violations or to the high probability that such violations will occur. Normally then, the absence of minimally egalitarian democracy seems to imply the absence of legitimate collective self-determination. Furthermore, the second condition is rarely met in societies except if they are minimally egalitarian democracies. Indeed, in every region a majority seems to prefer democracy, at least in the modern world. Democracies do have near unanimity on their democratic structure.[[55]](#endnote-55) So it looks like in the case of societies that are non-democratic, neither condition normally holds. Hence, these societies do not have legitimate collective self-determination.

The severity of this response can be mitigated in a number of different ways. First, we might accept a weaker conception of collective self-determination and a correspondingly weaker conception of international toleration, both of which can be extended to non-democratic societies. We may think it is important for a variety of reasons for a society to arrive at democratic institutions on its own for the most part. Home grown democratic institutions may be much more stable and satisfying than externally imposed ones. External intervention to impose democracy may not very likely succeed since the intervener’s interests do not usually coincide fully with the supposed beneficiary’s interests and the intervener is not accountable to the supposed beneficiary. In this respect we might have an instrumental argument for the weaker notion of collective self-determination as freedom from forcible intervention. And we might have a correspondingly weaker notion of toleration as non-intervention.[[56]](#endnote-56) We might reserve the stronger notion of toleration for democratic societies, where this consists in treating the society with a full kind of equality in the international realm that implies unreserved cooperation.

There are a number of ways to act on the basis of a human right to democracy short of military intervention. We can offer nonessential assistance to societies only on condition that they take steps to democratize. We can step in, in a variety of ways, when an elite attempts to take over a democratic society by force or by fraud. We can offer assistance to societies struggling to achieve democratic institutions.[[57]](#endnote-57)

Finally, my arguments for the human right to democracy do not require perfect democracy or perfect justice. They defend minimally egalitarian democracy. Hence they do leave significant room for local variation among societies in terms of the kind of democratic system they adopt as well as the justice of the political system they create. They do not resolve all issues and allow for room in which significant disagreement can be expressed and different views can be realized. Minimally egalitarian democracy is compatible with consociational democracy, majoritarian democracy, presidential systems, parliamentary systems, proportional representation and single member district representation as well as other forms of democracy. Furthermore, democratic systems have authority to make decisions on issues relating to justice as long as the decisions respect certain limits most notably the fundamental rights of persons. In this sense, the argument I have provided for democracy leaves substantial room for the self-determination of peoples. It does limit that room but so will any conception of human rights.

But I think that there is some interest in briefly thinking about the kinds of pure cases of collective self-determination that Rawls and Cohen seem to have in mind. Suppose it is true that the society in question nearly unanimously accepts non-democratic rule but not the other kinds of human rights violations and these do not occur (anomalously). What should we think in this case? Must the argument for a human right to democracy imply that these societies must not be tolerated in the weak or the strong sense?

It is not clear to me that it does. There are at least two plausible political principles that might be invoked here in support of the right of collective self-determination that do not conflict with the human right to democracy. The first principle is the volenti principle: that one does not do injustice voluntarily to oneself. This principle is often used to limit the impact of principles on persons. And if near unanimity for non-democracy holds in a society perhaps we can say that the people involved are not doing injustice. The second principle may attach to the human right to democracy as it does to many rights. Many rights come with normative powers that permit one to waive the right in question. If we have near unanimity, perhaps we can say that the members of the population of the non-democratic society are exercising the normative powers attached to their rights to democracy to waive the right to democracy. Either of these theoretical alternatives could explain why despite there being a human right to democracy, a particular society need not be democratic. Furthermore, both of these theoretical alternatives explain why the defenders of non-democratic societies maintain the condition of near unanimity. The absence of unanimity would undermine the use of either one of the two principles to support non-democratic regimes. But it would take us beyond the scope of this paper to explore these ideas further.

*Conclusion*

I have argued that there is a human right to democracy understood as a minimally egalitarian democracy on the basis of two claims. One, there is strong moral justification for states to realize minimally egalitarian democracy because of the fact that such democracies are normally necessary and reliable in protecting fundamental human rights of personal integrity. Two, there is moral justification for the international community to attempt to protect and promote these democracies because they protect fundamental human rights and because international protection of democracy is a plausible indirect strategy for the protection of the human rights to personal integrity.

 The argument offered is relentlessly instrumental and mostly empirical. Many might think that there is also a more intrinsic justification for democracy. I do not disagree. But the instrumental argument is of particular importance because, one, it ties the justification of the human right to democracy to rights that are especially urgent and universally recognized. Two, it supplies an argument for democracy on the basis of considerations that are normally beyond the authority of democracy. As I see it, no democracy no matter how egalitarian has the right to authorize torture, state murder or disappearance, or political imprisonment. These acts fall outside the authority of democracy (though democracy may define the exact boundaries of these rights for a particular society). Democracy loses its authority to the extent that it systematically violates these rights.[[58]](#endnote-58) The only moral relationship democracy could have to these rights is a protective one. So it is of great interest to see that in fact minimally egalitarian democracy is the best kind of institutional setup we know of for protecting these rights.

1. I would like to thank Allen Buchanan, Faviola Rivera Castro, Gary Goertz, Cindy Holder, Loren Lomasky, Gerry Mackie, David Reidy, Connie Rosati, Kathryn Sikkink, Andrew Williams, the anonymous reviewers of this journal and audiences at the Keller Center for Constitutional Law at the University of Colorado, the University of Athens, the National Autonomous University of Mexico, the University of Tennessee, the University of Victoria, Wake Forest University, the University of Arizona, the University of Southern California, the University of California at San Diego and the University of Warwick for very helpful discussion of earlier drafts of this paper and its ideas. [↑](#endnote-ref-1)
2. See John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999) pp. 71-81. See also Joshua Cohen “Is There A Human Right to Democracy?” in *The Egalitarian Conscience*, ed. Christina Sypnovich (Oxford: Oxford University Press, 2006); and see Jon Mandle, *Global Justice* (Cambridge: Polity Press, 2006), pp. 54-55; and see David Reidy, “Political Authority and Human Rights,” and Allysa Bernstein, “A Human Right to Democracy? Legitimacy and Intervention,” in *Rawls’s Law of Peoples: A Realistic Utopia?*  ed. David Reidy and Rex Martin (Oxford: Blackwell, 2006). [↑](#endnote-ref-2)
3. See, for example, Charles Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009), pp. 174-186 and Andrew Altman and Christopher Wellman, *A Liberal Theory of International Justice* (Oxford: Oxford University Press, 2009) pp. 31-2. [↑](#endnote-ref-3)
4. For a sample of some recent work, see James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), p. 255. [↑](#endnote-ref-4)
5. See Allen Buchanan, *Justice, Legitimacy and Self-Determination: Moral Foundations for International Law* (Oxford: Oxford University Press, 2004), pp. 145-47 where he points to the possibility of this kind of argument. I think something like this kind of argument is also made in part in Henry Shue’s *Basic Rights: Subsistence, Affluence and U. S. Foreign Policy* rev. ed. (Princeton: Princeton University Press, 1996), pp. 74-8. [↑](#endnote-ref-5)
6. I am working on this kind of argument in my “An Intrinsic Argument for a Human Right to Democracy.” See also Carol Gould, *Globalizing Democracy and Human Rights* (Cambridge: Cambridge University Press, 2004) and James Bohman’s *Democracy Across Borders* (Cambridge, MA: MIT Press, 2007) for other distinct attempts to provide intrinsic arguments for democracy. [↑](#endnote-ref-6)
7. From here on out, I will follow standard usage and use the term “human right” to refer to moral human rights. When I refer to legal human rights I will use the expression “legal human rights.” [↑](#endnote-ref-7)
8. See L. W. Sumner, *The Moral Foundation of Rights* (Oxford: Oxford University Press, 1987) pp. 144-5 for the distinction between weak and strong moral justification of a convention. [↑](#endnote-ref-8)
9. This account is close to Joseph Raz’s interest theory of rights though it broadens the possible grounds of a right to include other morally very urgent goods that can be possessed by the right-holder. See his *The Morality of Freedom* (Oxford: Oxford University Press, 1986) chap. 7. One conception of human rights, sometimes thought to be incompatible with a human right to democracy, asserts that human rights are necessary conditions of a minimally decent human life. This widespread view may account for the right to adequate material subsistence but I doubt that it covers the right not to be tortured or the right not to be enslaved. Unless “minimally decent” is understood in a highly moralized way it is hard to see how having been tortured will necessarily undermine such a life. Also slaves have been able to make decent lives for themselves despite the profoundly oppressive treatment they receive. This view ignores the resilience of human beings in the face of extremely oppressive treatment. For this view of human rights see: Allen Buchanan, *Justice, Legitimacy and Self-Determination* (Oxford: Oxford University Press, 2004), James Nickel, *Making Sense of Human Rights* rev. ed. (Oxford: Blackwell, 2006), Jon Mandle, *Global Justice* (London: Polity Press, 2006) and David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007). [↑](#endnote-ref-9)
10. See Charles Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009) for a defense of this conception. Unlike Beitz, I do not insist that these conditions are necessary for human rights and I do not insist on an interest theory of human rights. [↑](#endnote-ref-10)
11. See *International Covenant on Civil and Political Rights* (December 16, 1966, 999 U. N. T. S. 171) Art. 4 [↑](#endnote-ref-11)
12. See *Vienna Convention on the Law of Treaties* (May 23, 1969, U. N. Doc. A/CONF. 39/27), Arts. 53 and 64, which say that any treaty that conflicts with a peremptory norm of international law is void. See also Barry Carter, Phillip R. Trimble and Curtis Bradley, *International Law* 4th ed. (New York: Aspen Publishers, 2003), p. 107-8. [↑](#endnote-ref-12)
13. Steven C. Poe; C. Neal Tate; Linda Camp Keith, “Repression of the Human Right to Personal Integrity Revisited: A Global Cross-National Study Covering the Years 1976-1993,” *International Studies Quarterly*, Vol. 43, No. 2. (Jun., 1999), pp. 291-313 [↑](#endnote-ref-13)
14. See Polity IV Project: Political Regime Characteristics and Transitions, 1800-2007 http://www.systemicpeace.org/polity/polity4.htm [↑](#endnote-ref-14)
15. See Tatu Vanhanen, “A New Dataset for Measuring Democracy, 1810-1998,” *Journal of Peace Research* Vol. 37, n. 2 2000, pp. 251-265 for an account of the Vanhanen method of measuring democracies. [↑](#endnote-ref-15)
16. Here is a brief description of numerical categories in the political terror scale in Christian Davenport and David Armstrong, “Democracy and the Violation of Human Rights: A Statistical Analysis from 1976 to 1996,” *American Journal of Political Science*, Vol. 48, No. 3 (Jul., 2004), pp. 538-554, esp. 544-545. '1'-Countries (within this category are) under a secure rule of law, people are not imprisoned for their views, torture is rare or exceptional (and) political murders are extremely infrequent." Examples include the US, Venezuela 1977 and 1981, and Senegal 1976-1981; '2' "(t)here is a limited amount of imprisonment for nonviolent political activity. However, few persons are affected, torture and beating are exceptional political murder is rare." Examples include Mexico 1976 and 1983 as well as Gambia 1982; '3' "(t)here is extensive political imprisonment, or a recent history of such imprisonment. Execution or other political murders and brutality may be common. Unlimited detention, with or without trial, for political views is accepted." Examples include Cuba 1976, Cameroon 1979, and Poland 1976-1977; '4' "(t)he practices of (Level 3) are expanded to larger numbers. Murders, disappearances are a common part of life. In spite of its generality, on this level terror affects primarily those who interest themselves in politics or ideas." Examples include El Salvador 1978-1992 and Rwanda 1990-1991; and, '5'"(t)he terrors of (Level 4) have been expanded to the whole population. The leaders of these societies place no limits on the means or thoroughness with which they pursue personal or ideological goals." Examples include Haiti 1991, Sudan 1988, Rwanda 1994-1996, and China 1989.” [↑](#endnote-ref-16)
17. See Political Terror Scale 1976-2008 at <http://www.politicalterrorscale.org/> for more discussion. And see Reed Wood and Mark Gibney, “The Political Terror Scale (PTS): A Re-introduction and a Comparison to CIRI” *Human Rights Quarterly* (forthcoming) for a discussion of the methods of measurement. [↑](#endnote-ref-17)
18. See Davenport and Armstrong. See also, Bruce Bueno de Mesquita, G. W. Downs, A. Smith, and F. M. Cherif, “Thinking inside the Box: A Closer Look at Democracy and Human Rights,” *International Studies Quarterly* 49 (3) 2005: 439-57. For a fuller discussion see, Christian Davenport, *State Repression and the Domestic Democratic Peace* (Cambridge: Cambridge University Press, 2007). [↑](#endnote-ref-18)
19. See Davenport and Armstrong, p. 547. [↑](#endnote-ref-19)
20. See Emilie Hafner-Burton and Kiyoteru Tsutsui, “Human Rights in a Globalizing World: The Paradox of Empty Promises” *American Journal of Sociology* Volume 110 Number 5 (March 2005): 1373–1411.. [↑](#endnote-ref-20)
21. See Davenport and Armstrong, p. 548 and Bueno de Mequita, p. 448. [↑](#endnote-ref-21)
22. See Christian Davenport, *State Repression and the Domestic Democratic Peace* chap 5 for an in depth examination of the statistical evidence of democratic violations of personal integrity rights under wartime conditions. [↑](#endnote-ref-22)
23. See Davenport and Armstrong, p. 548. [↑](#endnote-ref-23)
24. Bueno de Mesquita et al. p. 452. [↑](#endnote-ref-24)
25. [omitted] [↑](#endnote-ref-25)
26. This is emphasized both in Bueno de Mesquita et. al.’s paper, p. 453, and in Davenport, *State Repression and the Domestic Democratic Peace*, chaps 4 and 5. [↑](#endnote-ref-26)
27. See John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), pp. 77-78 and Joshua Cohen, “Is There A Human Right to Democracy?” in *The Egalitarian Conscience*, ed. Christina Sypnovich (Oxford: Oxford University Press, 2006), pp. 226-248, esp. 233. [↑](#endnote-ref-27)
28. See Monty Marshall and Keith Jaggers, Polity IV Data Set User’s Manual (2000) Addendum for a discussion of the different regime types. See also the Polity IV Data Set for country descriptions of China and Iran. [↑](#endnote-ref-28)
29. For Oman’s political system, see the country reports of the Polity IV data base and the Freedom House data base. [↑](#endnote-ref-29)
30. See “Oman: The Death of the Last Feudal Arab State,” *Washington Post* December 27, 1970. [↑](#endnote-ref-30)
31. This seems to satisfy Rawls’s requirement for the case for liberal democracy. He says, “Should the facts of history, …show that hierarchical regimes are always or nearly always, oppressive and deny human rights, the case for liberal democracy is made.” Rawls, *The Law of Peoples*, p. 79. Joshua Cohen seems to say the same: “If democracy is a requirement for avoiding unacceptable circumstances, we do have a case for it…” (p. 245) [↑](#endnote-ref-31)
32. The model is a variant of the model that Amartya Sen uses to argue that democracies prevent famines in *Development as Freedom* (New York: Knopf, 1999). For an articulation and defense of this model, see David Cingranelli and Mikhail Filippov’s “Electoral Rules and Incentives to Protect Human Rights,” *The Journal of Politics* Vol 72, no. 1 January 2010, Pp. 243-257. There they argue that systems with proportional representation and individual accountability score better on personal integrity rights than single member district representation. [↑](#endnote-ref-32)
33. Hence the human right to democracy is not maximalist in Joshua Cohen’s sense and leaves ample room for the collective self-determination of peoples. See his “Is there a Human Right to Democracy?” pp. 232-233. [↑](#endnote-ref-33)
34. See Gary Goertz, *International Norms and Decision-Making: A Punctuated Equilibrium Model* (New York: Rowman and Littlefield, 2003) chap. 11. [↑](#endnote-ref-34)
35. See Beth Simmons, *Mobilizing for Human Rights* (Cambridge: Cambridge University Press, 2009) chap. 4. [↑](#endnote-ref-35)
36. Laws against the mistreatment of prisoners and sometimes of civilian populations in the context of war do seem to have a reciprocating character. Democracies are no better than other societies in following the laws of war except when they have ratified treaties concerning the laws of war. Then they are substantially better at acting in accord with the laws of war than other societies even if their opponents in war have not ratified the treaties. See James D. Morrow, “When Do States Follow the Laws of War?” *American Political Science Review* Vol. 101, N 3, August 2007, pp. 559-572. [↑](#endnote-ref-36)
37. See Beth Simmons, *Mobilizing for Human Rights* (Cambridge: Cambridge University Press, 2009) [↑](#endnote-ref-37)
38. See Oona Hathaway, “Do Human Rights Treaties Make a Difference?” *Yale Law Journal* June 2002, pp. 1935-2042. See also Hafner Burton and Tsutsui. See also Linda Camp Keith, “The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behavior?” *Journal of Peace Research* 36 (1) 1999: 95-118. See also Eric Neumayer, “Do International Human Rights Treaties Improve Respect for Human Rights? *Journal of Conflict Resolution* Vol. 49 No. 6, (December 2005): 925-953. [↑](#endnote-ref-38)
39. Jack Goldsmith and Eric Posner conclude that human rights treaties have no impact whatsoever (*The Limits of International Law* [New York: Oxford University Press, 2006]). But this does not follow. Beth Simmons and Oona Hathaway (“Why Do Countries Commit to Human Rights Treaties?” *Journal of Conflict Resolution* Volume 51 Number 4 August 2007 588-621, esp. 612) each argue that human rights law has an impact through the domestic legal and political systems of democratic societies. Simmons gives evidence that “partial/transitional democracies” (democracies with a recently acquired 8 or better on the Polity IV scale) do improve their human rights records as a result of ratification. Politicians in new democracies agree to human rights treaties so as to lock in human rights protections; later politicians fear losing office if they violate these treaties. See Andrew Moravcsik “The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe,” *International Organization* 54, 2 Spring 2000, pp. 217-252 for this observation. Simmons argues that human rights treaties serve an educative function in the new democracy and they serve as a kind of legal focal point for the mobilization of constituencies behind the protection of human rights. (Simmons, *Mobilizing for Human Rights*, p. 276.) By contrast, in non-democratic societies the domestic constituencies of these human rights treaties are either repressed or they find it very hard to organize. [↑](#endnote-ref-39)
40. There is a mountain of evidence in favor of this thesis. Probably the most prominent defender is Bruce Russett and Harvey Starr, “From Democratic Peace to Kantian Peace: Democracy and Conflict in the International System,” *Handbook of War Studies II* ed. Manus Midlarsky (Ann Arbor: University of Michigan Press, 2000): pp. 93-128. [↑](#endnote-ref-40)
41. Jack S. Levy and William R. Thompson, *Causes of War* (Malden, MA: Wiley-Blackwell, 2010), 108. [↑](#endnote-ref-41)
42. Henry Farber and Joanne Gowa, in “Politics and Peace,” *International Security* Vol. 20, n. 2 (Fall 1995), 123-146 and Gowa in *Ballots and Bullets* (Princeton: Princeton University Press, 1999) argue that the regularities are restricted to the Cold War and that they are best explained by the alliance system among democratic societies and not by their internal properties. For a serious critique of this and other criticisms of the democratic peace, see Zeev Maoz, “The Controversy Over the Democratic Peace: Rearguard Action or Cracks in the Wall?” *International Security*, Vol 22, n. 1 (Summer 1997), 162-198. Another critique by Erik Gartzke (in “The Capitalist Peace,” *American Journal of Political Science* 51 (1) 2007: 166-91), argues that peace is not well explained by democratic dyads but rather by capital openness, economic development and similarity of state interests. Most recently Allan Dafoe, (in “Statistical Critiques of the Democratic Peace: Caveat Emptor,” *American Journal of Political Science* forthcoming 2011 [published online January 6, 2011]) has argued that every attempt to control for alliance structure, the Cold War and other shared foreign policy interests in regression analyses have “failed to remove the significant association between dyadic democracy and peace.” (p. 3) Dafoe also argues that controlling for the capitalist variables does not remove the strong association of democratic dyads with peace.

 Edward Mansfield and Jack Snyder, (in “Democratization and the Danger of War,” *International Security* 20 (1): 5-38) worry that democracies in transition may be more prone to war. The data behind their argument has been quite strongly questioned by Vipin Narang and Rebecca Nelson in “Who Are These Belligerent Democratizers? Reassessing the Impact of Democratization on War,” *International Organization* 63. Spring 2009, pp. 357-79. [↑](#endnote-ref-42)
43. *See* Beth A. Simmons, “Compliance with International Agreements,” 1 *Ann. Rev. Pol. Sci.* 75, 77, 83–85 (1998). [↑](#endnote-ref-43)
44. I thank Allen Buchanan for articulating this concern to me. [↑](#endnote-ref-44)
45. See Charles Beitz, *The Idea of Human Rights*, 178-180 for this argument. This reasoning might also cut against counting the rights of personal integrity as human rights, for Beitz who extends the institutional analysis to all human rights. If democracy is normally necessary for their protection, then the international community cannot do much to protect them. [↑](#endnote-ref-45)
46. The causal modernization thesis is defended in Barbara Geddes, “What do we know about democratization over the last twenty-five years?” *Annual Review of Political Science* (1999) 2: 115-144. See Przeworski et al. for a partial rejection of the thesis. For a recent sophisticated treatment that denies the causal thesis, see James Robinson, “Economic Development and Democracy,” *Annual Review of Political Science* (2006) 9: 503-27. [↑](#endnote-ref-46)
47. On the Polity IV conception of democracy (a score of 6 or better), out of eighty-three transitions overall, sixteen stalled in hybrid regimes and ten of these were poor countries (of the 60 or so countries with incomes of 4000 dollars or less [PPP]). There have been about sixty-seven successful transitions to democracy; twenty-eight of these were in poor countries. And there have been about forty-five successful transitions to minimally egalitarian democracy; twelve of these were among poor countries. For the list of these democracies, see Morton H. Halperin, Joseph T. Siegle and Michael M. Weinstein, *The Democracy Advantage* Rev. ed. (New York: Routledge, 2010), p. 68. For the income of these countries see the World Bank Development indicators. [↑](#endnote-ref-47)
48. See Halperin et al., pp. 33-44 and see Paul Collier, *The Bottom Billion* (Oxford: Oxford University Press, 2008) p. 50. Collier does caution that very poor countries that are resource rich need strong checks and balances to counter the tendency to patronage. See also Dani Rodrik, *One Economics, Many Recipes: Globalization, Institutions and Economic Growth* (Princeton: Princeton University Press, 2007), p. 183. [↑](#endnote-ref-48)
49. I think this effectively counters the gist of Beitz’s objection on p. 179 where he worries that it may not be democracy that explains protection of human rights but middle and high income democracies. [↑](#endnote-ref-49)
50. See Przeworski et al. *Democracy and Development* for a powerful set of arguments that democracies do not do much worse than non-democracies in terms of overall growth but that in fact they do significantly better than non-democracies in terms of per capita growth because they diminish population growth even while increasing life expectancy. (pp. 216, 228, 235-256). They argue that poor democracies do no worse than poor autocracies in growth (p. 178). See Halperin, et. al. 33-44, for the argument that poor democracies do better. Amartya Sen argues for the economic virtues of democracy, especially regarding the poor in *Development as Freedom* (New York: Knopf, 1999). [↑](#endnote-ref-50)
51. See Ming-Jen Lin, “Does Democracy Increase Crime? Evidence from International Data,” *Journal of Comparative Economics* Vol 35, 3 (September 2007), pp. 467-483, for an argument that democracy diminishes homicides. See Gary LaFree and Andromachi Tseloni, “Democracy and Crime: A Multilevel Analysis of Homicide Trends in Forty-Four Countries, 1950-2000,” *Annals of the American Academy of Political and Social Science*, Vol. 605, *Democracy, Crime, and Justice* (May, 2006), pp. 26-49, for the thesis that transitional democracies are more violent while established democracies are not. See, for the many methodological problems, Jose Cuesta, "Theory and Empirics of Democracy and Crime Revisited: How Much Further Can We Go With Existing Data and Methodologies?"*Paper presented at the annual meeting of the Midwest Political Science Association 67th Annual National Conference, The Palmer House Hilton, Chicago, IL*, Apr 02, 2009 <Not Available>. 2010-11-11 <http://www.allacademic.com/meta/p361393\_index.html> [↑](#endnote-ref-51)
52. Of course these rights are non-derogable in international law (see ICCPR Article 4 section 2) but that is compatible with there being circumstances in which the rights are morally overridden. [↑](#endnote-ref-52)
53. The ground is similar to that of Henry Shue’s basic right to participation. But Shue thinks of such a basic right as a constituent of other basic rights, since it fulfills the social guarantee condition of his basic rights (see his *Basic Rights* 2nd ed. [Princeton: Princeton University Press, 1996] pp. 74-76). He does not argue for democracy or a right to equal participation. [↑](#endnote-ref-53)
54. See Joshua Cohen, “Is There A Human Right to Democracy?” pp. 233-234. He says that since, “ democratic ideas lack substantial resonance in the political culture, or the history and traditions of the country….the value of collective self-determination itself recommends resistance to the idea that the political society should be required to meet the standard expressed in a principle of equal basic liberties…” (234) See also Rawls, *The Law of Peoples*, p. 61. See Jon Mandle in *Global Justice* and the essays by David Reidy and Allysa Bernstein in *Rawls’s Law of Peoples* ed. David Reidy and Rex Martin (Oxford: Blackwell, 2004). David Miller seems to think that liberal democracy is an important though not necessary condition of national self-determination. See his *On Nationality* (Oxford: Oxford University Press, 1995), pp. 89-90. [↑](#endnote-ref-54)
55. See the *Gallup International Voice of the People 2005 Survey* on opinions on democracy. [↑](#endnote-ref-55)
56. See John Stuart Mill, “A Few Words on Non-Intervention,” *International Relations in Political Thought* ed. Chris Brown, Terry Nardin and Nicolas Rengger (Cambridge: Cambridge University Press, 2002) and see Bruce Russett, “Bushwhacking the Democratic Peace,” *International Studies Perspectives* vol. 6 n. 4 (November 2005): 395-408 for critiques of military intervention for political reform. See also David N. Gibbs, *First Do No Harm: Humanitarian Intervention and the Destruction of Yugoslavia* (Nashville, TN: Vanderbilt University Press, 2009). [↑](#endnote-ref-56)
57. For the many ways in which international institutions can act on a human right to democracy see Thomas Franck, *Fairness in International Law and Institutions* (Oxford: Oxford University Press, 1996). [↑](#endnote-ref-57)
58. I defend these theses in *The Constitution of Equality: Democratic Authority and Its Limits* (Oxford: Oxford University Press, 2008), chaps. 6 and 7. [↑](#endnote-ref-58)