

Human Rights as Protections of a Minimally Decent Human Life

In this book, I argue that public institutions should recognise a human right to free internet access because in our digital world internet access has become necessary for leading minimally decent lives. More specifically, my argument will be that internet access has become indispensable for the realisation of other human rights that are necessary for a minimally good life, and should therefore be considered a universal entitlement.

Right from the start, this core claim of the book might strike some readers as exaggerated. They might agree that the internet has become central to human life in modern society as it allows us to do most things more easily. But it is quite something else to claim that therefore we should all have something as fundamentally important as a human right to access this technology. After all, the language of human rights is generally reserved for things that are most essential for human beings, such as food, water, shelter, clothing, education, and basic political rights. Cars are useful things too, but this does not mean that everyone has a human right to a car. This is a concern that must be taken seriously. To call something a human right means to attribute to it exceptional moral importance and to declare it a claimable entitlement. It has become a popular strategy to claim many things that are important to be human rights. The aim of this is to have the object that one cares about to be declared a protected, high-priority entitlement. But many rights claims that have been presented in this way seem questionable. Some of the things that have been claimed to be human rights include land (de Schutter 2010), friendship (Wittrock 2022), a happy life (Liu and Yan 2020), and even sexual pleasure (Coleman et al. 2021). Considering this list, one immediate worry we might have is whether such rights are fulfillable at all or who would be required to fulfil them for everyone (Tasioulas 2021). Moreover, we might be concerned that declaring everything that is desirable a human right leads to a counterproductive expansion or inflation of the term ‘human

rights' (Nickel 2007: 97, Clément 2018). Such an inflation would be unhelpful because it threatens to take away the special moral force that most people attach to human rights when these are extended to desirable things that simply are not as morally urgent and fundamental as traditionally recognised human rights.¹ And in fact internet access, or high-quality internet access, is often mentioned as precisely one of those things that is handy, but that ought not be considered a human right because it is not essential enough to deserve the status of a universally claimable entitlement (de Hert and Kloza 2012, Tasioulas 2021, Theilen 2021).

For this reason, to determine whether internet access can be a human right at all, we first need certain theoretical tools that help us evaluate human rights claims. We need to understand, for example, what human rights are in the first place. Otherwise, we will not be able to tell if internet access qualifies as a human right – even if we know how it is useful. We also have to know how rights operate in general and what it means to assign a right to someone. Otherwise, we do not know when we can say that we have a right to something, and what follows from accepting that someone has a right to something, such as internet access. Accepting a human right to internet access would mean accepting a universal entitlement to a useful technology. It is for that reason also important to see how human rights to technological means are possible. This first chapter will therefore introduce the concepts of rights and human rights. In Section 1.1, we will see that human rights are moral rights of a particular kind that fulfil a specific role in international politics and law. In Section 1.2, I will argue that, from a philosophical standpoint, human rights have the particular function of protecting what everyone needs to live a minimally decent life. Section 1.3 will then explain the implications and obligations that follow from accepting that people have human rights. In Section 1.4, I will clarify two possible misunderstandings about human rights that pertain specifically to the idea of a human right to free internet access. At the end of the chapter, we will have a good grasp of what human rights are, what their function is, what justifies them, and what follows from accepting something as a human right.

¹ On the other hand, being too inflexible about what can be called a human right also has its dangers. This is because denying any extension of human rights beyond the classic list enshrined in, for example, the Universal Declaration of Human Rights tends to protect the status quo by denying that new developments or problems can be as morally urgent as the basic entitlements specified in the original human rights documents (Theilen 2021). Important human rights theorists therefore agree that we have to be generally open-minded about what things can reasonably be claimed to be human rights (Nickel 2007: 97).

1.1 WHAT ARE HUMAN RIGHTS?

One might think that, to understand what human rights are, we can simply consult legal human rights treaties such as the Universal Declaration of Human Rights (UN 1948). After all, these documents specify which human rights are accepted and enshrined into international law.

One problem with this approach is that these documents merely give us a snapshot of currently recognised human rights. However, what they do not tell us in detail is what function human rights fulfil or why we should accept them. Another problem with this method is that these treaties might lack certain entries that we think they should include. This book, for instance, argues that one such item that is currently absent from international human rights documents, but should be included, is the human right to free internet access. If this is correct, the concept of human rights is broader than the list of legally recognised human rights. That human rights are not determined by international treaties alone makes sense when we consider that, if this were so, human rights would only come into existence with the ratification of international treaties. In this case, no one has human rights unless some legal document recognises these rights. Consequently, in a world in which there would be no human rights treaties, no one would have human rights that could be violated. But that would mean, for instance, that the Nazis did not violate the human rights of those millions they murdered in concentration camps because the Universal Declaration of Human Rights was only adopted after the end of the Second World War. This seems very implausible because it is clear that the Nazis violated the most basic entitlements of their victims – entitlements that every human being has to have if we have any. No legal document was required to establish the moral fact that this fascist regime violated essential rights of its victims that were so fundamental and universally recognisable that these acts were legally captured by the expression ‘crimes against humanity’. This suggests that we all possess certain rights independently of what is recognised by states in international rights treaties. And that, in turn, opens the possibility that there are human rights that have not yet been (but should become) recognised in international law.

To approach the question ‘what is a human right?’ we therefore cannot simply rely on international legal treaties. Instead, we have to turn to philosophical human rights theory. Philosophers do not think about human rights only in terms of legally accepted human rights. Rather, they study human rights with a view to what characterises them, what justifies them, and what functions they fulfil. Taking a philosophical approach to human rights allows us to do some things that a look at international human rights treaties does not.

For instance, once we know what human rights are, what function they fulfil, and what justifies them, we can understand why human rights are particularly urgent rights that everyone should respect – even if they are often violated in international politics. A philosophical understanding of human rights also enables us to engage critically with internationally accepted human rights and to test whether all of them really ought to have the status of human rights.² Finally (and of particular importance for the purposes of this book), knowing what human rights are in the philosophical sense puts us in a position to think about potential human rights that are currently missing from the accepted list of human rights.

It is not surprising that there can be human rights that are not recognised legal human rights. This is because there are many other rights than legal rights that people have irrespective of what public law acknowledges. These non-legal rights are moral rights, and they help us understand how this book can argue for a human right that does not yet exist. Moral rights are claims that we have towards others. Such claims normally have greater normative force than other moral considerations or non-moral reasons for action. For example, it might be a morally good thing for me voluntarily to give money to the person sitting at the side of the street asking for help. But since this person does not have a moral right to my money, I am not under a strict moral obligation to help them. I might deserve some moral criticism if giving help to that person would not have come at a great cost to me because we generally have moral reasons to help others in need. However, if the person is not in distress, they have a general claim to support towards everyone rather than a strong entitlement to my help in particular. Things are different, though, if I promised someone money. My promise gives them a moral right to the promised money and creates a strong obligation for me towards them. This is because promises precisely have the function of enabling us to bind ourselves morally to other people in order to create special relationships or trust. I am under an even more binding (i.e. legally binding) obligation to give someone money if I signed a legal contract to do so because legal contracts are social institutions that are particularly designed to create mutual assurance through enforceable claims. These examples show that between general moral reasons for action and legally binding obligations, there are moral rights that have morally binding force even though they are not backed up by legal sanctions and coercive enforcement.

² One example of a ‘problematic’ human right that is legally enshrined in international human rights law, but is often doubted to deserve the status of a human right, is the right to paid leave from work.

There are many moral rights that we can be said to have that are not legal rights. For example, my friends have a moral right to my loyalty and support if they are in urgent need. My partner has a moral right to my faithfulness (unless we have agreed on a different arrangement), and my family members generally have moral rights to my help if our familial relations are intact (and maybe even if they are not). None of these rights are such that we would want them to be legally enforced. Because they are part of people's private lives and personal morality, there are good reasons not to create laws that attach fines or prison sentences to spousal infidelity or breaking promises to a friend. However, violating the moral rights that my family, my partner, and friends have towards me carries with it severe moral and social sanctions because I failed to fulfil important obligations that I have by virtue of others having moral rights towards me. According to the philosopher Joseph Raz (1986: 180), we have a moral right to something if this something is an interest of ours that is important enough to place others under an obligation to respect or fulfil that interest for us. For example, being truthful to my partner, being loyal to my friends, and being helpful to my family members is not merely something that it would be optional or nice for me to do. Rather, because my partner's interest in my fidelity or my friend's interest in my loyalty are morally very important, these interests place me under an obligation to respect them. The same cannot be said of anyone's interest in owning the newest iPhone. This interest is not morally important enough for that person's life to place anyone under an obligation to provide them with such an iPhone. No one therefore has a moral right to the newest iPhone. The connection between rights and corresponding duties also partly explains what is difficult with the claims that we have human rights to, for example, land, friendship, a happy life, or sexual pleasure. These claims are problematic because, for each of them, it is either unclear whether they could be fulfilled (e.g. a happy life) or whether there is anyone who would owe us the object of that claim (e.g. land, friendship, or sexual pleasure). Because my rights have to correspond with others' obligations to fulfil or respect my right, it is not enough that some things are desirable for me to have a right to them. After all, no one might have an obligation to provide these things for me. The claim this book defends is that, in contrast to the newest iPhone, friendship, or sexual pleasure, internet access is morally important enough for us to recognise that we all have a moral claim to it.

Moreover, in contrast to spousal fidelity or promises among friends, some moral rights are important enough to warrant enforcement by legal means and coercive force. All our basic civil rights are of this sort. Our interests in life, bodily integrity, free speech, political participation, and the means of subsistence are sufficiently important to justify legal rights that public authorities

enforce. Given the importance these interests have for all of us, we cannot leave it up to the good will of people to respect the moral rights that these interests give rise to. Instead, public authorities are justified in forcing us to respect each other's vital basic rights by punishing their violation. But to make matters even more complex, not all legal rights are moral rights. Some of them only come into existence when a community adopts them. For example, speed limits vary from country to country, and no one has a moral right to a particular speed limit. We all have a moral right to a safe traffic environment, which explains why the state is authorised to impose traffic laws. However, the particular details of these traffic laws are a matter of legal definition, relevant evidence, and public agreement.³

What this shows is that there are different kinds of obligations and rights. Not all moral obligations (e.g. the general obligation to be helpful) give rise to moral rights. Not all moral rights (e.g. the moral right to be faithful to my partner) should be legally codified and coercively enforced. This importantly means that there are moral rights that are not legal rights. Very important moral rights, though, are often backed up by the sanctions of the law (e.g. the moral rights to life, freedom from torture, or bodily integrity). Finally, there can be legal rights that are not moral rights because they are not based on

³ How rights operate technically is explained by Wesley Hohfeld's (1919) characterisation of rights. According to Hohfeld, there are different kinds of rights characterised by what they do. He calls these 'rights-incidents'. They bestow certain advantages on their possessor as well as correlative disadvantages on those who are bound by them. Hohfeld identifies four such rights incidents. First, *claim-rights* give their possessor a claim on someone who is placed under a duty by the right to respect or fulfil that claim. For example, if I have a claim-right towards my government to have internet access provided for me, my government has a duty to provide internet access for me. If I have a claim-right against my government to access and use the internet without unjustifiable obstructions, my government must not block, monitor, or censor my access and use of the internet without good reason. Second, rights that are *privileges* (or *liberties*) ensure that others have no right to block the right-holder from exercising their right. For example, if I have the privilege (or liberty) to exercise my human right to free speech online, no one (importantly, my government) has a right to prevent me from, or punish me for, voicing my opinion online. The third kind of rights are *power-rights*. These make those bound by them liable to have their own normative situation changed by the holder's exercise of their right. For example, if I operate an internet server or website and offer it for use to others, I have the power to change the terms of service of my offer. If I do so, I change what others who want to use my service are able to use my server or website for. The users of my services are free to walk away from what I offer. But if they want to use my services, they are liable to having to accept the changes I make to my terms of service. Finally, there are rights that give immunities to their holders. For example, as an internet user, my human right to privacy gives me protection from another's (e.g. my government's) attempts to spy on my internet activities. According to Hohfeld's scheme, all our moral and legal rights consist of at least one of these four rights-incidents. Often, though (as in the case of property rights), our rights entail multiple incidents and advantages (see also Wenar 2023).

particular moral rights (e.g. there is no moral right to a speed limit of exactly 130 kmh).

This distinction between moral and legal rights is important because it enables us to see that there are moral rights that are significant enough that they *should* be recognised and protected by the law – even if they are currently not. For instance, slavery is always a violation of basic moral rights of the enslaved, namely (among other things) their rights to their own body and equality before the law. The enslaved have these moral rights even when they are not legally recognised. Equally, women always had moral rights to vote and to determine their own lives even though those rights were denied to them throughout most of human history (and in many cases are still denied to women today). Historical and current struggles for emancipation and legal equality are particularly salient examples of the idea that people possess important moral rights that ought to receive legal protection irrespectively whether these rights are recognised in the law of their society. The legal denial of the moral rights of slaves and women were the injustices that abolitionists and suffragettes struggled against. The social change they fought for was at its heart a struggle for the legal protection of their basic moral rights. Equally, today there can be moral human rights that are not yet recognised as legal human rights.

According to the philosophical view that I employ in this book, all human rights are moral rights. That is, all rights that deserve the status of human rights – irrespectively of whether they are already recognised as such or not – are moral rights that are based on particularly urgent moral interests. For the argument advanced in this book this means that internet access (for reasons we will encounter in Chapters 3 and 4) is a human right because it is justified by the need to have urgent interests respected and fulfilled. However, human rights are a special subgroup of moral rights. They are particular in that all persons have these rights simply by virtue of being human and irrespectively of what else applies to them. To understand this point it is useful to contrast human rights with some of the moral rights we encountered earlier that only particular people have. Everyone has human rights to life, freedom from torture, to free speech, and free assembly. But not everyone has a moral right to the fidelity of their partner because not everyone has a partner. Equally, everyone has human rights to health care, free information, and the means of subsistence, but not everyone has a moral right to the help of their family members because some people have no living family members. And everyone has a human right to a free conscience and religious worship but only those to whom I made a promise have a moral right to the content of that promise. In their universal nature, human rights also differ from legal rights. Everyone has human rights to a nationality, to an education, and to equal treatment before

the law. But only citizens of the US state of Alaska have a legal right to a modest basic income paid by the state of Alaska because of the legal entitlement given to them by the laws of that state. And only US citizens, but not German or British citizens, have a constitutional right to bear arms.

This means, first, that human rights are not conditional on anything but being human. Being a member of the human family is sufficient for having them. Secondly, because these rights are unconditional, unlike certain legal rights (such as a US Green Card that allows a non-citizen to legally stay in the US that can be lost if the holder leaves the country for a certain period of time) we can never lose our human rights. Our human rights might be violated, unfulfilled, misappropriated, or temporarily suspended (e.g. when people's freedoms of movement and worship were limited during the lockdowns to curb the spread of the COVID-19 pandemic), but we normally do not lose them because we never cease to be human beings who have urgent moral rights. Importantly, the interests that ground human rights are so universal and urgent that they demand legal recognition and enforcement around the world. This means that every state ought to recognise in law, to protect and enforce, the human rights of all its citizens and everyone else in their territory.

However, human rights are special in another sense. They are particular in that they fulfil a unique role in international politics and law. If a state is unwilling or unable to guarantee the human rights of its citizens, this makes that state liable to criticism from (or entitles it to the help of) the international community (Beitz 2009: 102–117). In the worst cases of human rights violations, a state may even jeopardise its general right of national self-determination and immunity to outside interference if humanitarian intervention is required to protect the human rights of its citizens. This feature of human rights is explained by the organisation of our social world into nation states and human rights' historical origin as instruments of international law that are rules for this kind of world. In 1948, the United Nations (UN) ratified as its normative basis the Universal Declaration of Human Rights in response to the crimes that Nazi Germany and Japan committed against parts of their own population and the inhabitants of the territories they had occupied. Normally, states are taken to have sovereignty, which means that they have a right to non-interference in their internal affairs. But no state is justified in violating the most urgent moral interests of people, and human rights protect these interests. If human rights are disrespected or cannot be guaranteed because a state is too poor to do so, other states can be authorised or even be under a duty to intervene to protect and guarantee these rights.

Human rights in this respect differ from other legal rights. If a political community decides, for example, to cut the medical services its members are

legally entitled to, this remains a matter of domestic politics as long as the state still guarantees decent basic medical care. Only if the political community denies some of its citizens such basic medical care and so is in violation of these people's human rights (particularly their human right to health) does the matter become one of international concern. Similarly, a state might adopt more restrictive speed limits without committing human rights violations. It is only if the state (without proper justification) bans citizens from travelling at all that it would infringe its citizens' human rights and become liable to external criticism. To take another example, if the US democratically decided to abolish the constitutional right to bear arms, this would not be a human rights violation because this right grew out of the US's particular historical context but is not recognised as a moral or legal human right. Human rights are therefore special in that they are never exclusively domestic matters of any state. Rather, they are always matters that concern the entire international community. No state is morally permitted to idly stand by while human rights are violated elsewhere if it can protect these rights at a proportionally reasonable cost. A crucial feature of human rights is thus that politically they are matters of international concern because they function as conditions of the legitimacy (the morally justified exercise of political authority) of all states. States must respect the human rights of their citizens and everyone else to be justified in exercising power. As mentioned in the Introduction, according to the UN, respecting existing human rights online is such a matter of international concern, as shown by the UN's General Assembly's adoption of the non-binding resolution calling upon states to respect the offline human rights of their citizens online in 2016.

To summarise: human rights are moral rights that all persons have by virtue of being human and without having to fulfil any other conditions. They are moral rights that protect universal morally urgent interests, and which should be recognised by law everywhere around the world. Additionally, human rights are moral rights that should be recognised in international law because they are matters of international concern. Every state must respect the human rights of their own citizens and all other persons or risk jeopardising its political legitimacy and with it its right to non-interference. The exercise of political power is only justifiable if it respects the human rights of everyone. Genocide, the systematic oppression of domestic minorities, and aggressive wars of extermination are examples of human rights violations that call for a response by the international community of states.⁴ Moreover, human rights

⁴ It is important to note, though, that the moral obligation to intervene to stop human rights violations is not limitless. Such a duty can be outweighed by the costs of intervention because

are matters of international concern in the sense that, if states are unable to guarantee them for their populations, the international community is called upon to aid, and to help realise and protect these rights. Famines, poverty, and natural disasters are examples of occurrences that trigger obligations for other states in a position to help those whose human rights cannot be guaranteed by their own government. Human rights are therefore universal moral rights that are based on urgent moral interests, and which are matters of international concern. This clarifies several important characteristics of human rights (e.g. their universality and urgency). However, what has been said so far does not explain which urgent interests exactly give normative force to, and allow the identification of, human rights. The question of what justifies human rights is the topic of Section 1.2.

1.2 HUMAN RIGHTS AS PROTECTIONS OF THE CONDITIONS OF MINIMALLY DECENT LIVES

We all have interests that are important to us, but only the most urgent and universal ones are sufficiently important to ground human rights that are matters of international concern. Philosophers have suggested several criteria for identifying these urgent interests that justify rights that every person possesses unconditionally. In this book, the view that I adopt understands human rights as protecting the conditions of minimally decent lives. That is to say, what justifies our human rights is that they have the particular function to protect what all human beings require to live minimally good lives. It is ultimately our interest in these things we all minimally need that provides the reasons that vindicate our human rights. This understanding significantly limits the range of things that can become the objects of human rights claims. Philosophers who hold this view, such as James Nickel, argue that ‘human rights are not ideals of the good life for humans; they are rather concerned with ensuring the conditions, negative and positive, of a minimally good life’ (Nickel 2007: 138). Accordingly, human rights protect things that are of utmost urgency for us, rather than things that it would be desirable but not essential to have. What

these must be proportionate to the good that the intervention has to achieve. For instance, if a humanitarian intervention to stop human rights violations in another state would create more harm than it could prevent, it can be argued that there is no moral duty to intervene in these circumstances (McMahan 2010). This does not mean that no human rights violations occur in this situation. But it means that, regrettably, these rights cannot be protected, and no one fails their duty to protect these rights. It also implies that states that possess large arsenals of nuclear weapons are unfortunately in practice often immune to external interventions when they violate human rights.

is necessary for a minimally good or decent life to a significant extent depends on empirical and contextual considerations. The importance of internet access, as we will see in the upcoming chapters, is a prime example of such an element of a minimally good life that requires knowledge about facts, and not only reliance on theoretical reflection.

We might, of course, wonder why it should be so morally important that all human beings live minimally decent lives. Most people naturally care about the well-being of those near and dear to them. And many also think it matters that their compatriots can live decent lives. But why should we have to care that everyone everywhere lives minimally good lives? The Universal Declaration of Human Rights provides an answer that has philosophical roots going back at least to Immanuel Kant. According to the Declaration's Article 1, 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood' (UN 1948). That is, the reason why we cannot ignore the interest of all human beings in living minimally decent lives is that all of them possess equal moral dignity. Different philosophers have given different answers to the question why human beings have dignity, which grounds their moral equality and equal moral status. According to Kant, human beings have dignity because they have the capacity to reason and to determine what is right and wrong, rather than simply following instincts (Kant 1785: 84). For John Rawls, people are owed respect and possess inherent worth and dignity (Rawls 1999: 513) because they are free and equal persons. For him, they are equal moral persons because they possess two crucial moral powers: their capacity for a sense of justice and their capacity for a conception of the good (Rawls 2001: 18–19). However, we do not have to limit ourselves to one or two features of human beings to explain why they possess the dignity that requires us to ensure that their interest in a minimally decent life is fulfilled. Instead, there are a plurality of typical features that human beings possess to various degrees that all help to explain why they possess dignity. Among these features are, for example, 'their ability to suffer, their lives, their agency, their consciousness and reflective capacities, their individuality, their social awareness' (Nickel 2007: 66), their empathy, and creativity (Gilabert 2024: 31).⁵ If these capacities

⁵ This raises, of course, the question whether non-human beings can also have human rights or rights that are of equivalent strengths to human rights because we share some of these capacities (e.g. sentience) with them. What is important for this book, though, is that we can justify human rights as protections of the conditions of minimally decent lives based on the idea that human beings possess particular moral worth and status because they have dignity. For an argument that dignity-based views of human rights do not have to lead to claims of human supremacy over non-human animals, see, for example, Gilabert (2024).

are harmed, this constitutes an attack on a person's dignity. And if any of them is frustrated, people cannot live decent lives. The things that give us dignity as humans therefore justify our claims to have human rights, and they help shed light on what we have human rights to.

Some requirements of a minimally decent life that we must have human rights to are quite straightforward. For example, all our subsistence and security rights are obvious conditions of a minimally good life. No one who is starving, lacks access to clean water or air, is homeless, is tortured, or lives in an environment that makes them sick can lead decent lives. Neither can those living in war zones and whose lives are constantly under threat. Beyond that, socio-economic human rights are also essential for minimally good lives: basic medical care, education, and times for rest and leisure are indispensable for everyone. Human rights will not always guarantee that we can achieve the things they protect for us. Even though we have a human right to health care, we might suffer from an incurable illness. Even though I might have access to food, I might suffer from allergies that make almost all foods inedible for me. And even though we receive basic education, we might fail to acquire elementary knowledge. Neither is it necessary for minimally decent lives that we exercise all our rights (Liao 2015a: 82). We might, for instance, participate in cultural activities and practise a religion but not be politically active. It might also be true that, to lead a fulfilled life and to thrive, human beings need to be culturally, spiritually, and politically active. However, it is not the purpose of human rights to ensure that people engage in all activities that are necessary for flourishing lives. Instead, what human rights do is to ensure that people have the opportunity to do and engage with all those things required for living minimally decent lives. If we consider the list of human rights recognised in international documents, understanding them as protections of the conditions of minimally decent lives explains why we have these entitlements.

One important class of rights, though, seems to be difficult to account for when we take human rights to protect minimally decent lives. These are our political human rights. After all, today and throughout most of human history, many people are and were not able to freely express their views in public, to participate in the political processes of their community, to access information freely, or to choose to associate with whom they want. And yet we might think that people who do not have these freedoms are nonetheless able to lead minimally decent lives even if they are politically disenfranchised. If this were correct, human rights would have to be explained in some other way because the most important international human rights documents, such as the Universal Declaration of Human Rights, put political human rights

front and centre. However, it would not be correct to say that we can lead minimally good lives without political freedoms. One observation that points towards this conclusion is the fact that throughout human history countless people have sacrificed their lives in struggles against oppression and servitude or in fights for political self-determination.

There are in fact several reasons why we cannot live decent lives without political freedoms. First, quite directly, if we are not able to express our opinions, to follow our convictions, or to associate with those we want to be with, fundamental universal moral interests are suppressed. In such conditions, people live in fear and are unable to express their views or to learn from those of others. They might be afraid to resist those who silence and threaten them, and their lives in this situation would not be decent because they are not able to act on many of their most deeply held beliefs if these are contrary to the interests of their rulers. Second, our political human rights are the most powerful instruments we have to protect our non-political interests, such as our interests in security and having our basic physical needs met. Theoretically, a benevolent dictator would seem to be able to guarantee these fundamental interests for us as well. However, empirically informed research shows that democratic regimes that respect the political human rights of their citizens are most likely to respect all their other human rights as well (Christiano 2011). This is unsurprising given that having an equal say in democratic elections, being able to access information freely, and unimpededly voicing one's views makes it possible to hold those who govern us accountable, and to appoint new leaders should we disagree with the services our current leaders perform for us. When we lack such political power, our basic needs are threatened. For example, in his work on famines, Nobel Prize for Economics laureate Amartya Sen has shown that starvation events are rarely ever the result of actual food shortages. Rather, it is bad governance and the inability to hold those in power accountable that prevents those who suffer from making their voices heard and from demanding that their situation is improved (Sen 1981: 154–166). Political human rights such as those to free speech, free association, and political participation are essential for holding those who rule us to account, and therefore necessary for the protection of our most basic interests (Shue 2020: 75, 83–87).

Third, as Sen also points out, political freedoms are not simply necessary for holding to account our rulers. Rather, they are also important for formulating our own personal preferences and goals (Sen 2001: 154). Many personal goals and preferences are dependent on the societal contexts people live in. What is popular or deemed desirable changes over time and in the light of personal experiences. But without the possibility to discuss freely and publicly what is

desirable, what is popular or dominant will be determined by some (the ones in power) for all others. Only if people can discuss openly what is important, share their own experiences, and learn from those of others, can they form reflected and informed personal preferences rather than adopting the ones others think they should have. Political freedoms (in particular free speech and free access to information) are therefore essential for the exercise of our essential human capacity to make our own choices. Those who do not have political freedoms either have their own preferences frustrated or have to live according to the goals and values set for them by others, none of which is compatible with the idea of leading a minimally decent life as a person capable of self-determination.

Fourth, people who are unable to obtain information freely and to learn from others might be content merely because their preferences are shaped by, and adjusted to fit, their circumstances. But in this case, even if people are satisfied with their lot, their views are not expressions of their own volition. Rather, their preferences are unnecessarily and unjustifiably confined by their circumstances. Philosophers talk about this issue both in terms of the example of the contented slave and the problem of adaptive preferences (Burns 2016). Slaves do not lead a minimally decent life because they are not masters of their own body, choices, or actions. However, a slave might nonetheless be content with her lot if she is taught to accept her position. If she is made, for instance, to believe that being a slave is her natural state, or that she could not exist as a self-determined being, she might not be unhappy with being unfree. Similarly, it is conceivable that citizens in a non-democratic society are indoctrinated to accept their lack of political freedoms as necessary or that political empowerment is simply out of reach. Even if there are some dissenters, most might be content with living an apolitical life. However, this does not mean that these are decent lives because, just like the contented slave, these apolitical citizens are unable to exercise their ability to determine important aspects of their lives (e.g. taking part in making the rules of their society). This deficiency remains even if they do not feel discontent with their position because they have been taught to accept their lack of political freedom.

Moreover, philosophers such as Martha Nussbaum (2000) point out that when people adjust their preferences and expectations to their social circumstances, they are easily deprived of things they are entitled to and accept lives that are unnecessarily impoverished. This is particularly the case with women in patriarchal societies. Here social etiquette demands of women to adapt their preferences to the prevailing social norms, and to limit their ambitions and demands accordingly. A woman who accepts that her natural place is at

home taking care of the children and serving her husband might be content with forgoing the exercise of her human rights to development, education, work, or free speech. But without using these rights and making their own decisions, any individual's life lacks essential elements that human rights protect and that make a human life good. Education, developing and pursuing personal ambitions, speaking one's mind freely, associating with others freely are not optional but essential for decent human lives. This is true even if the person in question has adjusted their preferences to fit with social expectations. People who do not have the option of making use of their human rights, and are taught not to want to, do not lead minimally good lives in line with their capacities as human beings.

For these reasons, whether a person's life is minimally decent not only depends on their satisfaction with their available options. Rather, it also depends on whether they can do things they might want to do and should be allowed to do (see van Parijs 1995: 19). To be able to discover justifiable alternatives to their current ambitions, and to pursue these ambitions, people require basic political freedoms such as free speech and free access to information. Of course, what counts as a set of legitimate range of alternative preferences and goals that every person should be entitled to pursue is contentious. However, political human rights are necessary for developing any conception whatsoever of what one wants to do in life. A state that does not respect political human rights might allow its citizens most economic freedoms and the realisation of their non-political ambitions while denying them political freedoms. Many citizens might even be content with their lives. But their satisfaction is entirely dependent on the government permitting these personal pursuits. If the government changes course, or if individual citizens disagree with the way that society is organised, they have no way to hold their government accountable, no recourse for affecting change. Therefore, political human rights (more precisely the opportunity to exercise these rights) are indispensable elements of minimally decent lives. Many of us do not need to vote, take part in demonstrations, or engage in political debates in order to be actually happy in our everyday life. However, all of us must have the opportunities to exercise these freedoms as conditions of minimally decent lives of persons who are generally capable of self-determination and collective political decision-making. Without political freedoms, the satisfaction of our most urgent interests is dependent on the whim of others who have power over us. The fact that people can be content without having political freedoms does not undermine this point. As I will argue in Chapter 3, having sufficient opportunities for exercising our political human rights today requires that people can access the internet.

The view that human rights are justified because they protect what we all need to live minimally decent lives is not without alternatives.⁶ However, this account of human rights has the advantage that it aligns well with the common understanding that human rights really are about the things that are of the most basic importance to all persons. It therefore ensures that nothing that it would be ‘nice to have’ for people, but that is not of fundamental importance, can make it on the list of human rights. This is particularly important with respect to the topic of internet access. As we saw at the outset of this chapter, internet access is often seen as something that cannot be a human right because it is not sufficiently important enough. However, if it can be shown that internet access is necessary for minimally decent lives, denying the claim that it should be recognised as a human right becomes quite difficult.

Another advantage of the ‘minimally decent lives’ view is that by restricting human rights to what is of basic importance, it limits the demands they make on states. As we have seen, human rights are matters of international concern. This means that when states are unable to fulfil their citizens’ human rights (e.g. because they lack the necessary resources), the international community is called upon to make up the resulting deficit. However, the more expansive human rights are, the more likely it is that the number of states unable to fulfil them will grow, and by extension so does the amount of international help that is required of other states that are in a position to help. The more demanding mandatory help becomes for those who deliver support, the more restricted their own resources for pursuing their own national goals become. And the more limiting the demands of international human rights aid are for the national self-determination of states, the more controversial these human rights claims become. For example, it is one thing to help other states to prevent their citizens from starving and to ensure their children receive a basic education. But it would be much more controversial if human rights were to demand of states, for example, that the health care they make available to their

⁶ According to one alternative view defended by James Griffin (2008), what justifies human rights and explains their function is that they protect the elements of our normative agency and autonomy as human beings. On another view advanced by Martha Nussbaum (1997), human rights have the task of protection fundamental human capabilities that we all need to have the opportunity to lead good or flourishing human lives. A different group of views represented, for example, by Charles Beitz (2009), holds that philosophers should not try to come up with theories of what human rights are. Instead, we have to look at international practice to understand what human right really are and how they are used by states and other participants in international relations (e.g. international governance institutions, non-governmental organisations, political activists) to promote urgent human interests in our modern world of states. For important criticisms of these views, see, for example, Sen (2005), Liao and Etinson (2012), Crisp (2014), Liao (2015a).

own citizens does not exceed what they help less affluent states to provide for their citizens (Nickel 2007: 36–37).

A related advantage of the ‘minimally decent lives’ view is that it reduces the risk of international disagreements about what can count as human rights. This question might be controversial because, as we have just seen, a more expansive list of human rights entails more expansive international duties of economic and financial support. But beyond this, different cultures have diverging views on what rights people have. By limiting human rights to those things that are most essential for all human beings, it becomes extremely difficult for any government to deny that their people have entitlements to these basic things because the moral weight of people’s claims to what they need to lead minimally decent lives is particularly salient.

For all these reasons, the conception of human rights employed in this book understands them as what we need to live minimally good lives. This view is not only theoretically more coherent than rival accounts. It also has pragmatic advantages that will be important for defending the claim that internet access today should be a human right because it has become practically necessary for the enjoyment of most of our existing human rights. In Section 1.3, we will consider what follows from accepting that something is a human right because we cannot live decent lives without it.

1.3 THE IMPLICATIONS OF HUMAN RIGHTS

Human rights, like all moral rights, are claimable entitlements to something. They give us reasons to do or to abstain from something. Standardly, theorists distinguish between negative rights of non-interference (freedoms from something) and positive rights of provision (freedoms to something). The human rights to life, freedom from arbitrary arrest, and free speech give us obligations to abstain from preventing others from living, being free, and speaking freely. Conversely, human rights to health, means of subsistence, and education impose obligations on others to ensure that basic health care, food and water, and education are accessible to everyone. According to some theorists (O’Neill 2005), negative rights are more stringent than positive rights because they are more urgent and have clearly identifiable duty-bearers: everyone simply has a duty not to interfere with other’s negative freedoms, whereas it often seems unclear who has a duty to provide the content of positive rights. This is shown by the earlier example of the person in the street asking for money. This person only has a general claim to help towards everyone, which means that their claim to help is weakened by a lack of a distinct addressee or duty-bearer.

However, Henry Shue points out that on closer inspection this simple distinction between negative rights and correlative duties to abstain, and positive rights and correlative obligations to provide, is untenable. Shue argues that if we assume the societal perspective and consider how our rights operate in the social contexts that we live in, even the least controversial negative rights also entail positive duties and all positive rights also encompass negative obligations (Shue 2020: 52). Shue also points towards the central role of public institutions as duty-bearers in modern societies. If as a society we want to ensure that people's rights to life and bodily integrity are respected, we have to commit to establishing and paying for a police force and an army. If we want to ensure that people are presumed innocent until proven guilty and not arbitrarily deprived of their liberty, we have to commit to creating and maintaining legal and penal systems. In the same vein, our most fundamental positive rights entail obligations to abstain from certain things. Our human right to health does not simply require a public health-care system, but also that our health is not negatively affected, for example, by unaffordable prices for healthy food or pollution from industrial production and traffic.⁷ And while our human right to education certainly requires a public education system, it also requires avoiding treating students differently on the basis of gender, faith, or social background. What Shue's explanation of rights clarifies is that all human rights justify duties of forbearance as well as duties of provision. This point is essential for understanding that no human right can be fulfilled by simply abstaining from doing certain things or by giving people certain things. Rather, even the most basic negative rights require spending some resources for providing various forms of support, and the least controversial positive rights require protection from various harms.⁸

⁷ To be precise, Shue's claim about correlative positive and negative rights primarily concerns what he calls 'basic rights', but he points out that the claim holds for 'many other rights as well' (Shue 2020: 52). 'Basic rights' for Shue are those few rights that must be fulfilled before a person can enjoy any other rights (Shue 2020: 19). For Shue, subsistence, security, and liberty count as basic rights. However, many human rights are not basic rights in Shue's sense. For example, for him, publicly supported education (a recognised human right) is not basic because – even though he sees it as intrinsically valuable – it is not a precondition for the enjoyment of all other rights (Shue 2020: 20). The human right to free internet access defended in this book is also not a basic right in Shue's sense. Even though many human rights (unlike basic rights) are not 'inherent [i.e. conceptual or logical] necessities' (Shue 2020: 26) for the enjoyment of all other rights, they are still practically necessary for the meaningful fulfilment of other rights. They are therefore of fundamental importance and urgency because they protect the conditions of minimally decent lives for morally equal people. As such, Shue's insight that fundamental rights all have positive as well as negative correlative obligations also applies to human rights.

⁸ Allen Buchanan has argued that the idea that human rights entail claims to certain provision invalidates the idea that human rights are moral rights possessed by individuals. According

Therefore, rather than separating rights into some that create only negative obligations of non-interferences and some that merely give rise to duties of provision, Shue's theory shows that all human rights entail both negative and positive obligations. More precisely, Shue argues that all human rights give rise to three types of duties that public institutions must fulfil (Shue 2020: 52):

- i. duties to *avoid* depriving and to *respect* rights;
- ii. duties to *protect* from deprivation;
- iii. duties to *aid* the deprived.

According to this understanding of rights, for instance, the human right to bodily integrity requires that (1) states do not physically harm their citizens, (2) that they provide services to prevent individuals, private companies, and other states from physically harming their citizens (e.g. by maintaining a police force, food quality standards and controls, and an army and intelligence services for national defence), and (3) to remedy occurrences of physical harm (e.g. by maintaining legal, penal, and public health care systems). As this example shows, the services required to fulfil these obligations are properly tasks for public institutions. The costs that arise for providing the necessary public services are ultimately justified by our universal interest in being able to lead minimally good lives. Therefore, positive rights of provision also have identifiable duty-bearers, which in terms of human rights are primarily the right-holder's state and (if the state is unable or unwilling to guarantee these rights) the international community. Shue's point that all basic rights give rise to three different negative and positive obligations has been extremely influential and has shaped the UN's understanding of human rights as set out, for example, in its *Guiding Principles on Business and Human Rights* (UN 2011b: 1), which we will consider in Chapter 7.

to him, this would mean that the moral interests of one person, for example, to health would have to give them a justified claim to the establishment of an entire health care system that can provide the basic health care they are entitled to (Buchanan 2013: 58–64). However, as John Tasioulas has argued, this claim does not follow from accepting the idea that human rights are moral rights of individuals. Rather, everyone's moral interest in health justifies 'the [individual] right-holder's *proportionate share of the costs* of securing his right as one among many other right-holders who also benefit in the same way from the system' (Tasioulas 2017a: 84). Moreover, as James Nickel points out, complex social institutions required for fulfilling human rights such as health care and education are also justifiable as alternatives to the otherwise burdensome fulfilment of the moral duties of families and other (local, national, and international) communities to support those who have a moral claim to their help (e.g. the sick, elderly, unemployed, or disabled). It is therefore not only the moral claim of those in need of support, but also the duties of those who have to help that justify costly and complex social institutions that fulfil human rights (Nickel 2007: 148).

Shue's important work on rights contains another insight that is important for understanding what rights entail in general, and what it means to have a human right to free internet access in particular. As Shue explains, the negative and positive obligations that all rights give rise to are directed towards the protection of these rights from severe, predictable dangers. As Shue puts this point, rights are social guarantees and protections of the objects of rights against 'standard threats' (Shue 2020: 29). The magnitude and ubiquity of standard threats to our essential interests partly explains the important role that social institutions play for the guarantee of our rights. We know from experience that the actions of other individuals or a lack of means often present expectable threats to the conditions of a minimally decent life. Without any protections whatsoever, other people might want to kill or rob us, we might die for want of means to keep us alive, or owing to forces of nature. To address such standardly expectable threats to people, we have established a police force, justice and penal systems, public health care systems, welfare provisions, and public housing. But in our world, it is not merely other individuals or nature that threatens fundamental interests. Rather, among the principal threats to essential individual interests also are a person's own government and other states. Today, we are organised into national communities in the form of states that are the primary addressees for our human rights claims. This organisation into states is so universal and efficient that everyone has a human right to a nationality in order not to be excluded from the international system that we have created. Considering how powerful states are in our world, it is unsurprising that their power is a major danger to essential individual interests. In recognition of this point, Charles Beitz (2009: 109) argues that the particular political role of human rights in international law and politics is to protect 'urgent individual interests against certain predictable dangers (standard threats) to which they are vulnerable under typical circumstances of life in a modern world order composed of states'.

Importantly, though, rights cannot be protections against all kinds of threats to vital human interests. That is the reason why rights are protections against 'standard' threats, rather than all threats. By 'standard', Shue means that these dangers to our rights are 'ordinary' (rather than exceptional), 'serious' (rather than mere nuisances), and 'remedial' (instead of unavoidable) (Shue 2020: 32). This is because it is either not possible, or affordable, to prevent all setbacks to our rights. The human right to health illustrates this point. Standard threats to human health are preventable diseases, a lack of any health care whatsoever that would provide treatment for unavoidable illnesses, and environmental pollution produced by modern civilisation. Against these normally occurring dangers, the human right to health entitles everyone to basic health care

provisions, environmental protections, public controls of good food quality, and affordable or free medicinal drugs to treat standard illnesses. However, no health care system can be resourced to prevent or treat all illnesses and suffering. This is partly because for some illnesses there are no cures and partly because some available treatment would require an unjustifiable amount of resources. Moreover, preventing all dangers to human health would be unreasonably restrictive and greatly limit individuals' liberties and economic activity, as the general quarantine measures taken by states in response to the COVID-19 pandemic strikingly illustrate. Rights therefore have to guarantee protections against standard threats to vital human interests rather than guarantees against 'all possible threats' (Shue 2020: 29).

This means that not all harms to the interests that ground human rights count as human rights violations. Rather, human rights violations occur when those with the obligations to uphold human rights (the duty-bearers) fail to provide a 'context-sensitive degree of risk mitigation' (Reeves 2015: 404). States must, for example, provide adequate basic education and health for their citizens as a matter of respecting human rights. This provision ensures that those without sufficient means still receive adequate education and health care. However, states do not have to (and cannot) make sure that no one fails school or dies of illness. If states have done a reasonably good job to provide these services to all citizens, the fact that some (or even many) have the interests that their human rights protect unfulfilled does not count as a human rights violation.

1.4 TWO ADDITIONAL CLARIFICATIONS ABOUT HUMAN RIGHTS

Now that we have seen what human rights are, what justifies them, and what having human rights means and entitles their holders to, we need to dispense with some misunderstandings of human rights. These misconceptions otherwise threaten to get in the way of discussing the idea that something as modern and technological as internet access can actually be a human right.

Human rights often meet with scepticism, some of which is rather cynical. For some critics, human rights are merely handy tools used by some to achieve their political goals (Perugini and Gordon 2015). One version of this criticism sees international political human rights practice as a form of neo-imperialism and neo-colonialism. According to this perspective, human rights are Western values that are enforced on other cultures in pursuit of the interests of affluent Western countries abroad. Humanitarian and other external interventions in developing countries are justified with the ostensible goal of protecting human rights in these nations, even though what

is really being pursued are the imposition of Western values and the political and economic interests of the interfering powers (Ingiyimbere 2017). However, even if it is accurate that human rights have been abused for reprehensible, non-moral aims, this does not undermine the entire idea of, or struggle for, human rights. If human rights are feasible and justified, the fact that they are misused does not undermine their validity and usefulness any more than the everyday breaking of moral rules undermines their correctness and importance. This book relies on the normative force of the idea of human rights. The assumption here is that human rights can constitute genuine universal values and rules that are acceptable to, and in the interest of, all human beings.⁹ In practice, human rights are also frequently invoked as important international standards and powerful argumentative resources. Moreover, normatively speaking, even if human rights are misused, this does not undermine the claim that they *should* be protected and that they *could* be respected.

Related but different critiques take issue with the limited requirements that human rights entail in our highly unequal world. The historian Samuel Moyn, for example, argues that human rights have been unable to prevent or significantly limit the rise of global socio-economic inequality beginning in the last quarter of the twentieth century. This increase in inequality to a significant extent was caused by the expansion of global free market policies, which increased the mobility of financial capital, forced the opening of economies of developing nations to international markets, and weakened the capacity of developed states to fund redistributive welfare schemes for their citizens. In Moyn's view, even though human rights had some success in protecting individuals and their moral status against attacks by states, they did not address rising material unfairness (Moyn 2018: 173–211). Others, such as the international relations scholar Stephen Hopgood, even see human rights as being partly responsible for the rise of global inequality. To him, human rights have allowed those benefiting from inequality to avoid feeling guilty about the negative effects of the global system. By providing humanitarian aid to the worst off, the 'winners' of global inequality could tell themselves that they did their part for the 'losers' suffering from poverty (Hopgood 2013). However, the philosopher Jiewuh Song (2019) has explained that these 'inequality critiques' of human rights are problematic. Importantly, human rights are not all that justice requires. As we have seen, human rights are sufficiency requirements

⁹ For defences of the possibility of universal moral values and globally valid normative human rights against claims of cultural relativists that there are no universally acceptable but only locally and contextually accepted values, see Nickel (2007: 168–184), and Caney (2005: 25–62).

that ensure that people can live minimally decent lives while also allowing states to choose their own socio-economic policies beyond these universal minimal entitlements. A full account of domestic and global justice will have to say something about what distribution of socio-economic benefits and burdens of international cooperation is fair beyond the guarantee of human rights. Human rights therefore do not have the aim of addressing all injustices. Moreover, there is no clear-cut case for the causal role of human rights in the rise of global inequality – especially when considering other major factors such as the rise of global corporations, international tax havens, or the politics of the Washington Consensus (see e.g. Rodrik 2011).

In this book, I will therefore accept that human rights can be universal values and effective political instruments that do not represent all that is required by justice, but instead have the task of protecting people's most essential interests. Bypassing the aforementioned critiques, this section instead addresses two different theoretical misunderstandings that are particularly relevant to the idea of a human right to free internet access. One of these misconceptions holds that the idea that everyone has human rights to aspects of modern civilisation by virtue of being human alone is nonsensical. The problem with this idea supposedly is that such rights would have had to be claimable by every person throughout history because they were also human beings. However, it does not make sense to argue that Stone Age people had human rights, for example, to a fair trial or to health care. If this charge were correct, the idea of a human right to free internet access would be a non-starter (Tomalty 2017). According to a second objection, we cannot have human rights to technological artefacts because these are merely means to other important things we actually care about. For instance, we all have the human right to free movement. However, this does not give us a right to a car even though owning a car in modern societies is extremely useful for exercising our right to free movement. This argument has been made, for instance, by Vinton Cerf (2012), one of the so-called fathers of the internet. If this point about what can qualify as a human right were accurate, it would be difficult to see how we could have a right to internet access. After all, online access is not an end in itself but a technological means that is useful for other things. I will explain why these complaints are based on misunderstandings about what human rights are.

First, let us consider the claim that everyone throughout time has been entitled to the full list of rights set out by modern human rights treaties based on their humanity alone. This would seem to commit us to the idea that the ancient Greeks and Romans were entitled to modern health care, equality before the law, public education, or – considering the argument of this

book – to free internet access, which is clearly absurd.¹⁰ However, there are several ways to respond to this claim. One would be to deny the plausibility of some rights recognised in international human rights law. This might mean that every person throughout time based on their humanity alone indeed had human rights to life, liberty, the means of subsistence, shelter, and free movement because these were realisable at all times. But according to this view, no one really has or ever had human rights to things that presuppose modern institutions or technology, such as the right to a fair trial, to health care, to education, or to free internet access. The problem with such a perspective is clearly that many of the most fundamental and accepted human rights would be lost. One might then rightly fear that modern achievements such as equality before the law, public education, and health care lose their status as universal entitlements and instead are conditional on the prevailing political opinion in states because nothing about us as persons would entitle us to these rights. This would be a very high price to pay for making human rights fit with the idea that everyone has these rights by virtue of being human.

Fortunately, another response is available. This one relies on separating the purpose or aim of a human right (such as access to available means and knowledge to treat preventable diseases and suffering) from the concrete content or object of that right (e.g. modern health care). If we distinguish purpose from content, we can see that the purpose and aims of human rights are indeed timeless and apply to everyone as conditions of living minimally decent lives (see Liao 2015b: 66). The particular content of these rights, on the other hand, depends on the circumstances that people live in. Accordingly, we can say that every person who ever lived had an entitlement to access the available means and knowledge to treat preventable diseases, for example, which should have been fulfilled. The ancient Greeks and Romans already possessed a degree of medical knowledge that allowed them to treat certain ailments. However, access to such help was often limited to those with the necessary means and status. It does not seem absurd, though, to say that all inhabitants living in the Roman Empire had an equal moral claim to access the medical treatments available at that time. Being of noble birth did not give anyone a weightier claim to the available resources. Of course, this thought was not accepted in ancient Rome, where people's equal moral status was not

¹⁰ In fact, Charles Beitz (2009: chapter 3) and Joseph Raz (2010: 40) both take this criticism to be fatal to philosophical conceptions of human rights that see these as based on individual moral rights. Their own solution is to argue that we should instead understand human rights as arising from international political practice as instruments that have the function to constrain what states can legitimately do to their citizens. As pointed out in footnote 8, such political conceptions have weaknesses of their own.

recognised. However, the ancient Hippocratic Oath already recognises a duty of physicians to treat the sick equally to some degree, and not to deny anyone help owing to their background. The claim to equal access to medicinal resources in ancient Rome is therefore not absurd as such, even though it was not respected.

Human rights claim to be universally valid, irrespective of prevailing conventions. It is therefore not absurd to argue that the ancient Romans were wrong to enslave people, to kill people cruelly in amphitheatres for the entertainment of spectators, and to brutally execute prisoners by crucifying them. The interests to life, liberty, and freedom from torture of those enslaved and executed were as salient to people back then as our same interests are to us today. It is therefore not plausible to argue either that slaves or the poor of ancient Roman society had no strong morally relevant interests in life, health, and liberty, or that, despite not having these interests fulfilled, they led minimally decent lives. It makes more sense to acknowledge that slaves and poor citizens did have such morally relevant interests and were not able to lead decent lives. And because human rights are protections of the conditions of minimally decent lives, it makes sense to say that the human rights of slaves in ancient Rome were not respected or fulfilled. Equally, people in ancient societies had a strong moral interest and corresponding human right to the basic medical care that might have been available for everyone at that time, and their lives were worse than they needed to be for not having this important interest met. On the other hand, if we accept that the aims of human rights are timeless, this does not mean that we must also accept that their contemporary content was the same throughout all times. Modern medicine simply was not available in ancient Rome as a means for fulfilling people's interest in avoiding treatable illnesses and preventable suffering. This particular care only became claimable for people in modern times once this level of care had been developed. For this reason, everyone today has a human right to access basic modern health care just as every inhabitant of ancient Rome was entitled to the basic health care that could have been provided for all back then.

This leaves open the possibility that in ancient times no general health care was affordable for everyone or that it might not have been possible for people to respect everyone's moral equality. However, rather than concluding from this that people in the distant past had no human rights, it seems rather reasonable to conclude that they were missing elements of minimally decent lives, which human rights protect. The lives of many human beings before the invention of modern medicine and the rule of law simply were not minimally decent and regrettably could not have been decent as humanity lacked the required social and technological knowledge. This is also consistent with

the claim that basic health care became a claimable human right once its delivery became generally possible. We can therefore say the same of other human rights that require modern institutions such as those to a nationality, elementary public education, a free press, or freedom of conscience and religion. These rights have always existed for all human beings, and those who did not have them respected or could not have them fulfilled lacked elements of minimally good lives. Once human development allowed for the general protection of vital human interests, the human rights protecting these interests became entitlements for everyone, even if most were denied these rights.

Accepting the distinction between the universally valid aims of human rights and their context-specific content also makes it possible to accept the claim that today something like internet access has become a human right because the internet exists and since it has become possible universally to provide such access. What needs to be shown, though, for the claim that we have such a human right to make sense is that internet access has indeed become important enough to warrant the status of a human right. This is the task of Chapters 3 and 4. For now, we can assert that the aims and purposes of human rights are timeless but that the particular objects that they entitle people to depend on (1) universal and strong morally relevant interests and (2) the existence and general availability of the means to realise these interests. There is nothing absurd about understanding human rights as rights that people always had by virtue of being humans alone. Accepting this idea does not mean that we must also endorse the idea that all persons at all times had rights to the same things that we have human rights to today.

The second concern about human rights that is particularly relevant to the idea of a human right to free internet access is that we cannot have rights to technologies or artefacts that are only useful for realising other, primary, rights. The worry about accepting rights to technological means, as Vinton Cerf argues, is that their usefulness is often temporary compared with the permanent importance of water, food, health care, or security, to which we have uncontroversial human rights. One might therefore say that, even though internet access is useful for, for example, free speech and free information, we should protect the human rights to these interests rather than elevating internet access, which is merely a means to all of these things, to the status of a human right. The UN seem to have gone in this direction by demanding that the same 'rights that people have offline must also be protected online' (UN 2016: 2), rather than recognising a new right to internet access.

In response to this concern, it is helpful to note that we can become entitled to technological means or artefacts when these are developed because they are essential for realising primary rights. That is in part because we have a human

right to enjoy the benefits of scientific progress and its applications (UN 1966a: §25.1b). Moreover, though, as we have just seen, the content of human rights can change over time owing to the discovery of new social and technological innovations, and such new content can comprise technologies or artefacts. We can consider the example of vaccinations. According to the human right to health (UN 1966a: §12), everyone is entitled to basic health care. After the spread of the SARS-COV-2 virus and the development and industrialised production of vaccines to protect against this virus, it is plausible to argue that the human right to health care came to encompass a universal right to these vaccines. Suffering from the effects of COVID-19 threatens people's lives and health. Once an effective, and generally affordable,¹¹ preventative treatment became available in the form of COVID-19 vaccines, everyone can be said to have a right to this treatment as part of their human right to health. The right to the SARS-COV-2 vaccines is thus encompassed by, and part of respecting, the primary human right to health – even if this vaccine is an artefact. Similar things can be said about the human right to social security (UN 1966a: §9), which is a modern social innovation aimed to protect more basic rights and interests such as health care, support in cases of accidents or unemployment, and the means of subsistence when people become too old or ill to work.

Rights based on technological means can also become rights in themselves if these rights are essential for the realisation of other crucial interests. For example, the human right to a free press (UN 1966b: §19.2) is justified based on the human right to free information. Every person throughout time can be said to have had a vital interest and human right to free information. However, before the invention of modern institutions and the printing press, people did not have a human right to a free press because the required technology had not been invented. Once the institution of a free press became possible, everyone acquired a human right to the institutions of a free press because of the paramount importance of a free press for realising the human right to free information.¹² Having a professional press that can operate freely remains important today. However, as Kay Mathiesen (2012) has argued, what

¹¹ Meaning affordable on a global scale, not affordable for all nations.

¹² To be precise, in many human rights documents, the right to press freedom is subsumed under the right to freedom of expression. According to the International Covenant on Civil and Political Rights §19.2, for instance, 'everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice' (UN 1966b). However, institutions such as the European Court of Human Rights have explicitly recognised the special status of the press and the freedom of the press. That is because of the central role of the free press in enabling free political participation and because members of the press (e.g. journalists, editors, publishers) face particularly

is required for having a free press has changed over time. In past decades, mass media such as printing presses, radios, and televisions were key technologies for a free press. Today, much information sharing and obtaining has moved online so that internet access has become a key technology for realising the human right to a free press and the human right to free information that it is based on (we will consider this point in detail in Chapter 3).

Neither is the point that the internet is a technology that is useful for our human rights today but that might be superseded by another technology in the future fatal to the idea of a human right to internet access. On the one hand, considering the way that the internet has changed almost all aspects of our lives, it is unlikely that it will become an outdated means anytime soon in the way that horses became outdated as an important means of transportation. On the other hand, though, there are other human rights that are based on contingent inventions that might well become replaced in the future. Two examples here are the human rights to a nationality (UN 1948: §15) and a rights-respecting international order (UN 1948: §28). As discussed earlier, these rights are crucial in our contemporary world that is politically organised into states. But nation states are a relatively recent human invention and people could not have had such human rights before peoples organised themselves into nation states. Moreover, supranational institutions such as the European Union suggest that the institution of nation states might at some point be superseded by other, more international forms of political organisation. In addition, international conflicts have led thinkers as far back as at least Immanuel Kant (1795) to argue that we should not simply accept the existence of nation states but develop global forms of political organisation that can help solve problems among nation states.¹³ Modern global coordination problems such as climate change and nuclear deterrence are also seen as evidence that humanity needs to think beyond the power of nation states to secure the survival of humanity (Vergerio 2021). These considerations show that it is by no means certain that the particular invention of nation states will persist throughout time. Yet it is plausible that currently and while nation states exist, people

strong and frequent threats to their free expression. These predictable attacks in turn give states special, positive obligations to protect the rights of members of the free press (e.g. by providing protection for journalists who receive threats, see Bychawska-Siniarska 2017: 87–93).

¹³ Kant did not argue that humanity should eliminate nation states in favour of a world government, to be precise. Because of a lack of popular support and practical means for realising such an idea, he rather argued for a voluntary association of states. However, commentators have argued that obstacles that existed in Kant's time to establishing a non-optional world republic that has coercive authority over member states no longer apply (Pogge 2009) or that Kant's own theory coherently applied requires the creation of such a global institution once it becomes possible (Reglitz 2019, Wyłębska-Đermanović 2019).

have human rights to a nationality and a rights-respecting international order. If some other form of political organisation were to become dominant in the future and therefore crucial for the fulfilment of human rights, membership in such alternative communities could conceivably become a human right.

The human right to form trade unions (UN 1966a: §9a) can be seen as another example of a temporarily contingent right because it presupposes the existence of capitalist economies that pit the interests of employers and capital owners against those of workers and employees. Capitalist economies, though, are a modern human invention, and there is no guarantee that they will not be superseded one day by other forms of economic organisation, at which point trade unions might become obsolete. A world without nation states and capitalism seems very difficult to imagine, but then so seems a world without the internet. However, even if a new technology should take the place and the functions of the internet, the argument that would justify a human right to free internet access could be applied and transferred to this new means of communication. There is therefore nothing problematic as such about assigning human rights to that which might only be of temporary relevance. If we have a human right to them depends on whether these particular technologies, artefacts, or institutions are of sufficient moral importance for securing minimally decent lives. The idea of how something can acquire the status of a distinct (human) right based on its usefulness (i.e. instrumental value) for other essential interests or rights is a complex one, and will therefore be in the focus of Chapter 2.

1.5 CONCLUSION

This chapter has equipped us with important theoretical tools to make the case for the human right to free internet access. To begin with, there can be human rights other than those codified in international human rights documents because besides legal rights there are moral rights. Some moral rights are important enough to demand legal codification and coercive enforcement. The idea of moral rights therefore allows us to think about the human right to free internet access even though no legal human right of this kind currently exists. The decisive question is whether we can identify a regarding moral right that should be recognised as a human right. We then saw that human rights are protections of the conditions of minimally good or decent human rights. Living a minimally good life is surely of utmost moral importance to all of us, no matter what other things we value. Human rights are also matters of international concern. This means that if a state as the primary duty-bearer of the human rights of its citizens is unwilling or unable to respect

or fulfil these rights, the international community of states is called upon to help. This aid can take various forms such as development aid or, in the most serious cases, humanitarian intervention. Importantly, all – and in particular states as the most powerful agents in our world – have obligations to respect everyone's human rights. By virtue of being human alone we are entitled to living minimally good lives free from avoidable suffering, extreme want, or oppression and violence. We thus have entitlements to those conditions that secure such lives for us.

What it means to have human rights becomes particularly clear when we consider Henry Shue's theory of basic rights. According to Shue, all our basic rights justify obligations for duty-bearers to respect and protect our rights, and to aid us if our rights have been violated. Every right, both negative rights to non-interference and positive rights to provision, give rise to all three types of duties. This means in particular that duty-bearers (which in the case of human rights are primarily states) have obligations to protect rights from standard threats that they can be expected to be threatened by. As Beitz (2009) points out, in our world that is organised into states, the standard threats often (but not always) are posed by states. States thus have dual relevance as primary duty-bearers for protecting human rights as well as the primary sources of threats to rights. This means that to explain the human right to free internet access, it is not enough to show that such a human right exists. It must also be clear what standard threats internet access faces and what duties arise from these dangers. This part of the analysis will be the content of Part II of this book.

Finally, we have seen that accepting human rights to anything that presupposes modern technology or social institutions does not commit us to the view that all human beings at all times had the same human rights. Rather, by distinguishing the aims from the content of human rights, we can see that some of these rights that are accepted today (such as the right to a free press or to free public elementary education) were not held before the creation of modern civilisation. However, rather than taking this as proof that the idea of human rights as entitlements that we have merely because we are human is absurd, it is more reasonable to conclude that it was impossible for people in previous times to live entirely minimally decent lives. Moreover, we have also found that people can have rights to artefacts or technology as long as these are necessary for leading minimally decent lives – even if only temporarily. Nothing about the internet as a modern technology as such therefore prevents us from assigning it meaningfully the status of a human right. The crucial question is if internet access has become important enough to deserve the status of a human right.

Chapter 2 explains the remaining theoretical tools that we need to make sense of the claim that free internet access is a human right. The first one is the idea (touched upon earlier) that we can sometimes obtain rights to things on the basis that these are extremely useful for the effective operation or protection of other, primary, interests or rights. The second theoretical idea we will encounter is that having a right to something entitles us to certain opportunities to make use of this right. If this were not the case, many of our rights would merely be formal. Or rights to something would then only consist in the demand that no one hinders us in the exercise of our rights, but not in a claim to be guaranteed the means that are necessary to make use of our freedoms – which would make many rights practically useless for those who do not have the means to exercise them.