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Carly Martin
Macalester College

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Intervention

Carly Martin

Dr. Seyla Benhabib's article, "*Just Membership in a Global Community*," explores the shifting meaning of political membership in the current conditions of global migration. She investigates the conflict, in her words, the "outright contradiction," between democratic sovereignty—the claim of a self-governing people to define its community by limiting its membership—and the recognition of the "right to belong" to which, according to Dr. Benhabib, any human is entitled. The very term *global citizenship*—the status of one who claims membership in a limited political community, while simultaneously placing him or herself in the community of human inhabitants of the earth—evokes this tension. How is it possible to assert one's belonging in a community while simultaneously recognizing the rights of nonmembers, the rights of others, to enter into the space delimited by this community or to ultimately become members themselves?

I will respond to Dr. Benhabib's essay primarily through an analysis of the human right to belong, and human rights in general, to which she appeals. After examining her discussion of the "right to have rights," I will consider possible philosophical bases for such a human right, focusing in particular on the Kantian theory of philosopher Alan Gewirth. I criticize Gewirth's portrayal of the human agent, the subject of human rights, as purely rational and thus "universalizable," and I claim that such an understanding of the human agent may be a source of the tension between citizenship and human rights that Benhabib describes. In the end, I argue that it is precisely an understanding of the particularized, historical nature of human agents, an understanding that one's position is not universal, that can inform a *just* practice of citizenship.

Dr. Benhabib explores the intersection of citizenship and human rights through an analysis of Hannah Arendt's phrase, "the right to have rights." This phrase, she explains, evokes a growing consciousness in the current era of the right of an individual to belong to a political community. Arendt's first use of the term *right* captures this right to belong, this "human right to membership," in Benhabib's words. The second use of the term *rights* refers to the rights that an individual may hold as a member of a political community; these are the rights that a citizen enjoys. He or she may, as Benhabib states, "stand in a relation

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of reciprocal duty” to other members of the community, and others must “recognize [this individual] as a member, as one who is protected by the legal-political authorities and treated as a person entitled to the enjoyment of rights.” Yet the status of an individual as a citizen of this political community, a claimant to rights in the second sense of the term, is dependent upon others’ recognition of this person as someone who can and should be a member of this community in the first place, evoked by the first use of the term.

Benhabib concludes her presentation by arguing that all human beings have the right to membership in a political community, and that as global citizens, we must work to affirm this universal human right through our own political practices. She calls upon states to recognize the human rights of migrants and thus to allow refugees to enter their territories and to grant eventual citizenship to long-term resident aliens. It is the migrants’ fundamental status as human persons that entitles them to such political rights.

Benhabib’s argument, then, rests upon the claim that humans, as such, hold claim to certain rights, such as the right to belong. Yet, probing this assumption, we must ask in what sense human-ness justifies a claim to rights. What is it about human persons that entitles them to claim basic rights? What gives us the obligation to grant a refugee fleeing violence in his or her state entrance into the bounded territory of our community?

Explicitly in her article, Benhabib justifies human rights based upon international law and treaties formulated since the mid-twentieth century. The 1948 U.N. Universal Declaration of Human Rights, which became the basis for later international covenants, serves as a set of guiding principles for the treatment of individuals by their own states, by foreign states, or, most pertinent to our present discussion, when they cross state borders. While, as Dr. Benhabib notes, these treaties pertain to relations between signatory states and do not currently “confer rights and responsibilities directly on individuals,” such treaties create a legal justification for human rights, a normative momentum toward the increased recognition of these rights by all states. Yet a legal justification for human rights is not sufficient, I argue, because we understand humans to have rights whether or not they are enforced or written into a treaty. We must not justify human rights based upon the way we currently recognize them, but we must rather justify a form of treatment that all humans *deserve*. In this way, we require a moral or normative justification of universal human rights. Such a justification

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should be able to tell us what it is about a person that gives her a claim to certain rights or entitlements that she may demand from other persons or governments.

Western moral philosophy yields many different methods for the justification of human rights. We could make a utilitarian defense, claiming that the recognition of human rights augments humanity's happiness or welfare. We could argue from intuition, stating that human possession of certain rights is a self-evident truth. This position might coincide with a defense of human rights based on religion. Or, with John Rawls, we could argue that individuals considering their society from behind a "veil of ignorance," unaware of their social location, would choose to invest each individual in society with certain rights.

Another commonly invoked justification for universal human rights is that based upon human agency, and it is a form of this argument that I will briefly sketch and critique. Contemporary philosopher Alan Gewirth, arguing from the tradition of Kantian moral theory, presents us with one such argument for universal human rights. Gewirth premises his argument upon the claim that all humans are actual, prospective, or potential agents; in other words, any human is, will be, or could be an agent insofar as she can think rationally, act, and justify her act to others through communication.¹ An agent acts intentionally in that she acts to achieve a certain purpose, which she views as a good or worthy end.²

Certain conditions, however, are necessary in order for the agent to achieve her purpose. Gewirth argues that successful action requires two necessary conditions: the freedom and the well-being of the actor. Freedom, here, is the ability to control "one's behavior by one's unforced choice while having knowledge of relevant circumstances."³ Well-being encompasses basic goods, such as life, bodily integrity, and mental stability; nonsubtractive goods, such as the ability to plan for the future (and thus not being lied to or stolen from); and additive goods, such as the right to education and the right not to be discriminated against based upon race, gender, sexuality, class, religion, nationality, or ability.⁴ Both freedom and well-being are necessary for action, and, insofar as the agent understands the purpose of her action to be a good, her faculty of reason dictates that she must take her freedom and well-being to be necessary goods. In order to pursue her goals through action, then, an agent must make the prescriptive statement that freedom and well-being are goods that are due to her. The agent

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must demand the right to freedom and well-being from others in order to take successful action.

The agent, then, claims that she holds rights to these necessary conditions of freedom and well-being. But why must she recognize the rights of others, of humans as such? The agent, Gewirth argues, makes the claim to her own rights based upon the fact that she is a rational person and prospective agent; she claims that she deserves rights because she has purposes that she wants to fulfill. But she must then accept that any rational, purposive agent is entitled to the same rights. Thus, in order to ensure that the necessary conditions of her own goals are met, the agent must recognize the rights of other agents to demand these same necessary conditions.⁵ Each agent, in this way, ought not to interfere with the rights of other rational prospective agents to freedom and well-being, and, in some cases, must assist other agents with the achievement of these conditions. Through this argument for the universal duty of a rational person to recognize the rights of another equally rational person placed in his or her situation, Gewirth develops a defense for universal human rights.

At this point, in an essay of greater length, I would first evaluate the logical soundness of Gewirth's argument and subsequently determine whether the right to political membership that Dr. Benhabib discusses can follow from the rights to freedom and well-being that Gewirth defends. Because of the constraints of this essay, however, I will assume that Gewirth's theory is sound and does entail a right to political membership. I will critique Gewirth's account of the human subject of rights and will enquire as to whether the notion of rights itself makes sense under the framework of his theory.

Gewirth argues that the exercise of rationality circumscribes human agency, and thus any foundation for human rights. He claims that we should recognize the rights of others, such as refugees' rights to eventual membership in our political communities, because, possessing the same rational capacities, we would make the same claim to rights in their situation. In other words, Gewirth derives a *universal* claim to human rights by abstracting the agent from her particular situation; this abstracted rational agent is interchangeable with any other rational agent who, placed in her situation of potential action, would demand the same rights. The moral agent is constituted not by her particular history of relationships, environment, and so forth, but rather by the rationality that she shares with all other humans.

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Gewirth's method is sensible. In order to justify a claim that all humans deserve the same basic forms of respect, we must consider moral agents in light of the fundamental qualities that unite them, rather than in terms of the particular contexts that make each agent's life unique. At the same time, however, shouldn't an adequate justification of human rights account for the differential positions of agents as well as the qualities that make them identical? For a *right*—a certain form of treatment demanded by one person of another person or government—is a demand that has been, or can be, denied. One articulates the concept of rights only when a petitioned form of treatment, such as freedom of opinion or recognition as a member of a political community, is denied or threatened. In other words, the notion of rights becomes meaningful only when humans situated in specific circumstances are denied the basic, requisite conditions for survival, happiness, or agency. In this way, it seems that any adequate account of human rights must comprehend agents both in terms of their universalizable qualities, the bases for their fundamental identity, as well as in terms of the particular lived contexts that make each agent's life irreducible to any other.

Hannah Arendt, as quoted by Benhabib, explains the relevance of historical context to the understanding of political rights. Arendt writes, "We become aware of the existence of a right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerge who had lost and could not regain these rights because of the new global political situation."⁶ Referring to the rise in a global consciousness of human rights following the Holocaust and other atrocities of the early and mid-20th century, Arendt demonstrates that talk of political rights only makes sense in the context of a current or past threat to human political membership. In order to develop a concept of a universal right to belong, we must understand that the position of an agent who is a citizen, a member of a political community, is precisely *not* "interchangeable" with that of all other agents.

One might respond to this claim, however, by arguing that the concept of the human agent as rational, and thus located in a universalizable position, is presupposed within the consideration of the particular circumstance described above. In order to understand that the differential treatment of humans as regards fundamental conditions for life and agency is wrong, we must already understand that all humans

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deserve the same basic form of treatment. In other words, an understanding of the identity of all humans underlies our intuition that it is wrong to deny persons the basic necessities for agency. Therefore, the objection continues, a particularized understanding of the agent is not logically necessary to a defense of human rights.

I would answer, however, that the historical necessity of human rights, as evidenced by events like the Holocaust, is, in part, what gives meaning to the notion of rights and cannot be separated from it. If certain agents' claims to basic conditions of well-being or, in Arendt's example, political membership, were not denied or threatened, no universalistic account of rights would be necessary. In other words, the notion of right itself loses sense in isolation from the historical circumstances from which it has arisen. Just as the concept of rights loses meaning outside of the lived context of human difference, so is any justification of rights, based necessarily on the human subject of rights, nonsensical if it does not include a consideration of lived context.

If it is true that Gewirth's failure to situate the concept of rights, and the human subjects of these rights, in historical context renders his justification of human rights incomplete, then how does this conclusion inform Benhabib's discussion of democracy and the right to belong? First, I would argue, my analysis of Gewirth's theory suggests the grounding for an adequate philosophical defense of human rights. Such a defense would base itself upon a consideration of the agent both in terms of the rational qualities that he or she shares with all other humans and in terms of his or her contextual and historical situation, although I acknowledge the difficulties of formulating such a theory.

Secondly, and more deeply, the role of historical context in comprehending a human subject of rights may also inform the tension between the practice of political belonging and human rights that Dr. Benhabib discusses. Tension between democratic citizenship and human rights is in part the result of a purely universalistic understanding of the human agent. Citizenship is simultaneously an affirmation of one individual's membership in a state and a denial of others' membership. Citizenship is, in itself, exclusive. This exclusion can lead, as Benhabib's examples of political refugees demonstrates, to situations in which individuals are denied membership in any state, or in any state that can sustain them. Yet if a U.S. citizen, for example, positioned to shape U.S. citizenship policy through legislation, understands her obligations to others solely in terms of the rational capacity she shares with them, this reality that some excluded *others* are stateless cannot enter into her

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moral calculation. A human right to belong seems meaningless unless she comprehends the strata of political membership that differentiates human subjects and her own role in propagating this differential membership through exclusive membership in her state. Insofar as a U.S. citizen understands the human agent as purely rational and thus universal, the exclusivity of her citizenship cannot emerge as morally relevant. Citizenship understood only from the perspective of the citizen, which I argue follows from a purely universalistic understanding of the human agent, fundamentally conflicts with the recognition of a human right to belong.

I suggest that integral to the practice of membership itself—namely, in this case, the formulation of laws that grant or deny citizenship—is an understanding that not all humans share one’s position of political membership. In order to practice citizenship justly, in a way that recognizes the rights of others to also belong, we must attempt to understand the way power and privilege constitute us, and those we label *other*, as human subjects.

Notes

1. Alan Gewirth, *Human Rights: Essays on Justification and Applications* (Chicago: University of Chicago Press, 1982), p. 46.
2. *Ibid.*, p. 47.
3. *Ibid.*
4. *Ibid.*, p. 56.
5. *Ibid.*, p. 57.
6. Quoted in Seyla Benhabib, “*Just Membership in a Global Community*,” Macalester College Civic Forum: Meditations on Global Citizenship. St. Paul, Minnesota, 31 March 2007.