Needs, Rights, and Collective Obligations

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1.

Normative political discussion can be conducted in a variety of different vocabularies. One such is the vocabulary of rights; another is that of needs. Others, with which I shall be less immediately concerned, are the vocabularies of common good and perhaps—although one might regard it as such a general term as to be common to almost all the terms in which one might conduct normative discourse—that of moral obligation.[1]

It is often pointed out that the use of particular normative vocabularies can have significant effects on political practice. So for example, it can be said that the vocabulary of needs carries with it implications of urgency which talk of preferences—which in this context almost always seem to attract the epithet 'mere'—cannot.[2] To those who think that the notion of need can play a valuable role in political discourse, this can be supposed to be one of its virtues. To those who are suspicious of it, it may, equally seem like further grounds for suspicion.[3]

[1] This is not intended to be an exhaustive list. One vocabulary which I have not mentioned here, but which is closely related to those which I shall be discussing, is that of capabilities—see M. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press 2000) for further details.

[2] See D. Wiggins 'Claims of Need' in his *Needs, Values, Truth: Essays in Philosophy,* (Oxford: Blackwell 1987), 1–57 esp. 6; G. Thomson, *Needs* (London: Routledge and Kegan Paul 1987); H. Frankfurt 'Necessity and Desire' *Philosophy and Phenomenological Research* **45** (1984), 1–14. I should perhaps emphasise that none of these writers thinks the difference between preferences merely and desires can be accounted for just in terms of their urgency—and nor do I.

[3] For further discussion of these points see the exchange between Frankfurt op. cit. note 2 above and R. Goodin 'The Priority of Needs' *Philosophy and Phenomenological Research* **45** (1985) pp 615–626. Interesting further discussion of these issues can be found in G. Brock 'Morally Important Needs', *Philosophia* **26** (1998), 165–178.

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Similarly, use of the vocabulary of rights is often thought to encourage those designated as right-holders to take an active role in securing the new or continued performance of such obligations as they take to be owed to them.[4] By contrast, use of the vocabulary of obligation may encourage them to take up a more passive or less strident attitude to the same matters. Depending on one's point of view, this may seem like either a good thing or a bad one.

Different sorts of normative discourse can come into conflict with one another. Part of the job of the philosopher is to uncover and articulate relationships between concepts we should expect that when conflict occurs, we will need to engage in philosophical investigation.[5] One part of the point of this investigation will be to discover whether the conflict is deep or contingent: whether it stems from features of the concepts which are expressed in those vocabularies or only from the personal preferences or the particular allegiances of those who find themselves articulating their views in terms of one or other of them, or on accidents of political and intellectual history.

Onora O'Neill has claimed that there is a tension between the normative uses of the vocabulary of needs and the vocabulary of rights which results from conceptual rather than contingent features of the two discourse involved.[6] The aim of this paper is to show that O'Neill's contention is overstated, and that the tension can be resolved.

[4] O. O'Neill, 'Hunger, Needs and Rights' in *Problems of International Ethics*, S. Luper-Foy (ed.) (London: Westview, 1986) reprinted as 'Rights Obligations and Needs' in *Necessary Goods: Our Responsibilities to Meet Others' Needs* G. Brock (ed.) (Lanham: Rowman and Littlefield 1998) 86–106 (page references to this reprint).

[5] Why does the fact that two forms of normative discourse come into conflict(if they do) matter? Part of the reason will have to do with the practical consequences of adopting one form of discourse or another. But if the conflict is deep (in the sense I have suggested, and in the sense which O'Neill's arguments seem to suggest) then it may be impossible to use both vocabularies without falling into incoherence. This strikes me as particularly significant for someone who wants to give the vocabulary of needs an important role in normative political discourse, since the vocabulary of rights is so deeply embedded in that discourse as to be for all practical purposes inextricable. (I am indebted to Sandrine Berges for pressing me on this point.)

[6] O'Neill op. cit. note 4.

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The alleged tension, which I shall describe in more detail below, arises when we try to articulate a set of rights whose consistent observance will ensure that every person's basic needs are met. It arises because—she claims—rights can only generate two kinds of obligations, special obligations, which specific individuals owe to particular others because of historical circumstances, and general obligations, which everyone owes to everyone else. However, the obligations which would be generated by subsistence rights cannot fall into either category.[7]

I shall argue that O'Neill does not succeed in showing that the vocabularies of rights and needs are in conflict in the way in which she suggests. She fails to do this, I shall claim, because she takes an overly restrictive view of the sorts of general obligation which rights can generate. I shall try to show that rights can also generate a kind of collective obligation which is distinct both from our special obligations and from the sorts of general obligation she recognises. Obligations of this sort fill a gap, which is left by the other two sorts of obligations—a gap to which O'Neill rightly draws our attention.

The main philosophical work to be done here will be in explaining what I take collective obligations to be, defending the claim that they exist and arguing that they do indeed fill the gap which O'Neill points out. Along the way, I shall also try to make clear how my response to her views differs from that put forward by other critics.

2.

Before going any further, I need to say something more about the terms of the debate. I shall start by making some fairly basic remarks about needs.

It is often observed that there are important differences between a statement such as 'I need five pounds in order to be able to enter the office sweepstake' and 'human beings (like me) need to eat.' Two such differences are that in the first case, but not in the second, what is needed is spoken of as being needed for some further purpose—namely, entering the office sweepstake; and in the

[7] In what follows I concentrate on what O'Neill (op. cit. note 4) has to say about general obligations—what she says about special obligations strikes me as mostly correct.

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second, but not the first, the question of whether the need gets satisfied seems to have some moral significance.[8], [9]

If I am unable to eat, through no fault of my own, then it is possible that someone might be obliged to help me. If I am unable to enter the office sweepstake, the same is less likely to be true—and if it is true, then unlike the case in which I am unable to eat, it will only be true because of a set of very particular circumstances. Unless these circumstances are described in detail, the claim that the first sentence has some moral significance will just seem bizarre.

It is very tempting to think that the two distinctions here are connected. In other words, it is because the alleged need for five pounds is only a need relative to some apparently morally insignificant further goal that it lacks any moral significance. However, it is important to notice that what makes the need morally insignificant is not that it only exists relative to some further goal, but that that goal is morally insignificant. We would not be similarly dismissive of the moral significance of the need claim if someone said 'I need five pounds in order to be able to eat'. Any skepticism that one felt here would be directed to the truth of the claim, and not to its significance if true.

A more plausible suggestion is that when needs claims have moral force they have it in virtue of the inescapability of the ends to which they are relative. As David Wiggins has pointed out 'I need five pounds to enter the office sweepstake' can be met by the retort 'But you don't *really* need to enter the office sweepstake'.[10] By contrast the retort 'But you don't *really* need to eat' would be argumentatively inept, as well as grossly insensitive.[11], [12]

[8] Wiggins op. cit. note 2, 7–10.

[9] For some skepticism about the significance of the distinction, see B. Barry, *Political Argument: A Reissue with a New Introduction*. (Berkeley and Los Angeles: University of California Press, 1990.) In my view Barry's critique of Wiggins relies on attaching too much importance to the claim that 'needs' has two distinct senses, and not enough to the idea that different kinds of need claim can have different sorts of significance. As far as the first claim is concerned, I am not sure that questions about how many senses a word has always admit of determinate, context independent, answers. But in any case there seems no clear inference from the claim that 'need' is univocal to the claim (which Barry goes on to make) that claims about certain kinds of need are not morally distinctive.

[10] I have altered Wiggins' example for purely rhetorical purposes.

[11] Cf Wiggins op. cit. note 2, 7–8.

[12] At least, in a situation where the person addressed was unable to eat. In other circumstances it might be merely inane.

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Philosophical controversy lurks in the wings, however. It is not obviously true that every kind of inescapable need has moral significance. For example, a heroin addict's need for his daily fix may be just as inescapable as his need for food but, arguably, does not make the same moral call for satisfaction.[13] Considerations of how needs are acquired seem to play at least as much of a role in judging their moral significance as considerations about how easily we might divest ourselves of them. Furthermore the observation that certain needs do seem to have moral significance does not tell us anything about why they have this significance—or, in particular, whether they have this significance just in virtue of being needs of a particular kind.

What does not seem especially controversial, though, is that there is a class of needs whose satisfaction is necessary not just for the satisfaction of particular goals, but as a precondition for pursuing any goals at all. The most obvious such needs are human needs for food and shelter. However, if we look not just at what is required for pursuing goals, but at the conditions for forming goals, and for forming them autonomously, in the manner characteristic of mature human beings, we may arrive at a more expansive list, which includes needs for a relatively stable upbringing, education, and access to information about the opportunities available in one's society.

If there are any needs which have moral significance it will be these.[14]

3.

To identify a set of needs which have moral significance, if any do, is one thing; to give a convincing account of the *sort* of moral significance they have, and a defence of the claim that they do indeed have this significance is another. A natural strategy to adopt is to argue that the central significance of these needs means that human beings have rights to their satisfaction. I shall call such rights 'subsistence rights', following a long tradition, although the

[13] G. Brock, 'Justice and Needs' *Dialogue* **35** (1996), 81–6.

[14] L. Doyal 'Basic Needs' in *Necessary Goods: Our Responsibilities to Meet Others' Needs* G. Brock (ed.), Lanham: Rowman and Littlefield (1998), 66–86.

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characterisation I have given of them here makes them extend beyond what is required for bare subsistence.[15]

There are a number of strategies which one might adopt in order to defend this claim. One would be to argue, along lines pioneered by Alan Gewirth, that the fact that these needs are among the preconditions of any form of rational agency gives rise to a right to their satisfaction.[16] An alternative, more *ad hominem* approach would be to start with examples of rights which almost anyone would acknowledge, and then to claim that any plausible account of the considerations that lead us to recognise rights of this kind would, if applied consistently, also lead us to recognise subsistence rights.[17] A third strategy would be to argue that given the overwhelming role that the needs I have identified play in the well-being of those that have those needs, the recognition of subsistence rights is the best way of protecting human welfare.[18], [19]

I shall not examine any of these strategies in detail, since my concern here is with an argument that purports to show that none of them can succeed.

[15] Someone who has argued recently for this view is Charles Jones: C. Jones, *Global Justice—Defending Cosmopolitanism*. (Oxford: Oxford University Press, 1999). Although I am in agreement with many of the points he makes, my own strategy for responding to O'Neill's objection is rather different.

[16] A. Gewirth *Reason and Morality* (Chicago: Chicago University Press, 1978).

[17] J. Sterba, 'From Liberty to Universal Welfare' in *Necessary Goods: Our Responsibilities to Meet Others' Needs* G. Brock (ed.), (Lanham: Rowman and Littlefield 1998), 185–216.

[18] Jones op. cit. note 15.

[19] Other strategies have also been suggested by David Braybrooke (D. Braybrooke *Meeting Needs* (Princeton: Princeton University Press, 1987)) and David Wiggins (Wiggins op. cit. note 2). For a discussion and criticism of these attempts see Brock op. cit. note 13. I am not sure whether Brock's criticisms of Wiggins are on the mark. In any case, both Wiggins and Braybooke seem to be concerned with our obligation to meet the needs of members of our own political community. But for reasons which I explain below, I am not sure this goes far enough: if I am right obligations to meet needs can extend beyond national boundaries. I express this point with a certain amount of tentativeness, however, since the criticism depends on identifying nations as the most extensive political communities of which we are members. For doubts about this, see T. Pogge *Realizing Rawls* (Ithaca: Cornell University Press, 1989); from a very different perspective S. Berges, 'Loneliness and Belonging: Is Stoic Cosmopolitanism Still Defensible?', *Res Publica* **11** (2005).

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4.

O'Neill's objection to the idea of subsistence rights can be summarised fairly quickly. The objection is that, whereas liberty rights, as these have traditionally been conceived, give rise to obligations on the part of every individual, subsistence rights seem to generate unallocated obligations. To assess whether this line of argument is a good one, however, we need to know why subsistence rights generate unallocated obligations, and why this should matter. In order to do this we will need to look more carefully at the differences between liberty rights and subsistence rights which O'Neill takes to be significant in this context.

The significant difference between these two sorts of rights (or, if O'Neill is correct, supposed rights) stems from differences in the sorts of obligation which such rights give rise to, if they really exist.

According to O'Neill, we can distinguish between two sorts of obligation to which rights might give rise—special obligations which fall on individuals because of the particular social roles they occupy, and universal obligations, which fall on everybody. For example, an individual's right to free speech might be thought to give rise to a universal obligation not to interfere with his or her expression of her opinions. It might also give rise to certain special obligations as well. For example, if I am an election official, and a candidate complains of being intimidated by members of a rival political party, her right to free speech may also give rise to a special obligation—one which would not exist if I were not an election official—to investigate the complaint and take appropriate action if it turns out to be well-founded.

For reasons which will become apparent, I think there are problems with O'Neill's attempts to classify all obligations as being either universal or special. I shall be arguing, in effect, that this dichotomy leads us to overlook another kind of obligation which is significant in this context. For purposes of exposition I shall ignore this point for the time being, but it will be significant later.

For the purposes of this discussion we can also set aside special obligations: although O'Neill makes some mention of them—presumably for the sake of completeness—their existence does not play an important role in the argument that subsistence rights are incoherent. That argument depends on a problem about the universal obligations to which subsistence rights give rise.

One idea about why the distinction between liberty rights and subsistence rights which might carry some weight arises from considering the following claim:

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L: A person's liberty right (for example, their right to free speech) is adequately respected only if everyone avoids interfering with the exercise of certain capacities (for example, the right to formulate and express opinions on matters of judgment).

If this claim is correct, then the sense in which the right in question generates specific obligations is clear: it generates an obligation on everyone to avoid interfering with the exercise of this capacity.

What about subsistence rights? The following claim is formally analogous to L:

S: A person' s subsistence right (for example their right to a reasonably nutritious diet) is adequately is adequately respected only if everyone avoids interfering with their enjoyment of certain resources.

S is not entirely without teeth. Depending on how one understood the notion of interference it might, for example, justify prohibiting various environmentally disastrous farming practices, or some inequitable trade arrangements. Taken as such it need not be just a notational variant on particular liberty rights such as the right to property.

Indeed, one might go even further than this. If we take 'holding goods which one doesn't need' to constitute a form of interference with others then S could be thought to have very radical implications indeed, as Thomas Pogge has, in effect, argued.[20] Some might protest against this conclusion on the grounds that it is had to see how merely 'holding' something could count as 'interfering' with anything. But of course this is one case where the linguistic expression of the point is far from being philosophically neutral. Typically those who 'hold' goods which they do not need are far from passive in their attitude to them: they do not only 'hold' them but enforce, or manifest their readiness to enforce, and support institutions that do in fact enforce property rights over such goods. Behaviour of this sort can easily be cast as 'interference' without any linguistic or conceptual strain at all.

Assessing the significance of this line of argument about the implications of S is far from straightforward. One thing it will depend upon is the balance between the respective contributions of the roles played by enforcement of property rights on the one hand and other mechanisms for ensuring their observance such as ideological legitimation of the status quo on the other. If, as seems

[20] T. Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Malden: MA Polity Press, 2003).

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likely, both play a significant role in preserving existing patterns of property holding, then even if everyone abided by the obligations which S imposes on us, the basic needs of many individuals would remain unmet.

Many of those who have wanted to argue for the existence of subsistence rights have thought that such rights have implications beyond their imposing on us the sorts of obligations to which S gives rise.[21] They have wanted to claim that the existence of subsistence rights does not just require individuals to avoid interfering with other people's enjoyment of resources they already possess. It also requires them to make some form of provision for individuals who lack those resources.

How might we formulate this claim in a way which preserves the analogy to L? Here is a first attempt:

S^1: A person's subsistence right is adequately respected if and only if everyone provides them with the goods to which the subsistence right entitles them.

But S^1 is absurd, for two reasons. First, the obligations that it generates are unduly demanding. According to S^1 if I am to respect everyone's right to adequate nutrition, then I need to provide every starving person in the world with an adequate diet. But this is not merely something that it is unreasonable to ask of us. It is something which, for most people, is literally impossible. Call this problem with S^1 'Impossibility'.

A distinct problem with S^1 I shall call 'Overgenerosity'. Suppose we lived in a world with an enormous population in which there were comparatively few deprived individuals, so that it was in fact possible for most people to comply with the obligations generated by S^1. If everybody who could comply with S^1 did so, then the deprived individuals would acquire far more than they needed to satisfy their needs.

How can we avoid these absurdities? We seem forced to say that if subsistence rights generate obligations, they are unlike liberty rights in that they do not generate an obligation on the part of each individual to respect them. But if they do not (as they cannot) generate such obligations, then it is not clear what obligations they do generate, or who they fall on. That is what is meant by calling the obligations generated by subsistence rights unallocated.

However, although the argument above does seem to show that subsistence rights do generate unallocated obligations, it is not

[21] Jones op. cit. note 15, H. Shue, *Basic Rights: Subsistence, Affluence and US Foreign Policy* (Princeton NJ: Princeton University Press, 1980).

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immediately obvious why this should be a problem. The answer seems to depend on two further claims. The first is that obligations which are unallocated are unenforceable; the second is that obligations which are unenforceable are rarely taken seriously.[22]

It is not immediately obvious what the force of these points is. However O'Neill can have no principled objection to a moral theory's generating unenforceable obligations since the sort of Kantianism which she prefers to rights theories generates as many, if not more unenforceable obligations as rights theories do.[23] Her view seems to be that rights theories which generate unenforceable obligations are problematic in a way that Kantian views are not. This is because the stress that rights theories place on enforcement means that unenforceable obligations are less likely to be taken seriously within the context of rights theories than within other contexts.

This point needs handling carefully. It is not enough for O'Neill's purposes if the connection between rights and enforceability is just a contingent feature of the way we respond to rights discourse. If this were the case, then O'Neill would not have shown, as she thinks she has, that there was some conceptual tension between the discourse of needs and the discourse of rights. She would only have shown that we need to be more careful about how we think about rights.

Unfortunately for O'Neill, however, it seems to that the connection between rights discourse and enforceability must be a merely contingent one. For as Charles Jones has pointed out, it is arguable that all forms of rights, and not just subsistence rights generate unallocated obligations.[24] To see this consider L again. One natural response to L that because it leads us to focus on what we most do in order to comply with liberty rights it leads us to underestimate the obligations which liberty rights generate. As well as generating obligations of non-interference such rights also generate obligations of enforcement. If someone prevents me from exercising my right to free speech, then someone ought to do something about it.

[22] O'Neill op. cit. note 4, 98–9.
[23] O'Neill op. cit. note 4, 105 ff.
[24] Jones op. cit. note 15 chapters 3–4.

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But who? There is no obvious answer to this question—the obligation is unallocated. So if rights which generate unallocated obligations are problematic the problem seems to be one which arises for all kinds of rights.[25]

5.

A natural response to these points is that O' Neill is right to think that there is a problem about the unallocated obligations that subsistence rights seem to generate, but that she has mislocated it. The problem with unallocated obligations is not that they are unenforceable but that the very idea of an unallocated obligation is incoherent. Obligation is a relational term: the idea that there are obligations to do things which do not fall on anyone makes no more sense than the idea that there are people who are heavier, without there being anyone specific who they are heavier than. Furthermore, one might add, if other forms of rights generate this kind of obligation, so much the worse for the coherence of rights discourse as a whole.

If this is the correct diagnosis of the problem which O'Neill has identified, then we can make two points. The first is that the problem is a fairly significant one for anyone who wants to rely on rights discourse to do a significant job in moral philosophy. The second is that there seems to be a fairly obvious strategy for solving it—namely to find some agent to whom the unallocated obligations can be allocated.

I think that both of these points are correct. However, they call for further comment in two respects. First, it is probably philosophically uncontroversial that obligation is a relational term, and that one of the relata of the relation in question is either an

[25] This matters because O'Neill thinks that there is no similar problem about liberty rights. One might resist this conclusion by appealing to the Nozick/Locke view of rights in which rights do not generate a obligation to enforce but only rights (on the part of the possessor) to enforce. (R. Nozick, *Anarchy, State and Utopia*, (Oxford: Blackwell, 1974); *J.* Locke, *Two Treatises of Government,* P. Laslett (ed.), (Cambridge: Cambridge University Press, 1968). But even if this can be done, it doesn't really help O'Neill's case, for the upshot is that the success of her argument depends on adopting an account of rights which is (at best) contentious. Nor would it help to conclude that rights discourse as a whole is incoherent—although this might be true, it is sufficiently implausible to motivate us to look for another response to the problem.

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action or an action type. When we come to the question of what sorts of things can be obligation-bearers, matters are much less straightforward. However, we cannot simply assume without further argument that only individual human beings can be obligation bearers. Indeed there is even a *prima facie* case for thinking that other things can bear obligations.[26] We certainly often talk as though this is so—we talk of corporations, governments and states as having obligations. It is certainly not obvious (although it may ultimately be true[27]) that this is just a *facon de parler*.

Secondly, talk of 'allocating' apparently unallocated obligations might suggest that the philosopher's job in this area is that of a cosmic bureaucrat making sure that no moral or metaphysical loose ends were untied. The language in play here naturally gives rise to this way of thinking. However, there is one important difference between the job of the philosopher and that of the bureaucrat. As far as the bureaucrat is concerned it need not matter, except for purely local reasons, how responsibilities get allocated, provided that everything that needs to get done gets done. Matters are different for the philosopher: we need not only to find some way of allocating these obligations but also to find some rationale for this allocation. Ideally this will be one which will justify us in thinking that the obligations were so allocated all along, if only we could have seen things sufficiently clearly.[28], [29]

[26] I should emphasise that at this point I do not take the case to be anything more than *prima facie*. Arguments in favour of my contention are to be found in section 7. below.

[27] I make the concession only for rhetorical purposes—see section 7. below.

[28] It might be thought that this claim prejudges the issue between realist and constructivist metaethical views. However, I think that any viable version of constructivism needs to respect this intuition—even if it does so in the sort of weaselly way that Wittgensteinian accounts of mathematics respect the necessity of mathematical judgments.

[29] A third more strategic comment may also be called for here. Earlier, I argued that both liberty rights and subsistence rights give rise to apparently unallocated obligations. Although I stand by this claim, in what remains of this paper I shall only be attempting to solve the problem as it arises for subsistence rights. Whether my solution can be used to cope with the unallocated obligations to which liberty rights give rise, and how it might be adapted, are matters which I shall leave for a future occasion.

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6.

One possible response to the problem of unallocated obligations would be to argue that these obligations should fall on states.[30] I shall now argue that this response is unsatisfactory. I shall then suggest an alternative response and argue that it is more satisfactory.

We need to distinguish between two significantly different strategies that one might adopt in arguing that states can act as the bearers of the unallocated obligations that O'Neill is worried about. One would be to argue that each state has an obligations generated by the subsistence rights of its own citizens. The second is to suggest that individuals' subsistence rights generate obligations which fall on all states. On the first strategy we are saying that the obligations are, in O'Neill's terminology, 'special' obligations; on the second that they are general obligations.

At first sight it is the first strategy which seems more promising. One might think that on many accounts of the state, states have obligations to their citizens which might extend to seeing that their subsistence rights are respected. For example, one might hold that the purpose of the state is to pool the cost of reducing vulnerability to risk, and that one significant risk to which citizens might collectively wish to reduce their vulnerability to is the risk of the harm that ensues when their needs are not met.[31]

However, I do not think that this strategy for dealing with O'Neill's worry is likely to succeed. O'Neill's objection to subsistence rights was that they seemed incoherent because of some of the general obligations they generated. It is hard to see how it could help to suggest that they also generate a set of special obligations as well It seems to me that it could only do so if the special obligations somehow cancelled out the general ones. The only suggestion that seems plausible here is the possibility that the existence of the special ones somehow guaranteed that the general ones never needed to be met. In that case it wouldn't really matter whose obligations they were.

But the sad fact is that this is far from being true. Even if states do have obligations to see that the subsistence rights of their subjects are respected, nothing guarantees that they will be capable

[30] Cf Jones op. cit. note 14; R. Goodin, 'What is So Special About Our Fellow Countrymen?' *Ethics* **98** (1986) 663–686.

[31] I am grateful to Soran Reader for pressing this suggestion.

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of doing so. So we have no reason to think that the problematic general obligations lapse, and we do need to worry about who they can be allocated to.

This might lead us to try the second strategy instead. This would be to argue that general obligations arising out of subsistence rights fall on all states. One reason why it has seemed appealing to respond to the problem of unallocated general obligations by arguing that these obligations fall on states rather than individuals is that it seems clear that states can do things which individuals cannot. While it might be impossible for individuals to satisfy all the obligations which subsistence rights generate, it is not so obvious that this is impossible for states—at least not fairly large, affluent states.

Nevertheless, there are some problems with the idea that states should be the bearers of otherwise unallocated obligations. One which should be set aside almost immediately is that states cannot bear obligations either because they are not agents at all, or because they are agents which are constituted in the wrong kind of way—for example because they are constituted in such a way that the only things that can be reasons for them are considerations of power or of the welfare of their citizens. Whatever the merits of these suggestions—and I do not think they are great—they are ones which a defender of O'Neill's position should be wary of appealing to, if for no better reason than the fact that O'Neill herself is committed to the view that states, along with multinational corporations and some supra state entities are both agents and obligation-bearers.[32]

A more serious concern is that there seems to be something arbitrary about the suggestion that states should be the bearers of otherwise unallocated obligations. Even if it is true that states can do things which individuals cannot, they are not the only bodies that can do so. Supra-state organisations such as the United Nations are one example of such bodies. Still it might be argued that supra-state organisations can only have obligations in virtue of the obligations which their members have. If so then their existence does not undermine the case for thinking that the unallocated responsibilities which subsistence rights generate should fall on states.

However, there are other bodies that can do things which individuals cannot, such as multi-national corporations. Of course,

[32] O. O'Neill, 'Agents of Justice', in T. Pogge, *Global Justice* (Oxford: Blackwell, 2001).

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the idea that multinational corporations have obligations to meet peoples subsistence needs is not one which is likely to find much practical or philosophical support. However, this is not the reason for raising the possibility in this context. The reason for doing so is that it shows that the idea that unallocated obligations should fall on nations is, in an important sense, arbitrary. Since there are other bodies which could fulfil these obligations, the claim that states should do so cannot be defended just by appealing to the fact that states can do things which individuals cannot.

It might be possible to rebut this line of argument by showing that there was something about the nature of the state which made it peculiarly suitable to be a bearer of otherwise unallocated general obligations. However it is far from clear what the details of such an argument would be, and it is difficult to see how it could avoid relying on controversial claims about the nature and function of the state.

In any case we need not pursue this argument with excessive vigour. The idea that unallocated general obligations should be allocated to states faces another problem. Consider the role of S in generating the problem of unallocated obligations. Earlier I observed that there was a problem about seeing S as generating obligations for individuals for two reasons which I called 'Impossibility' and 'Overgenerosity'. If S is regarded as generating obligations for states then 'Impossibility' is not a problem. However 'Overgenerosity' remains in place.

7.

In the rest of this paper I want to sketch an alternative response to the problem of unallocated obligations. Stated as briefly as possible, the suggestion that I want to make is that unallocated obligations should be seen as obligations which fall on the world's population collectively. This suggestion has two advantages.

The first advantage is this. An obligation which falls on everyone cannot be regarded as arbitrary: arbitrariness—in so far as it is a problem for the idea that unallocated obligations fall on nations rather than individuals—arises from selectivity, and the suggestion that I have put forward is maximally unselective. The second is that if the obligations which S generates are regarded as one single collective obligation then the problem of Overgenerosity does not apply. That problem was generated by the existence of a set of

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different obligation bearers all of whom were obligated by S. On my view there is only one obligation bearer—namely, all of us.

Despite its virtues, my solution to the problem of unallocated obligations will be met with a certain degree of skepticism. There are two obvious lines of resistance. The first is to argue that the view I am putting forward is unintelligible. The second is that, although intelligible, it does not solve the problem. I shall start by defending the intelligibility of my claim.

The main reason for finding the view I am putting forward unintelligible is the idea that, properly speaking, we cannot make sense of the idea of collective obligations. Since we often do speak in ways which suggest that there can be collective reponsibilities, people who hold this view are likely to hold that there is a sense in which the apparent existence of collective obligations arises out of the actual existence of individual obligations. If a view of this sort is right then collective obligations will not help us to sove the problem of unallocated obligations.

I shall try to undermine this view by describing a situation in which the idea of collective obligations seems to make sense. Consider a situation where two people share an office. Due to bad weather, the roof starts to collapse. In this situation, we might well want to say there is a joint obligation to inform a responsible person about the state of the roof before a passerby is injured.

Why does this seem like the right thing to say? Well, it is more plausible than the claim that we *each* have an obligation to tell someone. What makes that claim implausible is that we both discharge our obligation by seeing to it that one of us tells the responsible person. If we both had an obligation, then only the person who did the telling would succeed in discharging it.

One might think that we could correctly describe the situation by saying that in the imagined circumstance, we each have a *conditional* obligation to inform a responsible individual provided the other person does not. But this does not capture everything we want to say here either. Imagine a situation where, for one reason or another, each of us is individually unable to inform the responsible individual. Since ought implies can, any conditional obligation we might be taken to have lapses. But it may be that we can somehow contrive to do things together that we cannot do individually.

For example—suppose that the person who needs to be informed has to be informed by email. Person A has the technical expertise necessary to describe the damage to the roof in an informative manner but doesn't know how to use email. Person B is a computer wizard who doesn't know the first thing about roofs. Between them

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they can pass an informative message to the right person, but individually neither of them can. In a case like this, we would not say that the people involved had fulfilled their obligations if having reasoned that their individual conditional obligations lapsed they then went on to do nothing. We can explain why this is so by appealing to the idea that A and B have a collective obligation here which does not lapse under exactly the same circumstances as their individual obligations lapse.

It is true that even here we can find obligations that fall on individuals—namely the obligation to engage in some suitable co-operative scheme. However, this does not show that collective obligations are a myth. This observation suggests that in any case where it is plausible to say that a joint obligation exists, we can find individual obligations, or in other words the existence of collective obligations always entails the existence of some individual obligations. It does not follow from this that claims about collective obligations can always be dispensed with in favour of claims about individual obligations.

This is because it is plausible to think that the existence and structure of the obligations which fall on individuals in these cases can only be explained by reference to the collective obligation. When we look at cases where it is relatively easy for one individual to discharge the collective obligation this fact is masked. We need to focus on cases where discharging the obligation requires co-operative action—and where more than one scheme of co-operation might be possible in order to see that collective obligations are met—to see that collective obligations are not dispensable epiphenomena.

8.

In the previous section I made a case for recognising the existence of collective obligations. I also claimed that once we recognised this fact we could see how to respond to the unallocated obligations. However, one might concede in principle that collective obligations exist, but deny that they could be used as a way of dealing with the problem which O'Neill identifies.

I shall consider two objections along these lines. One focuses on enforceability. A natural worry about collective obligations is that they are unenforceable. If O'Neill was right to think that it was the unenforceability of unallocated obligations that made them problematic, then talk of collective obligations would not help to

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solve the problem. But I have already argued that O'Neill's focus on enforceability was misguided. If my arguments there were correct, then this objection fails.

A second worry is this. I conceded above that where collective obligations exist, they entail the existence of individual obligations. It is natural to ask what individual obligations might be entailed by the existence of a collective obligation to meet subsistence needs. A further, skeptical question might follow. Can we be sure that these obligations can actually be met? If not, then since ought implies can, and since one person's *modus ponens* is another person's *modus tollens*, then it might be the case that the collective obligation lapsed. This would be true if it was impossible for individuals to carry out the obligations on them that the existence of the (supposed) collective obligation entailed.

As far as the first question is concerned, I shall start by entering a plea of ignorance. Knowing what sorts of individual obligations are entailed by our collective obligation to meet individuals needs would require knowing what forms of collective action would be sufficient to solve these problems—and to know this one would need to know a lot more about such things as the economic and practical consequences of various schemes of food distribution. However I think there are good reasons for thinking that these are problems which could be solved by collective action of one sort or another[33]. Saying this, though, seems to entail that there is a set of actions by individuals that they could actually carry out that would constitute the taking of such collective action—and this, if true, would be an answer to the objection.[34]

However, moving the focus in this way from the issue of collective obligation to that of collective action does help to shed light on some of the concrete individual obligations that our

[33] Especially if, as Amartya Sen and Jean Dreze have argued, famines, for example, typically arise out of problems with the distribution of entitlements to food rather than simple insufficiency of food. (A. Sen and J. Dreze, *Poverty and Famines* (Oxford: Oxford University Press, 1984)).

[34] Perhaps it would not fully answer the charge that these obligations might turn out to be unduly burdensome, in the same that way many people have thought that the obligations to which Peter Singer takes us to be subject are too burdensome. (P. Singer, 'Famine, Affluence and Morality', *Philosophy and Public Affairs* **1** 1972, 229–243.) But there is no reason to think that my proposal does generate Singer-style obligations on individuals: the stringency of those obligations seems to derive from Singer's focus on what I have called conditional rather than collective obligations. (I am indebted to Sandrine Berges for this point).

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collective obligations might entail. At least this is so if it is true that the discharge of collective obligations requires collective action, and if it is also true that collective action, properly so called, requires the existence of what Margaret Gilbert calls 'plural subjects'.[35] On Gilbert's account, the existence of such a plural subject requires a form of mutual recognition by the members of a group of people (in this case the population of the world) that they are ready to participate in joint action of the relevant sort.

We might think that ideas of this sort would constitute a serious objection to the claims that I have been making about the existence of collective obligations. This would certainly be true if we thought that the existence of collective obligations required the existence of plural subjects as obligation bearers, since the population of the world does not at present constitue such a plural subject. However, I think that a demand of this sort is too strong. This can be seen by reflection on the example of the roof which I used in arguing for the existence of collective obligations. It was no part of the situation as I described it that, in order for the collective obligation to exist the two individuals implicated in this scenario recognise themselves as a plural subject. Still, if Gilbert is right, the discharge of the obligation does require this—at least when collective action is required for its discharge.

This, though, is highly suggestive. A reasonable inference—and one which I am tentatively inclined to draw—is that the existence of collective obligations which require joint action for their discharge entails an obligation on individuals to set about constituting (and doing whatever might be necessary to constitute) the sort of plural subject that can perform such actions. In cases where the constitution of such a subject is a non-trivial task, this will entail non-trivial obligations for individuals. Moving down from the highly abstract level at which I have been discussing, this might have such (relatively) concrete implications as requiring individuals to act in a way that will bring into existence and support institutions and projects which can act in such a way as to fulfil our collective obligations, and to undermine institutions which stand in the way of the realisation of such goals

[35] M. Gilbert, *On Social Facts* (London: Routledge, 1989); G. Simmel, 'How Is Society Possible' in *Georg Simmel: On Individuality and Social Forms* (Chicago: University of Chicago Press, 1971).

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9.

The skeptical reader may still have some reservations. One might wonder how much difference there is between the view that I have been advocating and O'Neill's own position. For O'Neill holds that we have an imperfect duty of beneficence towards individuals in need, and she argues that this imperfect duty gives rise to obligations to work towards setting up institutions that can combat severe poverty.[36] These obligations do not seem very different from the obligations which I have been sugesting individuals have in virtue of our collective obligations. So one might think that my view amounts to little more than a 'notational variant' on hers.

I think that this is a mistake. There are clearly substantial philosophical differences between O'Neill's view and my own; and these philosophical differences also give rise to practical differences. The most obvious difference between O'Neill's position and my own is that O'Neill holds that claims about subsistence rights are incoherent, while I think they are coherent. It seems hard to deny that a disagreement about whether a certain way of framing a normative claim is coherent is a substantial *philosophical* difference. Claims about whether concepts are coherent are part of the philosopher's stock-in-trade.

It would be a mistake to characterise my difference with O'Neill as nothing more than a preference for one sort of rhetoric over another. This characterisation of matters would be appropriate if O'Neill was merely claiming, as she sometimes seems to be, that rights talk was unhelpful. But the points she makes about unallocated obligations seem designed to show that such talk is unhelpful because it is incoherent.

Does the philosophical difference between our views make any practical difference? As I have already observed, some might think that it does not. It certainly seems plausible that, for example, the extent and frequency of an individual's donations to Oxfam or whether they vote for political parties that support inequitable trading regimes does not depend on whether they view these obligations as arising from the facts that rights are being violated. (It may be this that leads people to suspect that differences between the two views are 'merely rhetorical.)

However, I suspect that even on this level, matters are not as straightforward as they might seem at first sight. After all, someone who thinks that claims about subsistence rights are incoherent is

[36] O'Neill op. cit. note 4.

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likely to be somewhat dismissive of the attempts of individuals to have those rights enforced, however sympathetic they may be to the plight of the starving individual. And it is not too difficult to see why this should be. Obligations arising out of the violations of rights often strike us as particularly urgent. If we think the rights being claimed do not exist, we are likely to feel piqued by the stridency of demands for their observation,

This will be true, even if we take ourselves, as good Kantians like O'Neill do, to have some duties arising out of imperfect duties of benevolence towards the needy. For on the Kantian picture we have many other imperfect obligations,—including self-regarding obligations, such as the duty to develop our talents. On this picture, there doesn't seem to be any reason why I should think that imperfect obligations derived from a duty of benevolence should be given a particularly high priority. On the other hand if I think rights are being violated then matters will seem a little bit more urgent. Although this might not lead to differences at the level of individual actions, it may well affect the shape of the lives that people choose to live. If that is not a practical matter, then it is difficult to see what is.

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