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# Race, Rights, and Justice



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Thus my suggested mode of democratically principled humanitarian intervention determines both the *permissibility* of U.S. intervention into Colombian affairs, and the *kind* of humanitarian intervention as well. To violate this principled democratic consideration would be to curtail Colombian freedom and sovereignty in favor of egoistically based imperialism. It would be a straightforward violation of Rawls' first principle of justice (above), as the U.S. would disrespect the freedom and independence of Colombians. It would also violate Rawls' fourth principle of the *prima facie* moral duty of nonintervention. Finally, it would be a violation of Rawls' eighth principle of justice because it would not be a proper circumstance in which the U.S. has a moral duty of humanitarian intervention. It would amount essentially to the use and show of military might for the "sake of democratic freedom," where "democratic freedom" is construed by the U.S. in its own terms and for its own purposes.

My position, on the other hand, permits a show and use of force on behalf of others who request and require external assistance. But it *is* morally problematic for those parties (like the U.S.) who provide keen lip service to the principles of democratic freedom, while they wreak havoc for others' sovereignty by essentially invading their contexts without informed democratic consent as to both the extent and the kind of assistance desired and needed by that troubled majority. My suggested mode of principled democratically humanitarian intervention implies that, in at least most cases, *unless and until the majority of Colombians voluntarily, intentionally, and knowingly request unambiguously external intervention to relieve their poverty and violent oppression, then there is no moral justification or right, nor a moral duty of humanitarian intervention.* This is tantamount to making an oppressed party's voluntary, intentional, and knowing request for intervention virtually a necessary condition of a third party's being morally justified to intervene.<sup>31</sup> This is consistent with the first of Rawls' principles of justice for free and democratic peoples. The U.S. needs to come to the realization that one primary key to the solution of the "drug problem"

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<sup>31</sup> Such a request is not, strictly speaking, a necessary condition in that there might be instances where an oppressed party cannot, given nonideal circumstances of injustice, request third-party assistance. Yet in such emergency cases, the lack of a request would not render humanitarian intervention impermissible. Yet the Colombian context does not seem to have reached the emergency stage at this point of time. The only parties perpetrating massacres against Colombians seem to be the rightist-paramilitaries who claim to support the Uribe regime. So if the U.S. did qualify as a good Samaritan state in rescuing Colombians from, say, massacre, it would only qualify as such if what it engaged in was a well-defined and narrow mission of waging a war on the Colombian rightist-paramilitaries responsible for the massacres.

lies within its own borders. For if the demand for cocaine and heroin is extirpated in the U.S., then cartels in Colombia will either have to export their goods to others in the world, or being unprofitable in those countries, move onto computer software fraud (which is what has already begun to happen).

U.S. approval of further armed support of Colombia's "war on drugs" is premature in that it is far from transparent that the strong majority of Colombians have requested U.S. support along the lines of its purposive aims. But as usual, U.S. imperialism seeks to wander the streets of Latin America, masquerading as "democratic reform" and "family values." But those who investigate beyond the mere surface of the headlines feast their eyes on yet another imperialistic and antidemocratic regime bent on battling for its own interests over those whose valid moral interests it ignores. No wonder the U.S. has so many enemies worldwide, and that the numbers of enemies increase steadily with the passage of time. No wonder that the U.S. is the target of so many terrorist acts! No wonder countries of the Americas are (and have been for generations) in such economic and political turmoil!

What is needed is *sovereignty for Colombian citizens*, who have for decades been oppressed largely by their own government's lack of sufficient concern in bringing to genuine justice the rightist-paramilitaries, several of its *own* military personnel,<sup>32</sup> and drug cartel kingpins such as the successors of the drug lord and terrorist Pablo Escobar who are responsible for the kidnappings and murders of thousands of Colombians. Why, then, ought the U.S. citizenry fund millions *more* in taxes in support of Colombia when it has promised but done little to punish all of those of its own military who are responsible for their war against Colombians who do not support the Colombian government? Where sovereignty rights are infringed by the U.S. is bred resentment, moral indignation, and violence. If the U.S. truly respects the democratic interests of Colombians, it will not continue to intervene into its affairs unless requested to do so by a Colombian party in good moral standing.<sup>33</sup> Until that time, the U.S. should attempt to employ creativity in solving the "drug problem" by waging the "war on drugs" against its own citizens' use and abuse of drugs in its own backyard. For the drug problem is not only created and sustained by the manufacturers and distributors in terms of supplies of drugs, but by the millions of U.S. citizens (including promi-

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<sup>32</sup> That the Colombian military itself is responsible for several unwarranted Colombian deaths is common knowledge.

<sup>33</sup> Indeed, the U.S. ought to withdraw its support in Colombia altogether, as it is supporting a regime that is responsible for numerous human rights violations.

nent politicians and business leaders) who sustain the increasing demand for them.

But even in the unlikely event that Colombian sovereignty is respected by the U.S., Colombians seem to be faced with a circumstance in which they are currently governed by something less than a rights-respecting regime, fending-off a complex array of rebel forces which are not necessarily on the same page with one another insofar as politics is concerned, a coalition of rebels which is funded largely by the cocaine and heroin cartels responsible for the deaths and kidnappings of thousands of Colombians. Unless one of the rebel forces emerges as a genuine defender of human rights and is sufficiently powerful to overcome both the Colombian government and all counter revolutionary forces (including those of the U.S.), Colombian citizens have little hope for sovereignty as things currently stand. This is especially true given that no matter who wins the civil war—the Colombian government or one or more of the rebel forces—everyone will lose to the powerful drug cartels so long as they survive. Unfortunately, they seem to be at least one of the primary threats to Colombian freedom and democracy at this time. And those U.S. citizens who glibly use and abuse the products they manufacture and sell remain complicitors to Colombian oppression. Without the use of cocaine products by U.S. citizens of all kinds, Colombian drug cartels would find it significantly more difficult to remain viable and support the rebel forces that protect them and their fields. Kidnappings and violence in Colombia would be significantly reduced. Refusal to use Colombian cocaine and heroin products is a genuine way by which to contribute to a more peaceful Colombia.

## **The Right Thing to Do in Colombia**

What has been argued thus far is premised on the proposition that Colombian sovereignty (and its being respected) is only justified to the extent that *U'wa sovereignty* is respected and protected. So even if every Colombian favored U.S. intervention in Colombia, Colombian sovereignty should become of no more importance than U'wa sovereignty. The U'was are a nation of American Indians indigenous to Colombia who have threatened mass suicide if Occidental Petroleum continues to operate on what was once their land. The company's continual presence on U'wa land represents a transparent instance where U'wa sovereignty is disrespected. That U'wa sovereignty is established and protected must become the primary motive and moral justification of some third party to intervene into the affairs of that region. No doubt the amount of reparations and returned land owed the U'was by the U.S. and

Colombian governments would suffice for significant military protection of newly established U'wa borders in order to protect U'wa sovereignty from further violations once U'wa sovereignty is regained.

What this means is that there is no moral justification or right of the U.S. to intervene militarily in Colombian affairs at this time, and no other third-party state is morally justified to intervene militarily therein unless it is primarily on behalf of the U'wa nation and for U'wa sovereignty. But this hardly moves the U.S., given that certain economically and politically powerful individuals have serious business interests in what was once (and still is, morally speaking) by right U'wa territory. And certain manufacturers of military weaponry stand to gain billions in the further "intervention." And given that these businesses are significant contributors to U.S. political parties, it is unlikely that the U.S. would be moved to do what is *morally* right in the Colombian case. Nonetheless, should the U.S. not heed what is right, it will continue to commit yet another moral atrocity of imperialist proportions so that a morally inept corporation can have its way.

Thus U.S. interests in Colombia are as impure as ever. More specifically, it is not simply an alleged "war on drugs" that bids the U.S. plan of intervention there, but a number of corporate interests. Once again, Occidental Petroleum has a strong interest in Colombian affairs, as it has a major (Cano Limon) oil pipeline on the land once belonging to but stolen from the U'wa nation by the Colombian government. The pipeline has been destroyed several times, but has still turned a profit for the company. Then there is another powerful lobbying company, Sikorsky Aircraft, a subsidiary of United Technologies, and Bell Helicopter Textron, companies that gave hundreds of thousands of dollars to the campaigns of U.S. democrats and republicans alike. Now these companies stand to gain almost half a billion dollars from U.S. military support of Colombia. So it is not at all clear that U.S. "humanitarian" aid is about human rights as much as it is about special corporate lobbying interests, ones which assist in the election and reelection campaigns of various U.S. presidents and other high-ranking officials in the U.S. government.

If the U.S. continues to engage in "humanitarian" intervention in Colombia, it seems that the only way such intervention would be morally justified, or perhaps even dutiful, is the extent to which the intervention assisted in the establishment of the genuine sovereignty of the U'was. This would mean driving (or pulling) out Occidental Petroleum and forcing it and the Colombian government to pay reparations to the U'wa nation and return at least most of the land stolen from the U'was.

Furthermore, what the U.S. ought to do is realize that the answer to what it construes as the drug problem lies largely within its own borders, with many of its own citizens. Let us assume for the sake of discussion, then, that the U.S. [in an unprecedented (for the U.S.) display of concern for what

is morally right] gains U.N. and U'wa approval to intervene on behalf of the U'was, fully establishing and engineering means of protection of U'wa sovereignty. Assume further that the U'was are satisfied with the action, and that Colombians desire and require intervention in light of the way things currently stand there. Would it follow that the U.S. has a moral right (or even a moral prerogative) to intervene? Not unless it could satisfy the conditions of morally justified humanitarian intervention outlined above. In the case of the U.S., matters are likely to concern the fact that the U.S. has already engaged in rather unjustified intervention in Colombia, and is thereby part of the complex array of worsening problems there.

### **The “Drug Problem” and U.S. Responsibility for It**

The debate about whether or not substances such as cocaine and heroin ought to be made illegal has been taking place in the U.S. for decades. But for the most part, the discourse has rarely, if ever, considered issues of humanitarian intervention as crucially relevant to the discussion. In typical egoistic fashion, several of those in the U.S. simply assume that the entire issue revolves around their own welfare concerning matters of personal privacy and other perceived rights to individual freedom, ignoring or not taking sufficiently seriously the well-being of others such as those in the cocaine- and heroin-producing countries like Colombia. It is time that the U.S. debate about the legitimacy of drugs be expanded more widely to considerations of justice more globally.

Various proposed “solutions” to the problem at hand have been proffered, including U.S. military intervention in the forms of wars, invasions, and even “military search-and-find missions.”<sup>34</sup> However, each of these proposals wrecks of unwarranted elements tantamount to decades of imperialist maneuvers by the U.S. over the past century or so which have, understandably, made enemies of many Latin Americans, and numerous others worldwide. What is needed now is a fresh new perspective that recognizes the severity of the problem of cocaine and heroin use, on the one hand, but does not undermine either U'wa or Colombian sovereignty, on the other.

Perhaps it is legitimate to dismiss the view that the use of cocaine, for example, is intrinsically bad. Coca leaves are ingested by indigenous peoples of Andean nations in religious and other rituals, and have been for centuries. Indeed, one might argue plausibly that such practices are part of the traditional

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<sup>34</sup> This latter strategy is articulated and espoused by Vincent Bugliosi, *The Phoenix Solution* (Beverly Hills: Dove Books, 1996). It is even the subject of Tom Clancy, *Clear and Present Danger* (New York: G. P. Putnam's Sons, 1989).

Andean culture and are morally innocuous in that context. Few would argue that such use of coca leaves is intrinsically wrong, or wrong extrinsically in such contexts. For if something like the content of the First Amendment to the U.S. Constitution is remotely plausible (normatively, even beyond the U.S. borders), then the freedom of religion clause seems to protect the right of religious groups to such practices. Moreover, in U.S. society, coca leaf extracts are sometimes used for legal medicinal purposes. Few, I take it, would seek to prohibit the positive or medical use of such substances, especially when duly prescribed or utilized by a physician in order to assist patients.

The drug cartels in Colombia continue to produce and export inordinate amounts of cocaine (it is common knowledge that about 90% of cocaine in the U.S. originates from Colombia), far more than can be used for either traditional religious purposes or for prescribed medicinal ones. This has been a source of outrage for millions worldwide, and patience is wearing thin as millions of children and adults have either died from drugs, or drug-related crimes, or have had their lives and the lives of others around them ruined significantly by the use of such hard substances.

What is the most plausible answer to the drug problem? Precisely for *whom* is it a problem, and why? Is the answer to legalize the use of drugs in the U.S.? Why not do with drug use what was eventually done with alcohol use in the U.S.? The legalization of the use of currently “illicit” drugs in the U.S., it is argued, will likely resolve various difficulties we face currently. It would drastically reduce drug-related crime, as such drugs can be effectively regulated against the current underground market of drug manufacturing and distribution. Moreover, the cost of fighting drug trafficking would be greatly reduced to comparatively minimal costs of regulating it. The monies saved from fighting a “war on drugs” could be used to better educate people about drugs, and for education more generally. If drugs were regulated, they could be taxed, much as alcohol and cigarettes are taxed, raising millions annually for all sorts of positive causes. The U.S. legal system as a whole would experience significant reductions in caseloads, and the penal system in particular would experience some reduction in the numbers of those imprisoned for drug use, possession, manufacturing, or dealing. The safety of the drugs would be regulated to reduce the costs of healthcare-related problems associated with impure drug ingestion. These are some of the many reasons that have been articulated in favor of the legalization of “illicit” drugs in the U.S.

Perhaps another reason in favor of the legalization of drugs such as cocaine in the U.S. is that it would render otiose the problem of the Colombian cocaine cartels. It would do so by making such drugs manufacturable, either by a governmental agency or by private companies or parties, within U.S. borders without penalty, so long as the drugs are manufactured and

distributed according to certain Food and Drug Administration approved guidelines. This means that the Colombian cartels must compete with the U.S. manufacturers and distributors for customers, both in pricing of the cocaine and the quality of it. This would, furthermore, drastically reduce the prevalence of violence commonly associated with the drug trade, it is argued.

But this permissive attitude toward the legalization of drugs in the U.S. seems problematic for a number of reasons. Not unlike nicotine and alcohol, cocaine is a most addictive substance. Making it legal, and even proscribing the manufacturing of its contents, would hardly ensure against addictions on a widespread scale. This in turn would likely have morally unacceptable consequences for society, as the abuse of alcohol does. Just as millions of U.S. citizens are ruined by alcoholism, many in turn have indirect dysfunctionally adverse effects on those close to them. Thus millions in the U.S. are adversely effected by the abuse of alcohol, and it is more likely, given the addictive contents of cocaine, that things would be even more problematic if cocaine were legalized in the U.S. We would still have millions of persons ruined by the abuse of cocaine, costing taxpayers billions annually for healthcare for cocaine users and lost wages due to poor performances by them. No proposal for the legalization of cocaine of which I am aware would resolve these problems. Having legalized alcohol, we still face unresolved problems of drunk driving and alcoholism, which claim thousands of U.S. lives annually. The legalization of cocaine and other hard drugs would only encourage the use of such substances while driving, thereby increasing, even encouraging, such reckless endangerment to human and nonhuman life. It goes without saying that problems of addiction to such drugs would not be resolved by making them legal.

The arguments for the legalization of “illicit” drugs in the U.S. ignore the fact that actions of a person that unwarrantedly harm others are subject to legal regulation. Although harm to others is not a sufficient condition of legal regulation of action, it is certainly arguable that death to others by driving under the influence of mind-altering substances and harm to others by substandard employment productivity constitute sufficient reasons to regulate a substance the use of which cannot guarantee against DUIs, increased health-care costs, increased economic costs more generally, and poor productivity that pose unreasonable risks of harm to others. If this argument, by parity of reasoning, poses a threat to the legalization of alcohol, then by parity of reasoning, alcohol use ought to be treated in the same way as cocaine use, assuming that alcohol testing is reliable.

However, the real issues of cocaine use in U.S. society are the deeper issues that millions of U.S. citizens rarely, if ever, contemplate. Rarely, if



ever, does the U.S. cocaine user even consider the ramifications of what she does *to others* when she ingests cocaine. One thing she is doing is supporting the cocaine cartels in Colombia. In so doing, she contributes to the death and destruction by cartels of many who reside in Colombia and surrounding countries, countries that bear the telltale scars of political and economic violence of sometimes tumultuous proportions.<sup>35</sup> The fact is that U.S. citizens who consume cocaine are willful (if not severely addicted), though unwitting, contributors to the exploitation and violence that racks Colombia and neighboring political economies—even the U’was. This is one reason why drug use is problematic in the current state of affairs. Unfortunately, this holds true whether or not the U.S. legalizes drugs. To think that the drug problem is primarily one for various U.S. families is short-sighted at best, and tremendously egoistic. For what cocaine use does to U.S. citizens hardly measures to what supporting drug cartels does to the U’was and Colombian citizens.

Note how this position concerning the “war on drugs” places a *special moral burden on U.S. citizens to not sustain the demand for the substances manufactured by the cocaine cartels in Colombia*. It places a moral burden on U.S. citizens to resolve the problem from within its own borders, rather than seeking, imperialistically, to intervene in the affairs of Colombia as if *Colombian drug cartels* were the reason for the U.S. substance abuse problem. No one is forcing U.S. cocaine users to ingest cocaine. It is the individual responsibility of cocaine users to refrain from doing so, and it is a parental responsibility to raise children to refrain from using such substances. Thus the primary moral reason for not ingesting cocaine-related drugs is the horrific impact that it has on the continual oppression of U’was and Colombians.

## Objections and Replies

Several objections to my argument concerning U.S. intervention in Colombia might be raised. I will consider the most important of them. One is the empirical argument that as a matter of fact, it might be argued, the Colombian

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<sup>35</sup> Although it is true that the consumption of coffee contributes to the exploitation of those who harvest coffee beans—even in Colombia—the exploitation of workers is hardly akin to not only the exploitation, but the violent intimidation of governmental officials and citizens of Colombia. Perhaps if the cost of coffee beans equaled those of coca beans, then there would arise coffee cartels every bit as violent and intimidating as the cocaine cartels. But this is not the case, and so the analogy fails.

people are quite divided (or at least undecided) regarding whom they would choose to lead them in government. Between the corrupted and human-rights-violating government, the violent intimidation of the drug cartels, and rebel forces that are not clearly democratic in nature, the Colombian people might not have either a clear majority sense of what they want. However, even if they did, their options might not seem to them acceptable. As one Colombian professor puts it:

People don't support the rebels, because people know the rebels only represent another private interest. People will always support any peace attempt of President Pastrana: at the end of 1999 more than 13 million people went to the streets to say "NO!" to guerrillas, to corrupted politicians, to kidnappers, to tax increasing, to poverty, to terror. Rebels (whether guerrillas or paramilitary) don't have any socio-political project and their war actions are deeply rejected by most Colombians. Colombians demand a democratic system where life is possible, where taxes have a real social impact, where terror is banished and law is applied with justice. Nonetheless, we also know we are too far from this kind of political system.<sup>36</sup>

Even if this argument is plausible, it does nothing to discount the veracity of mine. For my argument is that the U.S. ought not to intervene unless and until Colombians (and, of course, the U'was) by substantial majorities invite the U.S. to intervene, subject to Walzer's proviso that there is massacre or such which would call for immediate emergency intervention (though not necessarily by the U.S., of course). Thus this empirical objection does nothing to embarrass my argument.

Another objection to my position on U.S. intervention in Colombian affairs might be that the Colombian people *are* in a state of emergency, and require humanitarian intervention in order to gain sovereignty and self-determination. The U.S. is in a position to assist, so the U.S. ought to do so despite its morally filthy hands. A realistic morality of humanitarian intervention must take into account the myriad of factors that are part of the real world, allowing that sometimes it is morally justified for even oppressive states to assist others in need—especially when there seems to be no other state capable of offering assistance.<sup>37</sup> Much like the Good Samaritan, assisting the person in need, the U.S. sees itself as a Good Samaritan country intervening in the affairs of Colombia.<sup>38</sup>

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<sup>36</sup> The identity of this source is withheld for reasons of personal safety.

<sup>37</sup> See Miller, "Respectable Oppressors, Hypocritical Liberators: Morality, Intervention, and Reality," 231f.

<sup>38</sup> For a brilliant philosophical analysis of bad Samaritanism, see Joel Feinberg, *Freedom and Fulfillment* (Princeton: Princeton University Press, 1992), Chapter 7.

However, this objection requires argumentative support for the claim that the U.S. is morally justified in intervening in a context in which it has been rather harmful in its previous imperialist efforts. Furthermore, U.S. efforts along these lines seem especially hypocritical in light of its *own* most horrendous and *unrectified* human rights violations, e.g., against American Indians and blacks. How is it that the U.S. is in a moral position to engage on its own whims in humanitarian intervention when it itself remains guilty of perhaps the worst human rights violations in history?

One reply to this concern is that it is hasty to infer from the past that the U.S. will do the wrong things in this instance. This reply is naïve because it overlooks a lengthy history of U.S. interference with Latin American countries, which has been almost nothing but adverse for Latin Americans. This is especially true if the history of U.S. interference into Latin American affairs is a substantial contributory cause of the poverty that so adversely affects Latin America. For it is in such poor economic conditions that the drug cartels, poor government, and undemocratic rebel forces can and often do thrive.

Yet another concern might be that there are no viable political organizations that qualify as sufficiently just and human-rights-respecting to govern Colombia. On the one hand, there is the Colombian government that does little to punish injustice of the worst kinds found within the ranks of his own military. On the other hand, there is the FARC, which in December of 1999 admitted responsibility for the murders of three American Indian rights activists on the Venezuelan border. Although the FARC's highest commanders apologized for the murders and even suggested that those responsible for them ought to themselves be put to death, this harming of noncombatants says something about the rebels' sense of justice and respect for persons who are not even threats to their cause. Moreover, the thousands of kidnappings by the FARC and the ELN stand as examples of the fact that they do not have an adequate sense of justice in their use of innocent persons as pawns in a civil war that is, presumably, on behalf of the Colombian people. What if, the concern goes, the U.S. happens to be the only viable means of humanitarian intervention that can save innocent lives in Colombia, all things considered? What if states and organizations with much morally cleaner hands are simply unable, for whatever reasons, to effect positive change in Colombia?

In reply to this point, it must be noted that, though the FARC leadership denounced the murders, it is disappointing that they seem to not draw important distinctions between combatants and noncombatants in war. Failure to do this vitiates their having what it takes, morally speaking, to replace the Colombian regime with a morally plausible and viable regime. Moreover, the FARC and the ELN's willingness to work with and for the drug cartels

bespeaks volumes of its willingness to fund its own cause when the source of the funding comes at such severe pain and misery for millions worldwide. If it is morally wrong to patronize capitalist businesses because capitalism oppresses workers, then why do not the FARC and the ELN apply the same logic to the drug cartels? Are not the cartels examples of capitalism at its best (or worst, as the case may be)? And yet do they not serve as paradigmatic instances of exploitation and oppression? This casts serious doubt on the rebels being viable candidates to replace the Uribe regime with a morally viable democracy.

While Richard W. Miller proposes rules for the intervention of states having morally unclean hands, this suggestion, while admirable, seems to forget the real-world politics of outlaw states like the U.S. in violating such rules. So why not simply demand that such states be held to the Walzerian and Rawlsian principles of humanitarian intervention and assistance? It is unjustified, given Walzer's conditions of justified humanitarian intervention, for the U.S. to continue to interfere with Colombian affairs at this time and in the way in which it effects U'was and Colombians. This vitiates any possible moral duty the U.S. might think it has to the same. The principles of humanitarian intervention devised and defended by Walzer and Rawls, respectively, hardly support the U.S.'s effort to further interfere in Colombian affairs. Of course, the U.S. rarely, if ever, stands by in order to listen to and heed the dictates of moral truth and reasoning prior to its acting in its own interests, or in the interests of some of its controlling corporate lobbyist constituents. Instead, what is likely to happen is what has happened in Latin America for over a century: the U.S. will simply impose its imperialistic powers to have its way with a country most of the citizens of which will, beneath their breath, curse the U.S. for its moral impudence. And accompanying such Colombian resentment will no doubt be an increase in political violence against the U.S. and U.S.-supported regimes in the Americas. It is time that we stand back and see the moral forest from the trees. In so doing, we might begin to gain whatever glimpse we can of a plausible answer to the complex problems that underlie Colombian society.

Whatever else happens in Colombia, the *U'was* deserve *genuine sovereignty and reparations from the Colombian government for lands stolen from the former by the latter. Once independent statehood for the U'wa nation is secured and maintained (perhaps by the UN and its forces), then UN attention should be devoted to democratizing Colombian citizens as they deserve freedom and democratic reform.* As for the drug cartels, perhaps they, along with the rebel forces who have become infamous for their thousands of terrorist kidnappings often of innocent persons, and well-supported by millions of U.S. citizens who transport, sell, and purchase their products,

represent to both the U'was and Colombian citizens the gypsy, Melquiades, of whom the famous Colombian novelist Gabriel Garcia Marquez writes, "death followed him everywhere, sniffing at the cuffs of his pants, but never deciding to give him the final clutch of his claws."<sup>39</sup> To employ, if I may, Marquez' imagery of the "happy" village of Macondo: Macondo belongs to the U'was, Colombian citizens are their guests. However, the Colombian government, the imperialistic U.S.,<sup>40</sup> the drug cartels, and their supportive rebels have become most unwelcome. For they have caused the deaths of thousands of innocent U'was and Colombian citizens who truly belong in Colombia. But for their thousands of violations of rights, we must long for the moment when, not unlike Melquiades, the Colombian government with its corrupted army, its self-serving ally (the U.S.), the drug cartels (and the U.S. citizen cocaine users who support them), and the rebels are indeed gone so that the only morally rightful occupiers of Colombia may live in peace.

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<sup>39</sup> Gabriel Garcia Marquez, *One Hundred Years of Solitude*, Gregory Rabassa, Translator (New York: Alfred A. Knopf, 1970), p. 9.

<sup>40</sup> The U.S. does so by providing substantial aid to a government that, not unlike the U.S., serves paradigmatically as a violator of rights.

## Conclusion

This book has traversed a set of topics in mainstream philosophy of law: legal interpretation, justice, international law and global justice, individual and collective rights, and humanitarian intervention. But it has done so by reaching some conclusions that take the rights of certain underclasses seriously.

In Chapter 1, I critically assessed Robert Bork's theory of original intent, but in some ways that have not been noted by other philosophers. Indeed, I injected into the assessment the critical race studies perspective that original intent as it pertains to the United States Constitution implies that the Court ought to rely on the racist, classist, and sexist prejudices of the framers and ratifiers in deciding the content of law and the rights inherent therein. This itself casts serious doubt on the doctrine of original intent. And this assumes for the sake of Bork's argument that it is even possible to decipher what was in the minds of the framers and ratifiers to begin with.

The history of constitutional law also poses embarrassments for the standpoint of original intent, as the Court has decided cases in unjust ways in thinking that the Mann Act, the Alien and Sedition Acts, and others like them were constitutional, when they most certainly were unjust by any stretch of the moral imagination. *Plessy v. Ferguson*, *Dred Scott*, and some other cases having to do with the Fugitive Slave Laws and freedom of expression (respectively) showed how original intent, if it did have an effect on judicial decision-making, was deleterious in a maximal way. In the end, original intent is a disguised form of legal and political conservatism, one that bemoans the fact that the Court has from time to time used its power to check the awful errors of legislators and executives. It is high time that we embrace, rather than lament, the fact that the Court as well as the executive and the legislative branches serve to balance political power, and that this is an aspect of U.S. government that is intended to protect citizens from an imbalance of power that is to be welcomed.

Judicial review should be welcomed rather than abhorred, at least by those who value pluralism and democratic checks and balances of power in the

various branches of government. Quite interestingly, the U.S. Supreme Court has recently shifted even further to the right as two recent appointments to it by the current rightist president reflect anything but moderation or leftism. And it will be interesting to watch and listen as those like Bork who up to now have disdained judicial “activism” now have fellow rightist judges dominating for some time to come the highest court in the country, and making (and remaking) law according to their lights. And it will be equally fascinating to watch and listen to those who once supported judicial review begin to question it given that there are insufficient numbers of judges on the left or in the middle in the Court to support leftist and moderate rulings. It is important to point out that my arguments about constitutional interpretation in no way depend on what sorts of judges, politically speaking, are on the bench. Constitutional coherentism is a theory of legal interpretation that in a principled manner seeks to hold any and all judges to the same standards of critical assessment. It takes no sides *vis-à-vis* politics, except to admit, as critical legal studies, critical race studies, Benjamin Cardozo, Ronald Dworkin, and others do, that judges will inevitably be influenced by extra-legal considerations in making many of their decisions.

Chapter 2 contained an examination of constitutional constructivism as an alternative to the doctrine of original intent. After pointing out how Cardozo’s theory of judicial decision-making in various ways predates Dworkin’s theory of law as integrity, I defend Dworkin’s theory against objections from J. L. Mackie who presumes a legal positivist stance against Dworkin’s theory, and Andrew Altman, who represents a critical legal studies perspective. I defeated or neutralized each of their objections, showing that law as integrity has more resilience than one might have thought in light of the said criticisms. But I find Dworkin’s theory to be weak in that it appears to imply the acceptance of some kind of legal foundationalism regarding established law.

In the spirit of attempting to rescue Dworkin’s theory from this and other concerns, I develop a version of constitutional constructivism that I refer to as “constitutional coherentism.” This is a theory of legal interpretation that seeks to demythologize the U.S. Constitution by stripping it of its contextual mythology concerning the motivations behind the words of the text and framers’ and ratifiers’ intent. It further seeks to make the Constitution a truly living document that judges ought to play a crucial role in molding law in hard cases, especially where the other branches of federal government and society are intractably bound to injustice and in need of fundamental reform. Thus constitutional coherentism raised judicial review to a new level, philosophically speaking. The text of the Constitution is reconstrued as one that is made legitimate by “We the People” in the sense that each new generation of citizens and their representative judges are asked to reconsider, as cases

arise, various points of the text. No part of the Constitution is, in principle, beyond rejection for the best of reasons. And each generation of judges must play their roles in shaping the text into its own image of what best reasons demand in this or that case brought before the Court.

Chapter 3 focused on desiderata for a viable system of international law, one grounded in the idea of global justice. Immanuel Kant's views on international law were canvassed, along with H. L. A. Hart's thoughts on its possibility. This chapter was meant to set the background for the chapter to follow. The main contribution of this chapter was the delineation of desiderata and that mostly in terms of Lon Fuller's ways to fail to make law.

In Chapter 4, Rawls' Law of Peoples was found to have failed to make room for principles of compensatory justice that would complement Rawls' principles of justice between states. I provide some principles of compensatory justice that would fit well with Rawls' Law of Peoples. Unlike some scholars (namely, cosmopolitan liberals) who criticize Rawls' theory for its being, they argue, overly tolerant of some societies that, they aver, are unjust, I accept the remainder of Rawls' theory as the best one currently available. But I argued that cosmopolitan liberalism, for all its incessant mention of rights, fails to make the case for their being global duties of egalitarian justice that would correlate with the rights of those who are putatively entitled to equality. Even if they could establish this point, cosmopolitan verbiage about equality suffers from a fundamental ambiguity pertaining to the equality that it claims ought to obtain in the world among peoples. The cosmopolitan liberal notion of equality is stricter than the ones employed by the leading egalitarian theorists in recent years, forcing the burden of argument onto the cosmopolitan liberal to prove her claim that there is a duty of global egalitarian justice. Furthermore, even if the concerns with cosmopolitan conceptions of rights and equality can be satisfied, there remains its highly problematic rejection of basic compensatory rights, exposing the cosmopolitan liberal scheme of justice as being, at the very best, highly limited in scope as it fails miserably to account for the compensatory rights of those whose basic rights have been violated. Of what good is distributive justice without a notion of compensatory justice to protect the basic human rights cosmopolitan liberals are so oft to claim, and so prolifically and loudly?

Chapter 5 is devoted to rights, though in a way that clarifies some confusions about political theories. It begins with a brief discussion of the nature and value of rights in order to set the stage for the analysis that follows. While many have argued that what separates political liberalism from Marxism is that the former respects rights, while the latter does not, I demonstrate that this view perverts Marxism in serious ways. It misreads, to a degree almost unprecedented in analytical philosophy, Marx's own rather precise wording



on rights. Marx never rejects rights *per se*, and when he condemns rights as fostering undue individualism and “monadism” Marx is focusing on certain rights and not all rights. Heavily implied throughout Marx’s critique of capitalism are several rights: the right to not suffer alienation, the right to the full value of one’s labor power, the right to not be exploited, the right to revolution, to name only a few. Indeed, Karl Marx’s fierce defense of freedom of expression predates John Stuart Mill’s defense of it in *On Liberty*! If we infer that Mill believed in the right to freedom of expression, we must in all fairness say the same of Marx. The view that Marxism rejects all rights is a straw man argument of tremendous proportions, and after my refutation it deserves no more philosophical attention than the KKK belief that Jews are monsters.

In Chapter 6, I continued the analysis of rights at the level of collectives of the decision-making type, and perhaps even ethnic groups that exhibit a kind of decision-making structure that qualifies them, at least minimally, as conglomerates. Here I have in mind the organized groups of Crees, the Diné, the Cherokees, etc. After setting forth the conditions necessary and sufficient for collective rights possession, I cite as a paradigmatic collective right the right to secede. Although it is possible in theory and practice for an individual to secede, secession is paradigmatically a group right.

The attempt to establish a viable system of international law has as its goal the attainment and sustaining of global justice, both distributive and compensatory. Whatever rules are adopted by an international body of representative parties in what Rawls refers to as the international original position will reflect the rights and duties that hold globally. So it is important to both know which rights should be included among those adopted by parties in the international original position, and know which theory of legal interpretation best suits such a body of law so that it is understood when and how such rights accrue in the real world where claims and interests often conflict. All of this is connected to the problem of which theory of international law or global justice will best serve the interests of all parties in the world, both individual and collective. It is clear, then, that the matters of legal interpretation, rights, and justice are interrelated.

The final chapter was an attempt to apply some of what was dealt with in the chapters on international law, global justice, and rights to the quagmire in Colombia. What began about 40 years ago as a civil war between the FARC and the Colombian government quickly escalated, not without the assistance of the U.S. government, into an all-out involvement of drug cartels (whose cocoa fields are protected by rebel forces) and a U.S.-based oil company’s pipelines which were placed (with protection of Colombian military) on the sacred lands of the indigenous U’was. Insofar as the U’was are the only

rightful inhabitants of the lands they still inhabit (after being forced off of much of their lands), they have the only clean moral hands in this scenario. But what is equally clear is that no country with moral hands as malodorous as those of the U.S. is morally justified in intervening in the affairs of Colombia—or any other state, for that matter! This is especially true given that for decades now it is the citizens of the U.S. who constitute the largest client of cocaine products from Colombian drug cartels. So when U.S. citizens purchase cocaine and other illicit drugs from Colombian cartels, they end up funding large-scale kidnapping projects headed by the rebels in collusion with the cartels, thus helping to make Colombia a kidnapping capital of the world. All the while, the U.S. government funds Colombia's efforts to squelch the "drug problem," though it is really a way of fighting Marxist rebel forces since they are protecting the cocoa fields. But the U.S. government is providing this funding each year with the full knowledge (and occasional protest) of Colombia's unwillingness or inability to prosecute many of its paramilitaries who are responsible for some of Colombia's worst human rights violations against those Colombian citizens who are perceived to be rebel sympathizers. Even worse, the U.S. government supports the Colombian government's making it possible for U.S.-based oil companies like Occidental Petroleum to invade U'wa land and drill and extract oil without even obtaining permission from the U'wa for doing so.

No analysis of the justificatory conditions of humanitarian intervention should ever permit a country with hands as filthy as those of the U.S. to be anything like one that would qualify for the duty or right to humanitarian intervention, or even Rawls' duty of assistance. With a record of unrectified human rights violations that the U.S. has, it is more than obvious that the world needs protection from it rather than being in need of its assistance. Indeed, the U.S. cannot in a century even begin to afford to pay the reparations it owes to the hundreds of millions of folk globally. And it appears that whenever it engages in what it declares to be assistance for other countries, history reveals that it is usually a disguised form of mephitic injustice designed to benefit among the wealthiest within its domain. I have no perfect solution to the troubles engulfing Colombia, except that the first step in the right direction is for the U.S. to cease all connections with that country, force Occidental Petroleum to pay billions in reparations to the U'was, and vacate their land immediately, removing all foreign objects that pertain to the seeking and drilling and extracting of oil products. Perhaps the United Nations is in a position to intervene in Colombian affairs in ways that do not worsen matters, and benefit all main parties significantly in terms of peace. The rebels, being connected to the drug cartels, speak against their moral cause. So perhaps what needs to be done after what was just mentioned about

the U.S. connections to Colombia is for the UN or a similar agency to violently root out the drug cartels in cooperation with all other Latin American countries. At the same time, it can prosecute and punish those Colombian paramilitaries responsible for the deaths of innocent civilians. These steps would bring quite welcomed responses from U'was and Colombians alike. Then perhaps the rebels and the Colombian government can reach some agreement as to how to resolve their deep-seated problems. But that scenario, even if bleak, is far superior to the present one. For it gets Colombians and rebels closer to sovereignty, unabated by U.S. untoward influences.

The suggested actions just mentioned, however, would be hypocritical if severe actions are not taken against the U.S. for refusing to pay what it owes in trillions of dollars of reparations to American Indians and blacks.<sup>1</sup> Whether or not such actions include violence would depend at least in part on the U.S. response to a global and collective demand for not only reparations to those domestic groups victimized by generations of genocide, slavery, and Jim Crow, but to its response to the global and collective demand for compensatory justice to other (foreign) groups the U.S. has wrongfully and severely harmed, such as those caused by unjust wars, invasions, deposing of foreign government leaders, etc., in which it has engaged on the pretense that its own interests and security were at risk. Of course, the sad irony is both that most U.S. citizens actually believe that such U.S. actions against others were justified. However, in attempting thusly to secure its own perceived interests and security, the U.S. has indeed placed itself in even greater harm's way.

This book has been a set of philosophical discussions about concerns both within the tradition of mainstream analytical philosophy of law as well as outside it. It is hoped that the reasoning herein has challenged readers to rethink some of their positions on certain problems, perhaps even so much as to begin to take race, rights, and justice—especially indigenous rights—more seriously than ever before.

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<sup>1</sup> These matters are discussed in J. Angelo Corlett, *Race, Racism, and Reparations* (Ithaca: Cornell University Press, 2003), Chapters 8–9.

# Bibliography

- Ackerman, Bruce, *We the People* (Cambridge: Harvard University Press, 1998).
- Alexander, Larry, *Is There a Right to Freedom of Expression?* (Cambridge: Cambridge University Press, 2005).
- Altman, Andrew, "Legal Realism, Critical Legal Studies, and Dworkin," *Philosophy and Public Affairs*, 16 (1986), pp. 205–235.
- Amar, Akhil R., *The Bill of Rights* (New Haven: Yale University Press, 1998).
- Amsterdam, Anthony G. and Jerome Bruner, *Minding the Law* (Cambridge: Harvard University Press, 2000).
- Arana, Ana, "Dead, I Can't Do Anything," salon.com. Accessed in 2000.
- , "Murder in Colombia," salon.com (14 December 1999).
- Archibugi, Daniele and Iris Marion Young, "Envisioning a Global Rule of Law," in James Sterba, Editor, *Terrorism and International Justice* (Oxford: Oxford University Press, 2003), pp. 158–170.
- Arneson, Richard J., "Egalitarian Justice Versus the Right to Privacy," *Social Philosophy and Policy*, 17 (2000), pp. 91–119.
- , "Equality and Responsibility," *The Journal of Ethics*, 3 (1999), pp. 225–247.
- , "Luck and Equality," *Proceedings of the Aristotelian Society*, 75 (2001), pp. 73–90.
- Barry, Brian, *Liberty and Justice* (Oxford: Oxford University Press, 1989).
- Bedau, Hugo Adam, "On Civil Disobedience," *The Journal of Philosophy*, 58 (1961), pp. 653–666.
- Beitz, Charles, "Cosmopolitanism and Global Justice," *The Journal of Ethics*, 9 (2005), pp. 11–27.
- , *Political Equality* (Princeton: Princeton University Press, 1989).
- , *Political Theory and International Relations* (Princeton: Princeton University Press, 1979).
- Bell, Derrick, *And We Are Not Saved* (New York: Basic Books, 1987).
- , *Faces at the Bottom of the Well* (New York: Basic Books, 1992).
- Benn, Stanley I., "Privacy, Freedom, and Respect for Persons," in Ferdinand Schoeman, Editor, *Philosophical Dimensions of Privacy* (Cambridge: Cambridge University Press, 1984), pp. 223–244.
- Benson, Peter, "The Priority of Abstract Right, Constructivism, and the Possibility of Collective Rights in Hegel's Legal Philosophy," *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 257–291.
- Bentham, Jeremy, *The Principles of Morals and Legislation* (New York: Hafner Press, 1948).

- , “Anarchical Fallacies,” in John Bowring, Editor, *The Works of Jeremy Bentham* (Edinburgh: Edinburgh University Press, 1843), pp. 489–534.
- Berent, Moshe, “Collective Rights and the Ancient Community,” *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 387–399.
- Berman, Harold J., William R. Greiner and Samir N. Saliba, *The Nature and Functions of Law*, 6th Edition (New York: Foundation Press, 2004).
- Bernasconi, Robert, and Tommie Lott, Editors, *The Idea of Race* (Indianapolis: Hackett Publishing Company, 2000).
- Betancourt, Ingrid, *Until Death Do Us Part* (New York: Ecco, 2002).
- Blandshard, Brand, *On Philosophical Style* (Manchester: Manchester University Press, 1954).
- Bork, Robert F., *The Tempting of America* (New York: The Free Press, 1990).
- Boxill, Bernard, R. “Global Equality of Opportunity and National Integrity,” *Social Philosophy & Policy*, 5 (1987), pp. 143–168.
- Brett, Nathan, “Language Laws and Collective Rights,” *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 347–360.
- Brink, David O., “Legal Interpretation, Objectivity, and Morality,” in Brian Leiter, Editor, *Objectivity in Law and Morals* (Cambridge: Cambridge University Press, 2001), pp. 12–65.
- , “Legal Theory, Legal Interpretation, and Judicial Review,” *Philosophy and Public Affairs*, 17 (1988), pp. 105–148.
- Broome, John, *Weighing Goods* (Oxford: Oxford University Press, 1991).
- , *Weighing Lives* (Oxford: Oxford University Press, 2004).
- Buchanan, Allen E., *Justice, Legitimacy, and Self-Determination* (Oxford: Oxford University Press, 2005).
- , *Marx and Justice* (Totowa: Rowman and Littlefield Publishers, 1982).
- , *Secession* (Boulder: Westview Press, 1991).
- Bugliosi, Vincent, *The Betrayal of America* (New York: Thunder’s Mouth Press, 2001).
- , *The Phoenix Solution* (Beverly Hills: Dove Books, 1996).
- Bultmann, Rudolph, *History and Eschatology* (New York: Harper Torchbooks, 1957).
- , *Jesus Christ and Mythology* (New York: Charles Scribner’s Sons, 1958).
- , “New Testament and Mythology,” in Hans Werner Bartsch, Editor, *Kerygma and Myth* (New York: Harper Torchbooks, 1961), pp. 1–44.
- , *Primitive Christianity* (New York: The World Publishing Company, 1956).
- , “The Study of the Synoptic Gospels,” in Frederick C. Grant, Translator, *Form Criticism* (New York: Harper Torchbooks, 1934), pp. 1–76.
- , *Theology of the New Testament* (New York: Charles Scribner’s Sons, 1955).
- , “The Idea of God and Modern Man,” in Robert W. Funk, Editor and Translator, *Translating Theology into the Modern Age* (New York: Harper Torchbooks, 1965), pp. 83–95.
- Calabresi, Guido, *A Common Law for the Age of Statutes* (Princeton: Princeton University Press, 1982).
- Cardozo, Benjamin N., *The Nature of the Judicial Process* (New Haven: Yale University Press, 1921).
- Carter, A., “On Individualism, Collectivism, and Interrelationism,” *Heythrop Journal*, 31 (1990), pp. 23–38.
- Carter, Barry and Phillip Trimble, *International Law* (Boston: Little, Brown & Company, 1995).
- Cavanaugh, Matt, *Against Equality of Opportunity* (Oxford: Oxford University Press, 2002).

- Clancy, Tom, *Clear and Present Danger* (New York: G. P. Putnam's Sons, 1989).
- Cohen, Felix S., Cohen, *The Legal Conscience* (New Haven: Yale University Press, 1960).
- Cohen, G.A., *If You're an Egalitarian, How Come You're So Rich?* (Cambridge: Harvard University Press, 2000).
- , *Self-Ownership, Freedom and Equality* (Cambridge: Cambridge University Press, 1995).
- Cohen, Marshall, Editor, *Ronald Dworkin and Contemporary Jurisprudence* (Totowa: Rowman and Allanheld, 1983).
- Conklin, William, *The Invisible Origins of Legal Positivism* (Dordrecht: Kluwer Academic Publishers, 2001), Law and Philosophy Library, Volume 52.
- Copp, David, "International Law and Morality in the Theory of Secession," *The Journal of Ethics*, 2 (1998), pp. 219–245.
- , "What Collectives Are: Agency, Individualism and Legal Theory," *Dialogue*, 23 (1984), pp. 249–270.
- Corlett, J. Angelo, "Dworkin's Empire Strikes Back!" *Statute Law Review*, 21 (2000), 41–56.
- , *Heirs of oppression, forthcoming*.
- , "Marx and Rights," *Dialogue* (Canada), 33 (1994), pp. 377–389.
- , "The Marxist Critique of Human Rights," in Rhonda K.M. Smith and Christian van den Anker, Editors, *The Essentials of . . . Human Rights* (London: Hodder Arnold, 2005), pp. 247–249.
- , "The Problem of Collective Moral Rights," *Canadian Journal of Law & Jurisprudence*, 7 (1994), pp. 237–259.
- , *Race, Racism, and Reparations* (Ithaca: Cornell University Press, 2003).
- , *Responsibility and Punishment*, 3rd Edition (Dordrecht: Springer, 2006), Library of Ethics and Applied Philosophy, Volume 9.
- , "The Right to Civil Disobedience and the Right to Secede," *The Southern Journal of Philosophy*, 30 (1992), pp. 19–28.
- , *Terrorism: A Philosophical Analysis* (Dordrecht: Kluwer Academic Publishers, 2003), Philosophical Studies Series, Volume 101.
- Corlett, J. Angelo and Robert Francescotti, "Foundations of a Theory of Hate Speech," *Wayne Law Review*, 48 (2002), pp. 1071–1100.
- Cover, Robert, *Justice Accused* (New Haven: Yale University Press, 1975).
- Crenshaw, Kimberle, "Race, Reform, and Retrenchment: Transformation and Legitimation in Antodiscrimination Law," in Hayman, Robert L., Jr., Nancy Levit and Richard Delgado, Editors, *Jurisprudence Classical and Contemporary: From Natural Law to Postmodernism*, 2nd Edition (St. Paul: West Group, 2002), pp. 630–635.
- Cullity, Garrett, *The Moral Demands of Affluence* (Oxford: Oxford University Press, 2004).
- Darrow, Clarence, *Verdicts Out of Court* (Chicago: Quadrangle Books, 1963).
- Dershowitz, Alan, *Rights From Wrongs* (New York: Basic Books, 2004).
- , *Supreme Injustice* (Oxford: Oxford University Press, 2001).
- Devlin, Patrick, *The Enforcement of Morals* (Oxford: Oxford University Press, 1965).
- Dieterlen, Paulette, *Poverty* (Amsterdam: Rodopi, 2005).
- Dobzhansky, Theodosius, *Genetic Diversity & Human Equality* (New York: Basic Books, Inc., 1973).
- Donnelly, Jack, *Universal Human Rights in Theory and Practice*, 2nd Edition (Ithaca: Cornell University Press, 2003).

- Doppelt, Gerald, "Walzer's Theory of Morality in International Relations," *Philosophy and Public Affairs*, 8 (1978), pp. 3–26.
- Douglas, William O., *An Almanac of Liberty* (New York: Doubleday & Company, Inc., 1954).
- DuBois, W.E.B., *An ABC of Color* (New York: International Publishers, 1963).
- , *The Souls of Black Folk* (Greenwich: Fawcett Publishers, Inc., 1961).
- Dworkin, Gerald, "Paternalism," in Joel Feinberg and Hyman Gross, Editors, *Philosophy of Law*, 5th Edition (Belmont: Wadsworth Publishing Company, 1995), pp. 208–219.
- , "Paternalism: Some Second Thoughts," in Joel Feinberg and Hyman Gross, Editors, *Philosophy of Law*, 5th Edition (Belmont: Wadsworth Publishing Company, 1995), pp. 219–223.
- Dworkin, Ronald, "Comment," in Amy Gutmann, Editor, *A Matter of Interpretation* (Princeton: Princeton University Press, 1997), pp. 115–127.
- , *Freedom's Law* (Cambridge: Harvard University Press, 1996).
- , *Law's Empire* (Cambridge: Harvard University Press, 1986).
- , *Life's Dominion* (New York: Alfred A. Knopf, 1993).
- , *A Matter of Principle* (Cambridge: Harvard University Press, 1985).
- , "My Reply to Stanley Fish (and Walter Benn Michaels): Please Don't Talk About Objectivity Anymore," in W.J.T. Mitchell, Editor, *The Politics of Interpretation* (Chicago: University of Chicago Press, 1983), pp. 287–313.
- , "Objectivity and Truth: You'd Better Believe It," *Philosophy and Public Affairs*, 25 (1996), pp. 87–139.
- , "Replies to Endicott, Kamm, and Altman," *The Journal of Ethics*, 5 (2001), pp. 263–267.
- , "Review of Robert M. Cover, *Justice Accused*," *Times Literary Supplement*, 5 December 1975.
- , *Taking Rights Seriously* (Cambridge: Harvard University Press, 1978).
- , "What is Equality? Part 1: Equality of Welfare," *Philosophy and Public Affairs*, 10 (1981), pp. 185–246.
- , "What is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs*, 10 (1981), pp. 283–345.
- , "What is Equality? Part 3: The Place of Liberty," *Iowa Law Review*, 73 (1987), pp. 1–54.
- , "What is Equality? Part 4: Political Equality," in Thomas Christiano, Editor, *Philosophy & Democracy* (Oxford: Oxford University Press, 2003), pp. 116–137.
- , "Working on the Chain Gang," *Texas Law Review*, 60 (1982), pp. 551–567.
- , "Wrong Again," *Texas Law Review*, 62 (1983), pp. 299–316.
- Ethics and International Affairs*, 11 (1997), pp. 1–104.
- Falk, Richard, "Revisioning Cosmopolitanism," in Joshua Cohen, Editor, *For Love of Country* (Boston: Beacon Press, 1996), pp. 53–60.
- Fallon, Richard H., Jr., *Implementing the Constitution* (Cambridge: Harvard University Press, 2001).
- Feinberg, Joel, *Doing and Deserving* (Princeton: Princeton University Press, 1970).
- , *Freedom and Fulfillment* (Princeton: Princeton University Press, 1992).
- , "In Defense of Moral Rights," the Romanell Phi Beta Kappa Lectures, 1990, in Joel Feinberg, *Freedom and Fulfillment* (Princeton: Princeton University Press, 1992), Chapters 8–10.
- , *Harm to Others* (Oxford: Oxford University Press, 1984).

- , “The Nature and Value of Rights” in Joel Feinberg, *Rights, Justice, and the Bounds of Liberty* (Princeton: Princeton University Press, 1980), pp.143–158.
- , *Problems at the Roots of Law* (Oxford: Oxford University Press, 2003).
- , *Rights, Justice, and the Bounds of Liberty* (Princeton: Princeton University Press, 1980).
- , *Social Philosophy* (Englewood Cliffs: Prentice-Hall, 1973).
- Fish, Stanley, *The Trouble With Principle* (Cambridge: Harvard University Press, 1999).
- Fletcher, George, *Basic Concepts of Legal Thought* (Oxford: Oxford University Press, 1996).
- Freeman, Samuel, “Original Meaning, Democratic Interpretation, and the Constitution,” *Philosophy and Public Affairs*, 21 (1992), pp. 1–42.
- Fried, Charles, “Privacy [a Moral Analysis],” in Ferdinand Schoeman, Editor, *Philosophical Dimensions of Privacy* (Cambridge: Cambridge University Press, 1984), pp. 203–222.
- French, Peter A., *Collective and Corporate Responsibility* (New York: Columbia University Press, 1984).
- Friedmann, W., *Legal Theory* (London: Stevens & Sons, Limited, 1949).
- Friedrich, Carl Joachim, *The Philosophy of Law in Historical Perspective* (Chicago: The University of Chicago Press, 1963).
- Fuller, Lon, *The Morality of Law*, Revised Edition (New Haven: Yale University Press, 1969).
- Garlan, Edwin N., *Legal Realism and Justice* (New York: Columbia University Press, 1941).
- George, R.P., “Individual Rights, Collective Interests, Public Law, and American Politics,” *Law and Philosophy*, 8 (1989), pp. 245–261.
- Gibson, Mary, *Workers’ Rights* (Totowa: Rowman and Allanheld, 1983).
- Goldman, Alvin I., *Epistemology and Cognition* (Cambridge: Harvard University Press, 1986).
- , *Knowledge in a Social World* (Oxford: Oxford University Press, 1999).
- , *Pathways to Knowledge* (Oxford: Oxford University Press, 2002).
- Gould, Carol, *Globalizing Democracy and Human Rights* (Cambridge: Cambridge University Press, 2004).
- Grand Council of the Crees of Quebec, *Sovereign Injustice* (Quebec: The Grand Council of the Crees, 1995).
- Green, Leslie, “Two Views of Collective Rights,” *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 315–327.
- Greenawalt, Kent, *Conflicts of Law and Morality* (Oxford: Oxford University Press, 1987).
- , *Law and Objectivity* (Oxford: Oxford University Press, 1992).
- , *Speech, Crime, & the Uses of Language* (Oxford: Oxford University Press, 1989).
- Gutmann, Amy, Editor, *A Matter of Interpretation* (Princeton: Princeton University Press, 1997).
- Hand, Learned, *The Spirit of Liberty* (New York: Alfred A. Knopf, 1952).
- Harris, J.W., *Law and Legal Science* (Oxford: Clarendon Press, 1979).
- Harris, Paul, Editor, *Civil Disobedience* (Lanham: University Press of America, 1989).
- Hart, H.L.A., *The Concept of Law* (Oxford: Oxford University Press, 1961).
- , *Punishment and Responsibility* (Oxford: Oxford University Press, 1968).



- Hartney, Michael, "Some Confusions Concerning Collective Rights," *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 293–314.
- Hohfeld, Wesley, *Fundamental Legal Conceptions* (New Haven: Yale University Press, 1919).
- Honderich, Ted, *After the Terror* (Edinburgh: Edinburgh University Press, 2002).
- Benjamin R. Howe, "9 Killed in Paramilitary Attack," *Chicago Tribune*, 14 May 2000.
- , "Nine Dead in Colombian Massacre," *Associated Press*, 12 May 2000.
- , "Out of the Jungle," *The Atlantic Monthly*, May 2000.
- Husami, Ziyad I., "Marx on Distributive Justice," *Philosophy and Public Affairs*, 8 (1978), pp. 27–64.
- Husserl, Gerhart, "Interpersonal and International Reality: Some Facts to Remember for the Re-Making of International Law," *Ethics*, 52 (1942), pp. 127–152.
- Jacobs, Lesley A., "Bridging the Gap Between Individual and Collective Rights With the Idea of Integrity," *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 375–386.
- Jacobson, Daniel, "Freedom of Speech Acts? A Response to Langton," *Philosophy & Public Affairs*, 24 (1995), pp. 67–68.
- Johnson, Jeffrey L. "A Theory of the Nature and Value of Privacy," *Public Affairs Quarterly*, 6 (1992).
- Jokic, A., Editor, *War Crimes and Collective Wrongdoing* (London: Blackwell Publishers, 2001).
- The Journal of Ethics*, 2:1 (1998).
- The Journal of Ethics*, 5:3 (2001).
- The Journal of Ethics*, 8:4 (2004).
- The Journal of Ethics*, 9:1–2 (2005).
- Kant, Immanuel, *The Metaphysical Elements of Justice*, John Ladd, Translator, (London: Macmillan Publishing Company, 1965).
- , *Political Writings*, Hans Reiss, Editor (Cambridge: Cambridge University Press, 1991).
- Kelsen, Hans, *General Theory of Law and State* (Cambridge: Harvard University Press, 1949).
- Kernohan, A., "Rawls and the Collective Ownership of Natural Abilities," *The Canadian Journal of Law & Jurisprudence*, 20 (1990), pp. 19–28.
- King, Martin Luther, Jr., *Why Can't We Wait* (New York: Harper and Row, 1964).
- Kleingeld, Pauline, "Kant's Cosmopolitan Patriotism," *Kant-Studien*, 94 (2003), pp. 299–316.
- Kleinig, John, "Good Samaritanism," *Philosophy and Public Affairs*, 5 (1975), pp. 382–407.
- Kymlicka, Will, *Liberalism, Community, and Culture* (Oxford: Oxford University Press, 1989).
- , "Liberalism and the Politicization of Ethnicity," *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 239–256.
- , *Multicultural Citizenship* (Oxford: Oxford University Press, 1995).
- , Editor, *The Rights of Minority Cultures* (Oxford: Oxford University Press, 1995).
- Ladd, John, "Morality and the Ideal of Rationality in Formal Organizations," *The Monist*, 54 (1970), pp. 488–516.
- Lake, Christopher, *Equality and Responsibility* (Oxford: Oxford University Press, 2001).
- Lauterpacht, H. *International Law and Human Rights* (Archon Books, 1968).

- Lawrence, Charles, III, "The Id, the Ego and Equal Protection: Reckoning with Unconscious Racism," in Robert L. Hayman, Jr., Nancy Levit and Richard Delgado, Editors, *Jurisprudence Classical and Contemporary*, 2nd Edition (St. Paul: West Group, 2002), pp. 626–630.
- Leech, Gary M., "The Case of the U'wa," *Colombia Report*, 9 July 2000.
- Lehrer, Keith, *Theory of Knowledge*, 2nd Edition (Boulder: Westview Press, 2000).
- Leiter, Brian, "Objectivity, Morality, and Adjudication," in Brian Leiter, Editor, *Objectivity in Law and Morals* (Cambridge: Cambridge University Press, 2001), pp. 66–98.
- Levine, Andrew, *Rethinking Liberal Equality* (Ithaca: Cornell University Press, 1998).
- Lloyd, Dennis, *The Idea of Law* (New York: Penguin Books, 1976).
- Lomasky, Loren E., *Persons, Rights, and the Moral Community* (Oxford: Oxford University Press, 1987).
- Lynch, Joseph M., *Negotiating the Constitution* (Ithaca: Cornell University Press, 1999).
- Lyons, David, "Constitutional Interpretation and Original Meaning," *Social Philosophy & Policy*, 4 (1987), pp. 75–101.
- , "Open Texture and the Possibility of Legal Interpretation," *Law and Philosophy*, 18 (1999), pp. 297–309.
- , Editor, *Rights* (Belmont: Wadsworth Publishing Company, 1979).
- Macdonald, I., "Group Rights," *Philosophical Papers*, 18 (1989), pp. 117–136.
- Mackie, J.L., "Rights, Utility, and Universalization," in R.G. Frey, Editor, *Utility and Rights* (Minneapolis: University of Minnesota Press, 1985), Chapter 4.
- , "The Third Theory of Law," *Philosophy and Public Affairs*, 7 (1977), pp. 3–16.
- Margalit, Avishai and Raz, Joseph, "National Self-Determination," *The Journal of Philosophy*, 87 (1990), pp. 439–461.
- Marquez, Gabriel Garcia, *News of a Kidnapping* (New York: Alfred Knopf, 1997).
- , *One Hundred Years of Solitude*, Gregory Rabassa, Translator (New York: Alfred A. Knopf, 1970).
- Marx, Karl, "Critique of the Gotha Program," in R.C. Tucker, Editor, *The Marx-Engels Reader*, 2nd Edition (New York: W. W. Norton & Company, 1978), pp. 525–541.
- , *On Freedom of the Press and Censorship*, Saul K. Padover, Editor and Translator (New York: McGraw-Hill, 1974).
- , *Grundrisse: Foundations of the Critique of Political Economy* (Rough Draft), Martin Nicolas, translator (London: Allen Lane with New Left Review, 1973).
- , "On the Jewish Question," *The Marx-Engels Reader*, 2nd Edition, R.C. Tucker, Editor (New York: Norton, 1978), pp. 26–52.
- Marx, Karl and Engels, Frederick, *Collected Works* 52 Volumes (New York: International Publishers, 1975–1990).
- May, Larry, *Aggression and Crimes Against Peace* (Cambridge: Cambridge University Press, 2008).
- , "Corporate Property Rights," *Journal of Business Ethics*, 5 (1986), pp. 225–232.
- , *The Morality of Groups* (Notre Dame: University of Notre Dame Press, 1987).
- McDonald, Michael, "Should Communities Have Rights? Reflections on Liberal Individualism," *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 217–237.
- McLellan, D., Editor, *Karl Marx: Selected Writings* (Oxford: Oxford University Press, 1977).
- Melden, A.I., Editor, *Human Rights* (Belmont: Wadsworth Publishing Company, 1970).
- Mill, John Stuart, *On Liberty* (Indianapolis: Hackett Publishing Company, 1978).
- Miller, David, "Against Global Egalitarianism," *The Journal of Ethics*, 9 (2005), pp. 55–79.

- , “Distributing Responsibilities,” in Andrew Kuper, Editor, *Global Responsibilities* (London: Routledge, 2005), pp. 95–115.
- Miller, Richard W., “Respectable Oppressors, Hypocritical Liberators: Morality, Intervention, and Reality,” in Deen Chatterlee and Don Scheid, Editors, *Ethics and Foreign Intervention* (Cambridge: Cambridge University Press, 2004), pp. 215–250.
- Moellendorf, Darrel, *Cosmopolitan Justice* (Boulder: Westview Press, 2002).
- Moore, Michael, *Objectivity in Ethics and Law* (Burlington: Ashgate, 2004).
- Mouffe, Chantal, *On the Political* (London: Routledge, 2005).
- Nardin, Terry, “The Moral Basis of Humanitarian Intervention,” *Ethics and International Affairs*, 16 (2002), pp. 57–72.
- Narveson, Jan, “Collective Rights,” *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 329–345.
- Nickel, James W., *Making Sense of Human Rights* (Berkeley: University of California Press, 1987).
- , “Marxism and Human Rights,” *42nd Annual Northwest Conference on Philosophy*, University of Oregon, Eugene, 1990.
- Niemeyer, Gerhart, *Law Without Force* (Princeton: Princeton University Press, 1941).
- Nozick, Robert, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
- Nussbaum, Martha, *The Fragility of Goodness* (Cambridge: Cambridge University Press, 1986).
- , “Replies,” in Joshua Cohen, Editor, *For Love of Country* (Boston: Beacon Press, 1996), pp. 131–144.
- Nye, Russel B., *William Lloyd Garrison and the Humanitarian Reformers* (Boston: Little, Brown and Company, 1955).
- O’Neill, Onora, “Agents of Justice,” in Andrew Kuper, Editor, *Global Responsibilities* (London: Routledge, 2005), pp. 37–52.
- , *Towards Justice and Virtue* (Cambridge: Cambridge University Press, 1996).
- Orend, Brian, “Kant on International law and Armed Conflict,” *Canadian Journal of Law & Jurisprudence*, 11 (1998), pp. 329–381.
- Otsuka, Michael, *Libertarianism Without Inequality* (Oxford: Oxford University Press, 2003).
- Paton, G.W., *A Text-Book of Jurisprudence*, 2nd Edition (Oxford: The Clarendon Press, 1951).
- Patterson, Dennis, *Law and Truth* (Oxford: Oxford University Press, 1996).
- Peffer, R.G., *Marxism, Morality, and Social Justice* (Princeton: Princeton University Press, 1990), pp. 324–328.
- Pestieau, Joseph, “Minority Rights: Caught Between Individual Rights and People’s Rights,” *Canadian Journal of Law & Jurisprudence*, 4 (1991), pp. 361–373.
- Pogge, Thomas, “Human Rights and Human Responsibilities,” in Andrew Kuper, Editor, *Global Responsibilities* (London: Routledge, 2005).
- , “The International Significance of Human Rights,” *The Journal of Ethics*, 4 (2000), pp. 45–69.
- , “Rawls on Global Justice,” *Canadian Journal of Philosophy*, 18 (1988), pp. 227–256.
- , “Rawls on International Justice,” *The Philosophical Quarterly*, 51 (2001), pp. 246–254.
- , *World Poverty and Human Rights* (London: Polity, 2002).

- Pojman, Louis, "The Moral Response to Terrorism and Cosmopolitanism," in James Sterba, Editor, *Terrorism and International Justice* (Oxford: Oxford University Press, 2003), pp. 135 – 157.
- Pole, J.R., *The Pursuit of Equality in American History* (Berkeley: University of California Press, 1978).
- Postema, Gerald, "Objectivity Fit For Law," in Brian Leiter, Editor, *Objectivity in Law and Morals* (Cambridge: Cambridge University Press, 2001), pp. 99–143.
- Pound, Roscoe, *Philosophy of Law* (New Haven: Yale University Press, 1959).
- Quinn, Warren S., "Theories of Intrinsic Value," *American Philosophical Quarterly*, 11 (1974), pp. 123–132.
- Rabban, David M., *Free Speech in Its Forgotten Years* (Cambridge: Cambridge University Press, 1999).
- Rachels, James, "Why Privacy is Important," in Ferdinand Schoeman, Editor, *Philosophical Dimensions of Privacy* (Cambridge: Cambridge University Press, 1984), pp. 290–299.
- Rafalko, Robert J., "Corporate Punishment: A Proposal," *Journal of Business Ethics*, 8 (1989), pp. 917–928.
- Rainbolt, George, *The Concept of Rights* (Dordrecht: Springer, 2006).
- Rawls, John, *Collected Papers*, Samuel Freeman, Editor (Cambridge: Harvard University Press, 1999).
- , "Justice as Fairness" *The Philosophical Review*, 67 (1958), pp. 164–194.
- , *Justice as Fairness: A Restatement* (Cambridge: Harvard University Press, 2001).
- , *The Law of Peoples* (Cambridge: Harvard University Press, 1999).
- , *Political Liberalism* (New York: Columbia University Press, 1993).
- , *A Theory of Justice* (Cambridge: Harvard University Press, 1971).
- , *A Theory of Justice*, 2nd Edition (Cambridge: Harvard University Press, 1999).
- , "Right-Based Moralities," in R.G. Frey, Editor, *Utility and Rights* (Minneapolis: University of Minnesota Press, 1984), pp. 42–60.
- Reidy, David, "A Just Global Economy: In Defense of Rawls," *The Journal of Ethics*, 11 (2007), 193–236.
- Reiman, Jeffrey, "Privacy, Intimacy, and Personhood," in Ferdinand Schoeman, Editor, *Philosophical Dimensions of Privacy* (Cambridge: Cambridge University Press, 1984), pp. 300–316.
- Roemer, John, *Equality of Opportunity* (Cambridge: Harvard University Press, 1998).
- , *Theories of Distributive Justice* (Cambridge: Harvard University Press, 1996).
- Ross, Alf, *On Law and Justice* (Berkeley: University of California Press, 1959).
- Rousseau, Jean-Jacques, *Discourse on the Origin of Inequality*, David A. Cress (trans.) (Indianapolis: Hackett Publishing Company, 1992).
- Sacksteder, William, "Kant's Analysis of International Relations," *The Journal of Philosophy*, 51 (1954), pp. 848–855.
- Scalia, Antonin, "Common-Law Courts in a Civil-Law System: The Role of the United States Federal Courts in Interpreting the Constitution and Laws," in *A Matter of Interpretation* (Princeton: Princeton University Press, 1997), pp. 3–47.
- Schauer, Frederick, "The First Amendment as Ideology," *William and Mary Law Review*, 33 (1992), pp. 853f.
- Scheffler, Samuel, *Boundaries and Allegiances* (Oxford: Oxford University Press, 2001).
- , "Conceptions of Cosmopolitanism," *Utilitas*, 11 (1999), pp. 255–276.
- , "What is Egalitarianism?" *Philosophy and Public Affairs*, 31 (2003), pp. 5–39.

- Schoch, M. Magdalena, Editor and Translator, *The Jurisprudence of Interests* (Cambridge: Harvard University Press, 1948).
- Sen, Amartya, *On Economic Inequality*, Expanded Edition (Oxford: Oxford University Press, 1978).
- , *Inequality Reexamined* (Cambridge: Harvard University Press, 1992).
- Shapard, Leslie R., "Group Rights," *Public Affairs Quarterly*, 4 (1990), pp. 299–308.
- Shapiro, Ian and Lea Brilmayer, Editors, *NOMOS: Global Justice* (New York: New York University Press, 1999).
- Simon, R.L., "Rights, Groups and Discrimination: A Reply to Ketchum," *Analysis*, 40 (1980), pp. 109–112.
- Singer, Peter, "Famine, Affluence, and Morality," *Philosophy & Public Affairs*, 1 (1972), pp. 229–243.
- Smith, Rhonda K.M. and Christien van den Anker, Editors, *The Essentials of Human Rights* (London: Hodder Arnold, 2005).
- Steiner, Hillel, "How Equality Matters," *Social Philosophy and Policy*, 19 (2002), pp. 342–356.
- Sterba, James P., "Global Justice for Humans or for All Living Beings and What Difference it Makes," *The Journal of Ethics*, 9 (2005), pp. 283–300.
- Sumner, L.W., *The Moral Foundation of Rights* (Oxford: Clarendon Press, 1987).
- Sunstein, Cass, *One Case at a Time* (Cambridge: Harvard University Press, 1999).
- Sweeney, J.D., C.T. Oliver and N.E. Leech, *The International Legal System*, 2nd Edition (Mineola: The Foundation Press, 1981).
- Taylor, Charles, "Atomism" in *Philosophical Papers*, Volume 2 (Cambridge: Cambridge University Press, 1985), pp. 187–210.
- , *Philosophical Papers*, Volume 2 (Cambridge: Cambridge University Press, 1985).
- Temkin, Larry, *Inequality* (Oxford: Oxford University Press, 1993).
- , "Thinking About the Needy, Justice, and International Organizations," *The Journal of Ethics*, 8 (2004), pp. 349–395.
- Tesón, Fernando, *Humanitarian Intervention* (Dobbs Ferry: Transnational Publishers, Inc., 1988).
- , *A Philosophy of International Law* (Boulder: Westview Press, 1998).
- Thomson, Judith Jarvis, *The Realm of Rights* (Cambridge: Harvard University Press, 1990).
- , "The Right to Privacy," *Philosophy and Public Affairs*, 4 (1975), pp. 295–314.
- Tomasi, John, "Individual Rights and Community Virtues," *Ethics*, 101 (1991), pp. 521–36.
- Unger, Peter, *Living High and Letting Die* (Oxford: Oxford University Press, 1996).
- van Fraassen, Bas, "Values and the Heart's Command," *The Journal of Philosophy*, LXX (1973), pp. 5–19.
- Waldron, Jeremy, "Introduction," in Jeremy Waldron, Editor, *Theories of Rights* (Oxford: Oxford University Press), pp. 1–20.
- , Editor, *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man* (London: Methuen, 1987).
- Walzer, Michael, *Just and Unjust Wars*, 3rd Edition (New York: Basic Books, Inc., 2000).
- Wellman, Carl, *Proliferation of Rights* (Boulder: Westview Press, 1999).
- , *A Theory of Rights* (Totowa: Rowman and Allanheld, 1985).

- Whittington, Keith E., *Constitutional Construction* (Cambridge: Harvard University Press, 1999).
- Wilkins, Burleigh T., "Kant on International Relations," *The Journal of Ethics*, 11 (2007), pp.147–159.
- , "Principles for the Law of Peoples," *The Journal of Ethics*, 11 (2007), pp. 161–175.
- , "Teleology in Kant's Philosophy of History," *History and Theory*, 5 (1966), pp. 172–185.
- , *Terrorism and Collective Responsibility* (London: Routledge, 1992).
- Williams, Bernard, *In the Beginning Was the Deed* (Princeton: Princeton University Press, 2005).
- Williams, Patricia J., *The Alchemy of Race and Rights* (Cambridge: Harvard University Press, 1991).
- Winston, Morton E., *The Philosophy of Human Rights* (Belmont: Wadsworth Publishing Company, 1989).
- Wood, Allen W., "Marx on Right and Justice: A Reply to Husami," *Philosophy and Public Affairs*, 8 (1979), pp. 267–295.

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