

# The Importance of Human Rights

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*This paper argues that recent advancements in value theory can inform discussions on the interrelation of human rights. More precisely it is argued that the importance of human rights, i.e., the ranking of their priority, cannot be fully accounted for by “more important” and “equally as important”. The concept of “on a par importance” is introduced and it is argued that this concept captures implicitly held intuitions in the debate. Furthermore, with this new conceptual insight, it is possible to justify certain assumptions that previously lacked a justificatory ground.*

## 1. Introduction

It is tempting to accept the view that most human rights have the same weight, i.e., that they are equally as important. This view fits well with a common-sense view on the importance of human rights, i.e., it seems counterintuitive to suggest that a complete ranking can be made of human rights such that all or most are ascribed different weight.<sup>1</sup> The view may also find support from certain schemes to justify human rights, i.e., if most human rights can be derived from a few basic normative assumptions, then it is plausible that most human rights will be ascribed the same weight since they share a common source. A major drawback with this view is, however, that it fails to make sense and provide guidance in situations where it seems to be the case that human rights come into conflict. If they are equally as important then how can we decide on which human right to prioritize? Inspired by recent advancements in value theory, I will in this paper, argue that the intuition that most human rights are not rankable by a “more important” relation is correct, but it is also correct that most human rights are not equally as important. The importance of different human rights can be determined by a *non-conventional* relation. By accounting for the interrelation of the importance of human rights in terms of a conceptual scheme well-known in value theory it will be possible to retain the advantages that came with the view that human rights are equally as important and yet possible to account for the possibility of apparent conflicts between human rights.

In section two of the paper, I will describe the advantages and disadvantages of the view that human rights are equally as important. In section three I will present a

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<sup>1</sup> As the reader will notice, I will primarily adopt a common-sense perspective on the nature of human rights. I won't delve deeply into the potential sources and normative foundations of these rights. Throughout the paper, I will reference various positions that support my claims regarding human rights, but I won't commit to a specific viewpoint. The reason behind this approach is my intention to maintain as much neutrality as possible concerning the philosophical underpinnings of human rights. Consequently, the content in this paper should be relevant to a wide range of theorists. While some conceptual translation may be necessary, I leave this as an exercise for the reader.

conceptual scheme of possible value relations that has in recent years been developed in value theory. In section four I will show how this scheme can make sense of the interrelations of the importance of different human rights. In the final section of the paper, it is shown how these novel conceptualisations of human rights can justify certain common assumptions.

## 2. Are all human rights of equal importance?

The claim that human rights are of equal importance can be interpreted in many different ways and an elucidation is therefore needed before its validity can be discussed. The term “importance” can here be tightly connected to a question of prioritization. While it is true that rights, normative principles, and the like, may all ascribe to us what we ought to do, it is not clear that they are given the same priority in cases where we are constrained, such that only some of these can be satisfied. Metaphorically speaking they may have different weights, i.e., count more or less strongly in practical deliberation.

It seems to be a common conception that most human rights are of equal importance. Informal layman discussions on the status of human rights corroborate this. For example, we often use the general term “human rights” to refer to a set of rights. This general approach to human rights can be understood to imply that the rights are uniform and thus not of different importance. Of course, on its own, this does not establish that we take human rights to be of equal importance. However, the general discourse in politics and philosophy provides further support for the claim that it is the common conception. The following quote from the 1993 World Conference on Human Rights shows how this is salient in political ideology:

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.<sup>2</sup>

It is not as evident in philosophical discussions that human rights are of equal importance, but some claims can be found in the literature that confirm that this is a common conception. The *Internet Encyclopedia of Philosophy* for example states that: “Human rights are typically understood to be of equal value, each right is conceived of as equally important as every other.”<sup>3</sup> Similarly, James W. Nickel in his influential *Making Sense of Human Rights* that the four rights that he takes to justify all human rights also have roughly equal weight or priority.<sup>4</sup>

More so, claims that acknowledge that human rights are of paramount importance could be understood to entail the view that they are of equal importance.<sup>5</sup> That human rights have a high degree of importance is necessary if they are to have an impact in practice. Similarly, those who believe that human rights are absolute in the sense that

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<sup>2</sup> The United Nations, ‘Vienna Declaration and Programme of Action’, *World Conference on Human Rights*, (1993).

<sup>3</sup> Andrew Fagan, ‘Human rights’ in *Internet Encyclopedia of Philosophy*, 2003. It is important to note that Fagan rightly acknowledges that this is a mistaken view and refers to the possibility conflicting moral rights in order to put doubt on this common conception.

<sup>4</sup> James W. Nickel, *Making Sense of Human Rights*, 2nd ed. Oxford: Blackwell, p. 67.

<sup>5</sup> See, Maurice Cranston, ‘Human rights, real and supposed’, in *Political theory and the rights of Man*, edited by D.D. Raphael. Indiana University Press, 1967, for the view that they or of “paramount importance”. I take this to mean that they trump everything else. This normative power is common for all human rights and thus they are of equal importance.

infringements to the rights cannot be compensated by other means could be interpreted to believe that they are of equal importance.<sup>6</sup>

Furthermore, if the normative justification of all human rights is carried out by referring to some common ground, such as the principle of equal human dignity, it seems probable that all of the human rights that are deduced from this ground ought to be treated as if they have the same importance.<sup>7</sup> My suggestions in this paper may be less interesting for those who take a more pluralistic approach to justifying human rights. With a multitude of grounds for human rights, it becomes less unclear why they are seemingly of equal importance.<sup>8</sup>

It is thus clear in the discourse that human rights are often implicitly and sometimes explicitly believed to be of equal importance, but it is also clear that this is a controversial claim if one follows it through. It seems after all plausible to maintain that certain human rights are more important than others. To give one such example, consider the characterisation that places human rights into different generations.<sup>9</sup> While it is unclear what this characterisation exactly amounts to, some may be tempted to interpret it as a ranking where human rights that belong to one generation may have precedence over human rights belonging to another generation. That is, the right to life, for example, that belongs to the first generation may be believed to have precedence over the right to a healthy environment that belongs to the third generation.<sup>10</sup>

The characterisation of human rights as belonging to different generations is controversial.<sup>11</sup> Indeed, this characterisation seems to conflict with the view that human rights are interdependent and indivisible.<sup>12</sup> And it is not far-fetched to conclude that the view that human rights are equally as important plays an important part in the controversy surrounding the characterisation of human rights belonging to different generations.

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<sup>6</sup> With “absolute” I here mean something similar to Alan Gewirth’s “principle absolutism”. Alan Gewirth, ‘Are there any absolute rights?’, *The Philosophical Quarterly*, 31:122, (1981), pp. 1-16.

<sup>7</sup> The idea of a common ground is often expressed in terms of the principle of equal human dignity. See the *Universal Declaration of Human Rights*, The United Nations 1948. There are several attempts to make a more explicit characterization of this common ground. One such much discussed source for the common ground is a person’s agency and autonomy see e.g., Alan Gewirth, *The community of rights*. Chicago, USA: The University of Chicago Press, 1996 and James Griffin, *On human rights*. Oxford: Oxford University Press, 2008. For general discussions on dignity as a ground for human rights see e.g., Michael Rosen, *Dignity: Its History and Meaning*. Cambridge, Mass.: Harvard University Press, 2012, and Charles R. Beitz, ‘Human Dignity in the Theory of Human Rights: Nothing But a Phrase?’, *Philosophy & Public Affairs* 41 (2013), pp. 259-290.

<sup>8</sup> I owe this clarification to an anonymous referee. As was suggested to me, if one believes that there are diverse moral and ethical theories (as claimed by, e.g., Charles R. Beitz, *Political theory and international relations*, Princeton University Press, 1979) it is less clear that my claim holds. Of course, Beitz argues that these theories overlap in such a way that they can serve as a justification for certain basic principles. Perhaps, this is sufficient ground for some human rights to be of seeming equal importance. This, merits more consideration but as stated above I will not delve into details on different specific theories on human rights here.

<sup>9</sup> See Karel Vasak, ‘A thirty-year struggle’, *Unesco Courier* 29, (1977), for a presentation of the distinction.

<sup>10</sup> If one accepts that there is a fourth generation of human rights this claim seems even more plausible. A right relating to emerging technologies, as the fourth generation of human rights is characterized as, seems less important than those belonging to a first generation.

<sup>11</sup> For a convincing criticism of the characterization of human rights in terms of generations see Patrick Macklem, ‘Human rights in international law: three generations or one?’, *London Review of International Law*, 3:1, 61–92, 2015.

<sup>12</sup> See ‘The United Nations, ‘Vienna Declaration and Programme of Action’, *World Conference on Human Rights*, (1993).

One needs, however, not to refer to “generations” in order to advance a categorisation of rights in terms of their importance. This idea of different importance can be found elsewhere and one such prominent example is in the work of Henry Shue. Inspired by Rawls’ “primary goods” Shue developed the view that certain rights are “basic rights” and that these should be given precedence in their realisation as compared to other rights.<sup>13</sup> It is interesting to note that Shue does not claim that these basic rights are of a higher value than the other rights, rather they are merely more important to realise, due to their instrumental merits.

However, even if one believes that certain human rights are objectively more important than others, e.g., human rights belonging to the first generation being more important than human rights belonging to the third generation, it seems clear that there is a group of human rights for which this is not the case, human rights within the same generation are believed to be of equal importance. Scholars may disagree on how many human rights that are of equal importance but it is clear that at least *some* are taken to be of equal importance and the considerations mentioned above support that, if not all, then *some* human rights are believed to be of equal importance.

With this I submit that there are indeed, several considerations that speak in favour of the view that some human rights are of equal importance; there are both pragmatic and theoretical advantages to this view. Independent of your favourite view on human rights these advantages must be taken into consideration.<sup>14</sup> However, this view also has clear disadvantages and as we will see does not hold up to scrutiny. I believe that this becomes most obvious when one considers conflicts of human rights.

Conflicting human rights can take many forms. Sometimes the conflict is direct, i.e., the fulfilment of one human right may violate another human right. In recent times, numerous instances have arisen where the right to freedom of speech clashes with the right to non-discrimination. That is, freedom of speech is used by xenophobic parties to rationalize acts of discrimination against religious and cultural minorities. Sometimes the conflict of human rights is indirect, i.e., the means available can only guarantee that one right is fulfilled. For example, a state acknowledges that there are several human rights that ought to be met but has only the resources to fulfil one of these.

Not only is the possibility of conflicting human rights of great practical importance, i.e., it poses a possible hurdle in the implementation of human rights, but the possibility of conflicting human rights is also interesting from a theoretical perspective. This is for example acknowledged by Griffin:

There is no better test of an account of human rights than the plausibility of what it has to say about rights in conflict. There is no better way to force thought about human rights to a deeper level than to try to say something about how to resolve conflicts involving them.<sup>15</sup>

This is indeed true for the claim that human rights are of equal importance. When human rights are treated by a theory as equally as important there is no obvious answer to how the conflict should be resolved. If there is a direct conflict between two human rights, such as was exemplified by the possible conflict between freedom of speech and a right to non-

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<sup>13</sup> Shue, Henry, *Basic rights*, Princeton University Press, 1996.

<sup>14</sup> Of course, legal theorists or political theorists who are mostly focused on the implementation of human rights need not necessarily bother with these considerations. However, any philosophical theory on human rights ought to acknowledge these advantages.

<sup>15</sup> Griffin, *On human rights*, p. 57.

discrimination, then the fact that these human rights are of equal importance makes it difficult to solve the conflict.<sup>16</sup> If we opt for a solution that favours freedom of religion then we have not treated the human rights as equally important. Structuring our society in a manner that supports freedom of speech at the cost of a right to non-discrimination reveals that freedom of speech is of higher importance. Thus, if we are to treat them as of equal importance there seems to be no way to solve the conflict.

Similarly, if the conflict is indirect, as was exemplified by a scenario in which a state only has the resources to fulfil one right of many, then there is no way to solve this conflict. If the human rights are equally as important then the state ought to treat them equally and thus one of the human rights cannot be prioritized.

Holding the view that a group of human rights is of equal importance can lead to several potential problems. The direst is perhaps if decision-makers take it to be a reason to not fulfil any of the human rights.<sup>17</sup> That human rights are of equal importance does not necessarily rule out that one of them can be chosen to be prioritized. This strategy introduces, however, tension. If one human right is to be prioritized over another, despite that they are of equal importance, a justification is expected. However, no convincing justification can be given since we know that it is an essential feature of the competing human rights that they are of equal importance. And we do want a justification since arbitrarily opting for fulfilling one of the human rights seems to allow for unfair prioritizations. A stakeholder whose human rights are neglected at the cost of fulfilling another stakeholder's human rights deserves a justification for this prioritization.<sup>18</sup>

Decision-makers thus need guidance in how to act when human rights that are of equal importance come into conflict. This leaves room for scholars to reject the view of human rights being of equal importance and develop a complete ranking of human rights or some sort of plan for actualizing human rights. This strategy has indeed been adopted by some as a way to solve the conflict and provide practical guidance. The strategy, however, must be matched with a compelling justification as to why certain human rights

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<sup>16</sup> At least by an appeal to a theoretically justified solution.

<sup>17</sup> Here I use the intentionally vague notion of “decision-maker” to highlight the theoretical problems we face. Much more can be said about how this problem would be actualized in practice. And for such a story we need to specify what form of decision-maker we have in mind. I owe this point to a helpful anonymous reviewer.

<sup>18</sup> To this it could be objected that the decisions could be justified by pointing out that it is better to satisfy one of the rights rather than none. A decision procedure that settles which right to be satisfied by e.g., tossing a fair coin, is thus justified and does not imply any unfairness. It is true that in more mundane situations where we face alternatives that are seemingly equally as good, the fact that we arbitrarily opt for one of the alternatives does not imply that they are not equally as good. If I must choose between two seemingly identical bananas for a midday snack, the fact that I pick one rather than the other does not necessarily entail that they are not equally as good. Things are, however, different when it comes to human rights. Human rights are fragile in many senses of the word. To give some examples, their universality is fragile in the sense that they are not universally respected; states and individuals repeatedly frustrate human rights and consequently do not treat them as rigid inviolable rights. Depending on the correct description of their metaphysical ground it could also be argued that they are metaphysically fragile. If we conceive of human rights as a joint ethical project in which we arrive at a set of constructed rights rather than as a set of rights given by nature, then they can be argued to be metaphysically fragile. If the human rights are shaped by the attitudes and actions of us as a collective, then our agreed upon human rights are also vulnerable to our attitudes and actions. This fragility means that arbitrarily opting to satisfy one human right at the cost of frustrating another could undermine the existence of human rights. If freedom of religion is prioritized at the cost of a right to non-discrimination, then this sends the signal that freedom of religion is more important. Our actions and attitudes reveal that they are not to be treated of equal importance, referring to the toss of a coin will do little to send the signal that they in fact are of equal importance.

should be prioritized. While that would potentially solve the practical problems mentioned I believe that it is theoretically demanding to provide such a justification and I will argue that there is a more straightforward way to go about, inspired by findings in the field of value theory.<sup>19</sup>

### 3. Evaluative non-conventional relations

Recent advancements in value theory suggest that objects and options need not only to be related in terms of a betterness relation or an equally as good as relation. That is, for an evaluative predicate *F* the domain of evaluative relations is not exhausted by the conventional “*F*er than” and “equally as *F*”. The idea that there may be no positive account of how some objects and options relate is, of course, well-known. In other words, two things can be *incomparable*. A more interesting suggestion is that incomparability and the two conventional value relations do not paint the full picture, in fact, there are more positive basic value relations. This possibility was considered in the 1980s, when it was suggested that things could be “roughly comparable”.<sup>20</sup> This idea has since been developed. In 2002 Ruth Chang introduced the notion of parity to refer to this possibility.<sup>21</sup> She also presented ingenious arguments to support the claim that this is a genuine form of evaluative relation that is not to be confused with incomparability. Later Wlodek Rabinowicz developed a general conceptual framework for evaluative relations that not only provided an analysis of the standard value relations but also showed that there is conceptual room for more evaluative relations.<sup>22</sup>

An important argument in support of the claim that things need not only to be related by an “at least as good as” relation is the Small Improvement Argument.<sup>23</sup> Roughly the argument takes the following form:

P1: It is false that A is better than B and it is false that B is better than A.

P2: A+ is better than A.

P3: A+ is not better than B.

C: It is false that A is better than B, it is false that B is better than A, and it is false that they are equally as good

P2 together with P3 establish that A and B are not equally as good. “Equally as good” is a transitive relation and, consequently, if A and B were equally as good, then, if A+ is better than A, A+ must also be better than B.<sup>24</sup> From this and P1 the conclusion follows.

This is just, however, the structure of the argument. Examples must be provided that show that these relations can obtain. Comparing two artists in terms of their creativity can amount to such an example. Chang envisions the comparison of Mozart and Michelangelo. It is clear, she argues, that neither is better than the other since their

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<sup>19</sup> I am grateful to an anonymous referee for pointing this out.

<sup>20</sup> Derek Parfit, *Reasons and Persons*. Oxford, Oxford University Press, 1984, p. 431 and James Griffin, *Well-being: Its meaning, measurement and moral importance*, Oxford: Oxford University Press 1986, p. 80

<sup>21</sup> Ruth Chang, ‘The possibility of parity’, *Ethics*, 112:4, 2002, pp. 659-688.

<sup>22</sup> Wlodek Rabinowicz, ‘Value relations’, *Theoria*, 74:1, 2008, pp. 18-49.

<sup>23</sup> This argument was first introduced by Ronald de Sousa but in the domain of rational preferences, Ronald De Sousa ‘The Good and the True’, *Mind*, 83:332, (1974), pp. 534–551.

<sup>24</sup> To be more specific it is the transitivity of betterness across equal goodness that leads to this result.

creativity is of such a different kind, which is expressed by P1.<sup>25</sup> We could also imagine a slightly improved Mozart, perhaps a Mozart that composed one more piece of beautiful music, i.e., P2 is established. This slight improvement does not seem to be sufficient to tip the scale in favour of the improved Mozart and thus P3 is established. From this, we arrive at the conclusion that Mozart is neither better nor worse than Michelangelo and yet they are not equally as good.

This is not sufficient in order to establish that they are on a par. It must also be shown that things that satisfy C are not incomparable. Chang has provided one such argument, her Chaining Argument.<sup>26</sup> I shall not describe this argument since it is somewhat technical and its validity has been questioned.<sup>27</sup> Rather, I think that the best way to argue that objects that exemplify C can still be comparable is to appeal to bare intuition. That is, no technical argument may be needed, it is sufficient to trust our intuition that Mozart and Michelangelo in fact are comparable. The conclusion we now have arrived at is that Michelangelo and Mozart are not related by a conventional value relation and yet they are comparable with respect to their creativity, thus it is possible that they are on a par.

While relations that exemplify C are often referred to in terms of thin value concepts, i.e., “better”, “worse” and “equally good”, it is clear that the reasoning and rationale behind them can be generalised. First, we can note that it is not only true for “better with respect to creativity”, but extends to values that hold ethical significance as well. Consider a scenario where one must decide between promoting greater welfare and promoting increased freedom. In some cases, neither option might appear definitively superior to the other, nor are they necessarily of equal merit. Nevertheless, it appears that these options can be meaningfully compared, leaving room for the possibility that they are on par.

Chang’s reasoning that supports the existence of value parity should also apply to other evaluative predicates such as “important”. It is possible that A can be more important than B, equally as important as B, or A and B can be non-conventionally related with respect to their importance. It seems just as plausible that A and B can be non-conventionally related with respect to their importance as two other objects can be non-conventionally related with respect to their goodness. To further support the claim that this is possible, one could construct an argument similar to Chang’s argument but in terms of “importance”. There is, however, a simpler argument that supports this conclusion. Consider a scenario in which the importance of an object is fully determined by its value. How two objects relate with respect to their importance should in this scenario be fully determined by how they relate with respect to their value. If their value is related in terms of a parity relation then so should their importance be.

Before we move on it should be noted that there is a competing view to the one just presented. It is possible that “F<sub>er</sub> than” and “equally as F” fully exhaust the conceptual space of value relations, but sometimes, due to semantic vagueness, it is indeterminate which of the relations that obtain. That is, it may be indeterminate how two things relate with respect to F due to the vagueness of the predicate. To illustrate, the predicate “is

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<sup>25</sup> If one does not share this intuition, it should not be impossible to substitute either with some other artist that satisfy each premise.

<sup>26</sup> Ruth Chang, ‘The possibility of parity’.

<sup>27</sup> See e.g., ‘Heaps and Chains: Is the Chaining Argument for parity a sorites?’, *Ethics*, 124:3, (2014), pp. 557-571 and Henrik Andersson, ‘Parity and Comparability—a Concern Regarding Chang’s Chaining Argument’, *Ethical Theory and Moral Practice* 19 (2016), pp. 245-253.

balder than” is vague since it can e.g., refer to the number of hairs on one’s head or how the hairs are distributed on the scalp. This vagueness makes it uncertain whether a man with few, evenly distributed hairs is balder than a man with more hairs concentrated at the back of his head. There are, however, several possible precisifications of the vague predicate “is balder than”. “Has fewer hairs than” is one possible precisification and “has more evenly distributed hairs” is another. For each possible precisification one man will be balder than the other, but since neither is balder than the other on *all* reasonable precisifications we judge that it is indeterminate how they relate.<sup>28</sup> As philosophers such as John Broome, Cristian Constantinescu, Luke Elson, and myself, have argued, alleged cases of parity can be construed in terms of vagueness.<sup>29</sup> In this context, this would amount to the possibility that it is not true that one human right is more important than the other nor true that they are equally as important, but it is indeterminate how they relate with respect to importance. We will have reasons to come back to this view but let us now move on and focus on parity in the context of human rights.

#### 4. Human rights are non-conventionally related

A possibility thus presents itself. Human rights need not be equally as important, they can be non-conventionally related with respect to their importance. As I will show this allows us to paint a picture of the interrelation between human rights that shares the advantages of the view that they are equally as important, yet avoids the latter’s disadvantages.

First, let us consider which non-conventional relation could provide this advantage. I believe that it is safe to rule out the possibility that the importance of human rights can be incomparable. As noted earlier we treat them often as if they are equally as important, even if this is a mistaken attitude to adopt, it is clear that they are in the same ballpark so to speak; it is possible to compare their importance. One might be tempted to say that their importance is incomparable to other considerations. In other words, the right to not be discriminated against is incomparable to, for example, the economic considerations that a state may face. This would, however, be to misuse the term “incomparable” or at least it is elliptical. What one means with such a statement is rather that human rights are infinitely more important than other considerations and that they cannot be traded-off.<sup>30</sup>

The more interesting suggestion is that human rights are on a par with respect to their importance. They are neither more important nor equally as important; their importance is on a par. I will now sketch out what this means and how it captures our intuitions on the interrelationship of the importance of human rights.

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<sup>28</sup> See Kit Fine, ‘Vagueness, truth and logic’, *Synthese* 30.3:4, (1975), pp. 265-300.

<sup>29</sup> John Broome, ‘Is Incommensurability Vagueness?’, in *Incommensurability, Incomparability, and Practical Reason*, edited by Ruth Chang. Cambridge, MA: Harvard University Press, 1997; John Broome, ‘Incommensurability is Vagueness’ in *Value Incommensurability: Ethics, Risk, and Decision-Making*, edited by Henrik Andersson and Anders Herlitz. Routledge, 2022; Cristian Constantinescu ‘Value Incomparability and Indeterminacy’, *Ethical Theory and Moral Practice*, 15:1 (2012), pp 57–70; Luke Elson, ‘Incommensurability as Vagueness: A Burden-Shifting Argument’, *Theoria*, 83:4, (2017) pp. 341–363 and Henrik Andersson, *How it all relates: Exploring the space of value relations*. Lund: Mediatryck 2017.

<sup>30</sup> Cf. James Griffin, *On Human Rights*, p. 85 and Ronald Dworkin, *Taking Rights Seriously*. Cambridge, MA: Harvard University Press, 1977. At least they cannot be traded-off in theory. As an anonymous reviewer pointed out to me, they would not be treated as such in a legal setting, but be open for negotiation.



When two things are evaluatively on a par it means that the comparison is complex. Certain features make one object better than the other while other features make it worse. The things we are comparing are sufficiently dissimilar for this to be the case, but they are similar enough to allow them to be comparable. The same can be said about the importance of two conflicting human rights. For example, the value of not being discriminated against and suffering harassment is very different to the value of being able to freely express your views. Yet they are similar in the sense that they have the good of the individuals in focus. Furthermore, aspects can be identified that make it clear that we should prioritize one human right rather than the other and at the same time other aspects can be identified that would give the opposite account. It is also clear that these aspects can be context-sensitive. In a state where a religious minority is often discriminated the right to non-discrimination may trump the right to express oneself freely. While in a state where there is little discrimination but democracy is not as stable the freedom of speech may be more valuable than the right to non-discrimination. However, all things and all contexts considered, one is not more important than the other, neither are they equally as important. For this reason, their importance is, all things considered, on a par.

Perhaps the most important part of this suggestion is that it rejects the claim that certain human rights are more important than others.<sup>31</sup> It thus shares the advantages of the claim that human rights are equally as important since it rejects the claim that certain human rights always should be prioritized. We need not place the human rights in a ranking. The parity view of human rights has this advantage while at the same time avoiding the disadvantage of the “equally as important” view. That is, the parity view can provide guidance in cases where human rights conflict.

In contrast, if the two human rights would be equally as important, it is not theoretically problematic to opt for the fulfilment of one of these human rights at the cost of frustrating the other. If we accept that human rights’ importance can be on a par, we can prioritize one over the other without ending up with the sort of tension described above. The difference is that when their importance is on a par, a justification can be given as to why one is prioritized. An essential feature of on a par importance is that certain aspects will count in favour of prioritizing one human right rather than the other, while the opposite is true for other aspects. This allows for the context to determine which human right to prioritize. In certain contexts, certain aspects may be more salient. The situation can thus be such that it will be clear which human right to promote. By fulfilling one of these human rights, we are not revealing that this human right is to be ranked over the neglected human right. All that is revealed is that in the specific context, certain features speak in favour of promoting this human right rather than the other. This explanation is not available for those who want to argue that the human rights are equally as important. The claim that they are equally as important is meant as *tout court*.<sup>32</sup> However, if they are equally as important *tout court* then the context cannot be such that the fulfilment of one

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<sup>31</sup> Of course, we can still leave open the possibility that human rights belonging to the first generation is more important than those that belongs to the third generation.

<sup>32</sup> Consider also Wlodek Rabinowicz’s account of parity and the equally as good relation. According to him, when to alternatives, x and y, are equally as good it is required to be indifferent between them while if they are on a par, it is permissible to prefer x to y and permissible to prefer y to x. Wlodek Rabinowicz, ‘Value relations’.

can be more important than the other. That would contradict the very meaning of *tout court*.<sup>33</sup>

If one is not impressed by the parity account but prefers the vagueness account, a similar line of reasoning can be adopted. Remember, adherents of the vagueness account argue that there is no need to assume further evaluative relations. “Fer than” and “equally as F” fully exhaust the conceptual space, but sometimes, due to vagueness, it is indeterminate which of the relations that obtain. It is thus possible that for some human rights, it is not true that one is more important than the other nor true that they are equally as important, it can be indeterminate how they relate with respect to importance.

This position does not have all the advantages that the parity view has for accounting for the importance of human rights, but it is more advantageous than the views that are expressed in terms of solely conventional evaluative relations. Let me first address the advantages. On this view, it is not the case that a human right is determinately more important than another, which is as already explained an advantage. It also stands better than the view that human rights are equally as good. Remember, the biggest drawback with the view that human rights are equally as good is how one can solve the tension between conflicting human rights. The vagueness view more naturally provides an explanation for this. The vagueness view admits that on certain precisifications one human right may be more important than another, however, on all reasonable precisifications there is no agreement as to which human right is more important than another.<sup>34</sup> On some reasonable precisifications, one human right will be more important than another, and on other reasonable precisifications, the opposite may be true. Consequently, there is no determinate, all things considered, answer as to which human right is more important than the other. Furthermore, these precisifications can take context into consideration, in the sense that the precisification is nothing more than a specification of the context taken under consideration. Given a certain context, one human right is more important than another and, in another context, the opposite can be true. In situations of conflict, one can thereby promote one human right rather than another without committing to the claim that it is a more important human right *tout court*. That is, one can opt for one precisification rather than consider all reasonable precisification, and this can be motivated by the fact that it is the relevant precisification for the given context.

## 5. Concluding discussion

While the introduction of “on a par importance” and “indeterminate importance” is a novel contribution to the philosophical discourse on human rights, the ideas themselves seem to be somewhat familiar in the literature. They clearly mirror a common conception in the research field. It seems reasonable that if human rights suffer from an indeterminacy

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<sup>33</sup> It could be tempting to argue that they are equally as important all things considered but that they need not be equally as important in certain contexts. It seems, however, impossible to account for such a possibility. The aggregate importance of a human right in all possible contexts must add up to the identical importance of the other human right in all its possible contexts. Metaphorically speaking, each possible context of a human right will provide a specific weight that will be added to the bowl of the scale, the other human right will likewise provide another weight that will be added to the its corresponding bowl. Each context could provide different weigh for the two human rights considered, yet when all contexts have been considered the bowls will be in perfect balance. This possibility seems highly unlikely.

<sup>34</sup> This is in accordance with Supervaluationism as described by Fine ‘Vagueness, truth and logic’. Supervaluationism is one of the most influential theories of vagueness.

of sense as argued by Griffin, this should make it implausible that an exact ranking can be made with regard to their importance.<sup>35</sup>

Similarly, Nickel's claim that there is "no simple formula" for resolving conflicts between the principles that ground human rights and that "no straightforward priority ranking" can be given but all that can be said is that they have "roughly equal weight" captures the ideas behind parity.<sup>36</sup> It is essential to the parity approach presented that no linear ranking can be made. It is also peculiar that the phenomenon of parity has by some been referred to as "rough equality", i.e., the identical term used by Nickel. If we acknowledge that the importance of human rights can be on a par then there is no need for further theorizing on which human right is the most important. Decision-makers are free to opt for one of the human rights rather than the other as long as they are guided by the context in which their decision will have an effect. This will thus serve as a philosophical justification for a practice that is already in place. Decision-makers have obviously made prioritizations of this kind, but now they have a theoretical framework from which their practice can find further support.

Generally, this justification holds promise for beliefs expressed in the discourse. For instance, when one conceptualizes human rights as the promotion of minimal standards, it is often underpinned by the principle that the authority of the sovereign should not be undermined. This perspective suggests that states, and even more localized decision-makers, should have the discretion to determine the manner in which human rights are to be realized, taking into account essential contextual factors, including cultural values.<sup>37</sup>

Adherents of a pluralistic ground for human rights ought also to accept the parity view. With different sources of the human rights, it is plausible that the human rights will not be related in a conventional manner with respect to their importance. On such an account it seems reasonable that the general grounds will play different roles in grounding the more specific human rights and that this multidimensionality will give rise to their importance being on a par.<sup>38</sup>

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<sup>35</sup> Griffin, *On human rights*, pp. 14-15.

<sup>36</sup> Nickel, *Making Sense of Human Rights*, p. 66

<sup>37</sup> See Nickel *Making Sense of Human Rights*, pp. 36-37 for a developed view on why human rights should be minimal standards.

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