

The Right to Subsistence, Negative Rights, and Intrapersonal Trade-offs

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An important worry about taking the human right to subsistence to be a general human right is that the general positive duties that would correspond to such a right are not strict, inviolable duties. Accordingly, it is objected that introducing a right to subsistence into the corpus of human rights introduces talk of balancing and weakens the currency of human rights. I argue, conversely, that unless the right to subsistence is realized, the duty to enforce and in some cases even respect certain negative rights may be unavoidably outweighed by the interests of the individual right-holder. For example, the imposition of immediate bans of child labour in the absence of addressing the background extreme poverty has often led to the children's starvation, or to a worse form of work such as prostitution. As I argue, a plausible deontological account of rights must acknowledge these intrapersonal trade-offs, since failure to do so is inadequate from the point of view of the individual right-holder. I conclude that, far from dismissing the right to subsistence on the ground that its corresponding duties can be subject to trade-offs, the fulfillment of the right to subsistence can be a condition on negative rights' imposing duties that are not unjustly subject to trade-offs. I aim to show, then, that taking human rights seriously need not always involve taking the primary duties they impose to be inviolable, regardless of the institutional structures in place. It can involve acknowledging the background social institutions under which duties imposed by these rights are unjustly subject to systemic trade-offs, and acknowledging a peremptory duty of justice to change the institutional structures so that these trade-offs are avoided. This requires the realization of general human right to subsistence.