

## **A Human Right against Social Deprivation**

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**Abstract:** Current philosophical debates about social and economic human rights overemphasise economic needs at the expense of social needs. In this paper, I defend one under-acknowledged, but fundamentally important social human right that is both a constitutive part of a minimally decent human life and a necessary condition for the realisation of other rights irrespective of economic conditions. This is the human right against social deprivation. In this context, ‘social deprivation’ refers not to poverty, but to a persisting inadequacy in minimally supportive interpersonal contact and social inclusion. Such inadequacy is endured in arenas of institutional segregation (e.g. by prisoners and patients held in isolation) and by persons who suffer less organised forms of isolation or neglect. After articulating the central features of this right, and arguing that it is both basic and secure, I refute possible objections that the right is intrusive, burdensome, or unfeasible.

Contemporary theoretical discussions about social and economic human rights tend to focus upon the right to basic subsistence or freedom from poverty. This right is of paramount importance not only in itself, but also as a condition for a minimally decent human life in which other human rights are meaningfully available. There is, however, another right which is not highlighted in contemporary theoretical debates, and which is seldom identified as a distinctive right in international treaties, even though it is second in importance only to brute survival rights.<sup>1</sup> This is what I shall call the human right against social deprivation. In this context, 'social deprivation' refers not to poverty and its associated social ills, but rather to inadequate socialisation irrespective of economic conditions. Social deprivation is a persisting inadequacy in access to minimally supportive social contact including interpersonal interaction, associative inclusion, and interdependent care. This inadequacy is not exclusive to, nor universal amongst, the economically deprived; it is endured in arenas of institutional segregation, for example by prisoners held in solitary confinement and patients held in isolation, and it is endured by persons who suffer less organised forms of isolation or neglect. The purpose of this paper is to argue that the human right

against social deprivation is both a *basic right* in the sense that it is necessary for the realisation of all other rights,<sup>2</sup> and a *secure right* in the sense that it does not depend upon community membership, good standing, or good behaviour.<sup>3</sup> The general thrust of my argument is as follows. Human beings have a basic right to those conditions that are necessary for the realisation of a minimally decent human life, which includes the genuine prospect of securing their human rights. Having adequate interpersonal contact and support is a necessary condition for a minimally decent human life (and indeed for a *less* than minimally decent human life) because social deprivation undermines both the development and the maintenance of the cognitive, physical, emotional, linguistic, and social abilities that both partly constitute a minimally decent human life and make all other rights and domains of value meaningfully available.<sup>4</sup>

## **1. Current Debates about Social and Economic Rights**

Before articulating and defending the right against social deprivation, I wish to note a concern about contemporary theoretical defences of social and economic rights, namely, that they overemphasise economic factors at the expense of social factors. For instance, Shue argues, correctly, that cognitive deficiencies caused by malnutrition 'can effectively prevent the exercise of any right requiring clear thought. ...And, obviously, any fatal deficiencies end all possibility of the enjoyment of rights as an arbitrary execution.'<sup>5</sup> But he says nothing about the fact that cognitive deficiencies caused by social deprivation during critical stages of childhood development, such as a failure to acquire language or to learn to control bodily function, effectively prevent the exercise of rights requiring clear thought. He also says little about the fact that deficiencies caused by social deprivation under the extreme conditions of long-term physical isolation or solitary confinement, such as depression, despondency, hallucination, self-mutilation, psychosis, or suicidal ideation and behaviour can equally effectively prevent the exercise of rights requiring clear thought, social ability, and personal control; and that extreme deficiencies can result in early death.<sup>6</sup> In a similar

fashion, James Nickel is correct to observe that: 'Human rights are not ideals of the good life for humans; rather they are concerned with ensuring the conditions, negative and positive, of a minimally good life,' but he is mistaken when he continues by saying,

If we apply this idea [of a minimally good life] to economic and social rights, it suggests that these standards should not be much concerned with promoting the highest possible standards of living or with identifying the best or most just form of economic system. Rather they should attempt to address the worst problems and abuses in the *economic area*. Their focus should be on hunger, malnutrition, preventable disease, ignorance and exclusion from productive opportunities.<sup>7</sup>

Putting the focus upon the worst problems and abuses in the *economic area* implies either that persons' interpersonal social needs are less weighty than their economic needs are or that their interpersonal social needs are already met when they come to the human rights table, or that those needs are derivative of economic needs and hence, if not already met, readily addressed once economic needs are addressed. But, none of these can be assumed. Regarding the last, economic resources do not necessarily translate into minimally decent levels of social inclusion, interaction, and support. Indeed, although economic deprivation can correlate with certain forms of social deprivation, improved economic resources can correlate with a reduction in social inclusion, interaction, and support.

My concern that current debates focus too heavily upon economic rights at the expense of interpersonal social rights is not intended to diminish the significance of vital, economically-driven needs such as food, shelter, health care, and formal education.<sup>8</sup> Rather, the concern is that itemising these needs while not itemising the needs for socialisation, interpersonal caring, and meaningful associations gives a skewed picture of the most important second-generation human rights, and

allows the provision of economic needs to be promoted without due attention to the social needs that accompany them.<sup>9</sup>

Having adequate economic resources is not valuable in itself; it is valuable only instrumentally as a means to securing and sustaining the provision of food, shelter, safety, health, education, employment, and so on. By contrast, having adequate social contact in the form of meaningful interpersonal interactions, support, acceptance, and associative richness is not only valuable instrumentally for the development and maintenance of basic cognitive and physical abilities and the improvement of health, but also valuable in itself. It is part of a minimally decent human life to have adequate social contact with other persons, if not close ties of mutual dependency and respect with other persons. Equally, economic deprivation is not disvaluable in itself; it is disvaluable only instrumentally as a severe constraint upon, amongst other things, persons' abilities to secure access to the services and goods necessary for a minimally decent human life. By contrast, social deprivation is disvaluable in itself as well as disvaluable instrumentally; it is disvaluable as the absence or denial of those experiences and states of being that contribute to, and partly constitute, a human life worth the name. Let me then flesh out the core features of the human right against social deprivation and outline the arguments for it being a basic right.

## **2. A Basic Right against Social Deprivation**

The right against social deprivation has at least two dimensions. The first concerns a person's interpersonal social deprivation in the form of persisting inadequacy or perversity in available social contact, be that the result of others' deliberate actions or incidental events. The second concerns a person's community-level social deprivation in the form of displacement, denial of political, legal, or social and cultural identity, or denial of community membership. My focus in this paper will be upon the first of these two dimensions – the interpersonal dimension. Let me begin with three points of clarification.

First, this right is not a right against isolation as such because isolation is a state that can be reasonably self-chosen by autonomous persons (some examples are astronauts, explorers, nuns, and monks), just as fasting can be reasonably self-chosen by autonomous persons and thus does not in itself offend the right to basic subsistence.<sup>10</sup> That said, as Brian Barry observes, voluntary self-exclusion (like voluntary self-denial) is to be looked at with some scepticism. Its 'voluntariness' depends upon the range and value of the choices available. If the prevailing social context is one of discrimination and hostility, then a withdrawal from that environment may be voluntary, but the context makes it little different from non-voluntary exclusion.<sup>11</sup>

Second, the right against social deprivation is not simply a right against non-voluntary isolation; it is also a right against perverse social conditions in which a person's principal forms of social interaction are extremely brutal, hostile, degrading, or cruel. Such social conditions are a form of social deprivation because those who endure them are deprived of the ordinary kinds of social interaction that make for a minimally decent human life free from extreme degradation and cruelty.<sup>12</sup> And just as voluntary acceptance of isolation is to be looked at with scepticism so too is acceptance of an extremely brutal or hostile social environment. It must be considered in relation to the range and value of the person's available options. For instance, putting an offender in a prison cell with a deranged inmate can be likened to giving a starving person contaminated water to drink. In neither case does the provision meet the relevant need. And yet, many persons who endure solitary confinement in prison report that, for them, any companion, no matter how horrific, is better than no companion.<sup>13</sup>

Third, the right against social deprivation is not simply a negative right to be left free to endeavour to establish adequate interpersonal ties; it is also a positive right to be provided, according to one's needs, with minimally adequate interpersonal contact and inclusion. For persons who have adequate means of securing their basic needs for social contact, little intervention by states or other parties is necessary or desirable. But for persons who lack the means to secure their

basic needs or whose social ties have been forcibly severed, there is a duty to ensure the satisfaction of the basic need for meaningful social contact.<sup>14</sup>

The case for the right against social deprivation is most easily made for babies, children, and young persons whose cognitive and physical development depends critically upon the provision of adequate interpersonal care, understanding, modelling, and protection, and without which children experience severe cognitive and physical developmental difficulties, the effects of which cannot be fully remedied in later life.<sup>15</sup> Consequently, a failure to provide adequate care and attention to a child not only affects her life in the present, but also in the future. Her right to adequate social contact and care is a 'right-in-trust', to use Joel Feinberg's phrase, to engage later in life in all of the rights-protected activities that are open only to those persons who have the capacities that arise only through adequate socialisation. It is part of her right to an open future.

The kind of rights-protected care and social contact that I defend here falls short of that defended by Matthew Liao who argues persuasively that children have a right to be loved and not just a right to be adequately cared for, because, if a child is not loved, her psychological, social, cognitive and physical development is threatened, if not undermined. Liao observes that,

Studies of children in institutions found, for example, that children who did not receive love but only adequate care became ill more frequently; their learning capacities deteriorated significantly; they became decreasingly interested in their environment; they failed to thrive physically by failing to gain weight or height or both; they suffered insomnia; they were constantly depressed; and they eventually developed severe learning disabilities.<sup>16</sup>

Although the notion of a right against social deprivation is more modest than that of a right to be loved, my claim that there is a right against social deprivation is less modest than Liao's claim that children have a right to be loved since I hold that the rights-grounding need for adequate social

contact is not unique to children and young persons, but is a human need without which persons cannot sustain their full humanity.

The empirical evidence supports this view. According to social neuroscientist John T. Cacioppo, loneliness, understood as perceived social isolation, generates the same threat response as pain, thirst, hunger, or fear; it sets off a chain of anxiety-inducing physiological reactions known as the ‘fight or flight’ response. Studies by Cacioppo and others have associated chronic loneliness with obesity, the progression of Alzheimer’s disease, increased vascular resistance, elevated blood pressure,<sup>17</sup> diminished immunity, reduction in independent living, alcoholism, depression, suicidal ideation and behaviour, and mortality in older adults. Loneliness, Cacioppo notes, has also been associated with gene expression including the under-expression of genes that bear anti-inflammatory glucocorticoid response elements and the over-expression of genes bearing pro-inflammatory response elements. He concludes that social environment (and persons' perception of their social environment) is fundamentally involved in the sculpting, activation, and inhibition of basic structures and processes in the human brain and body.<sup>18</sup>

In extreme cases of social deprivation such as solitary confinement, persons seem to face even greater psychological and physiological risks. Prisoners of war and incarcerated offenders who have been held in long-term isolation report upon their release that they initially experience solitary confinement with despondency and depression, but over time begin to feel themselves disintegrating; they sleep over twelve hours a day, forget facts and memories, and lack the energy to read, eat, or move. Some begin to hallucinate, have panic attacks, and mutilate themselves.<sup>19</sup> Some go into a semi-catatonic state and become unable to respond to simple instructions. No doubt factors other than the solitude could account for some of this deterioration in prison, but there is a commonality amongst persons' recollections of long-term solitary confinement, namely, they find it as agonising as torture.<sup>20</sup> And, for many, their psychological and emotional deterioration continues to affect them long after their release.<sup>21</sup>

These empirical observations highlight the extent to which adequate access to minimally supportive social contact is necessary to secure the rights that make for a minimally decent human life:

1. Social deprivation undermines the ability to develop and sustain basic cognitive and physical function. Thus, protection from social deprivation is necessary for the exercise of rights that require basic health, cognition, understanding, and physical aptitude.<sup>22</sup>
2. More specifically, social deprivation undermines a person's capacity to understand and to exercise civil and political rights. Thus, protection from social deprivation is necessary for the exercise of first-generation human rights.
3. In addition, given its cognitive and physical effects, social deprivation puts at risk a person's brute survival interests in the provision of food, security, and shelter. Thus, protection from social deprivation is necessary to secure the basic right to subsistence.
4. Social deprivation both is cruel and degrading and renders a person vulnerable to other forms of cruel, degrading, and severely unfair treatment. Thus, protection from social deprivation is necessary to reduce persons' exposure to, and vulnerability to, treatment that there is reason to believe persons have a secure claim not to suffer.<sup>23</sup>

To this list, we may add various things that possibly go beyond a minimally decent human life:

5. Social deprivation undermines the conditions for full autonomy. Indeed, rigid, social regulation, even if it's not privative as such, is at odds with full autonomy. (Reflecting on

Amish education, Feinberg observes that 'an education that renders a child fit for only one way of life forecloses irrevocably his other options.'<sup>24</sup>)

6. Social deprivation conflicts with equality of opportunity.
7. Social deprivation undermines a person's opportunities to engage with important domains of value such as meaningful employment, higher education, a sense of identity, self-respect, love, creativity, and achievement.

These several points indicate that the right against social deprivation is plausibly understood as a 'basic right' since its fulfilment is needed for the fulfilment of all other rights, including other basic rights to physical security and basic subsistence.

### **3. A Secure Right against Social Deprivation**

Secure claims are distinct from social and political privileges which flow from good standing and good behaviour, and which can be retracted or withheld when a person damages her standing in the community. Secure claims, by contrast, are not dependent upon community membership, good standing, or good behaviour. They persist even when a person acts wrongly or lacks standing. There are at least three reasons to think that the right against social deprivation is a secure right. First, the notion of a secure human-rights claim that cannot be forfeited through poor conduct should not be controversial. Two uncontroversial and related examples of secure rights are the right to equal recognition before the law and the right to a fair trial. A third example that should be uncontroversial despite recent debates is the right against torture. These rights are not forfeited when a person acts wrongly. Indeed, the second of these rights – the right to a fair trial – only comes into play once a person is accused of acting wrongly. Thus, it is reasonable to think that other

human rights, and certainly basic rights such as the right against social deprivation, may also not be conditional upon good behaviour.

Second, since the right against social deprivation is a basic right, by definition the sacrifice of this right entails the sacrifice of all other rights that are conditional upon it. Thus, a society cannot deny a person adequate access to minimally supportive social contact and inclusion without threatening or undermining *all* of her rights, most, if not all, of which society would have no intention or wish to impinge upon, and no grounds for impinging upon, by denying her adequate access to social contact.

Third, if indeed rights arise from those interests that are sufficiently strong to ground duties in others, and if, as I have argued, a person's interests in having adequate access to supportive social contact are sufficiently strong to give rise to a basic right against social deprivation, then a person's right against social deprivation remains as long as she has a sufficiently strong interest in social contact. It is only when she ceases to have the interests that give rise to such a right that the right might be said to be alienated from her. And, there is reason to doubt that a person's interests in social interaction and inclusion lessen or disappear once she acts wrongly. Indeed, it is more plausible that a person's interests in social interaction and inclusion become stronger once she acts wrongly since such inclusion may serve to restore her sense of self-respect, may aid her to understand the wrongness of her act, may help her to overcome any proclivity for such behaviour, and may give her responsibilities and a sense of empowerment that reduce the likelihood of such behaviour.

#### **4. Objections**

A critic might argue that, while some version of the right against social deprivation may have a degree of the importance that I attribute to it, it is objectionable as a secure, basic human right for at least two reasons. The first reason is that it offends the ideal of the family either by

threatening to take primary responsibility for social inclusion and care away from the family or by introducing the formal, self-serving language of *rights* into intimate relations. The critic might argue that asserting rights-claims not only is unnecessary within families given the nature of the bonds, relations, and feelings amongst family members, but also is threatening to those kinds of bonds and feelings that distinguish this inestimably valuable form of association from all others. In response, although it may be argued that 'asserting' and 'demanding' one's rights is inappropriate or perverse in (some) loving and well-functioning family arrangements, and that state-level intrusions into such family arrangements are undesirable, nevertheless it is important not to romanticise any particular conception of the family, and it is important to appreciate the contribution that rights, and the voluntary non-assertion of one's rights, make to many concepts central to intimate relations such as *supererogation*, *generosity*, and *forgiveness*.<sup>25</sup> Moreover, although people tend to thrive when they form small units whose primary providers are willing, committed, and loving participants, and whose members form bonds of mutual dependency, these are not the only social arrangements in which persons may develop and maintain the conditions for minimally decent lives, nor are these the arrangements in which many people find themselves.<sup>26</sup> It is for those people that the right against social deprivation must be invoked.

The critic's second line of objection relates to two types of burdensomeness. The first concerns liberty. The charge here is that this right imposes overly weighty duties of association and inclusiveness that go against standard liberal views about the human right to freedom of association. The right against social deprivation is intrusive both for providers and receivers; it disregards the associative freedoms of those tasked with being more inclusive and the associative freedoms of those forced into greater socialisation. In reply, like a right to basic subsistence, a right against social deprivation implies both a context-sensitive approach and a division of labour. It does not imply a general duty to associate either with every person or with any given non-associated or socially isolated person. It does, however, imply a general duty to be concerned that those

responsible for providing adequate social contact to persons unable to secure it for themselves honour that responsibility. All moral agents have reason to attend to the conformity of action with reason.<sup>27</sup> Consequently, the reason to ensure, say, that a child is cared for applies to everyone even though the reason to care for the child applies only to the small set of people to whom that responsibility is formally or informally assigned. Likewise, with general social inclusiveness, the reason to ensure that all persons are adequately socially included applies to everyone, but the reason to act so as to include any one person applies only to particular persons or groups to whom that responsibility is formally or informally assigned. When those to whom the reasons apply fail to conform with those reasons, the application of the reasons extends beyond that immediate circle to include those persons well placed to bring about conformity with reason.

The second type of apparent burdensomeness concerns costliness: the right imposes undue and unfeasible burdens upon creditable social institutions such as welfare structures, which inevitably have limited resources, and criminal justice processes, which in nearly all jurisdictions use some form of social deprivation as a mode of punishment for criminal wrongdoing. Briefly, concerning welfare, although there are costs to securing and enforcing any given human right, there are also costs to not securing and enforcing a human right. The likely costs of not securing and enforcing basic rights against social deprivation are obvious and impressive given the kinds of psychological and physiological risks that attend people's experience of social deprivation. It is reasonable to suppose that the social and economic costs of not securing this right are at least comparable to, if not greater than, those associated with securing it.

Concerning punishment, a central insight of retributivism is said to be that the legitimate response to culpable wrongdoing is to suspend normal relations with an offending person until that person assumes the restorative responsibilities that flow from the wrongdoing.<sup>28</sup> On a typical interpretation, suspension of normal relations means withdrawing the respect and recognition that are otherwise appropriate to relations with that person. This is what it is to blame someone, and to

be blameworthy is to lose the claim not to be subject to such a withdrawal of respect and recognition.<sup>29</sup> In serious cases, it is held to be acceptable, if not obligatory, retributively to ostracise, physically isolate, exile, or solitarily confine persons who engage in culpable wrongdoing.

Such retributive insights can be reconciled with a rejection of social deprivation as a justifiable mode of punishment when those retributive insights are given a sufficiently narrow interpretation. A narrow interpretation holds that the suspension of normal relations need not and indeed should not entail the suspension of minimally adequate social relations with the culpable wrongdoer as it does when it takes the form of long-term solitary confinement or extremely brutal and degrading incarceration. Rather, the suspension of normal relations entails that relations become focused, as much as possible, upon the responsibilities that flow from the wrongdoing. Specifically, the relations should become oriented toward providing forums and opportunities for the wrongdoer meaningfully to make good on the restorative responsibilities that are hers in light of her past conduct without denying her minimally adequate access to supportive modes of social interaction and inclusion. This kind of approach to retribution also honours a person's right to be engaged with non-coercively as a reasoning agent who is responsive to moral reasons.<sup>30</sup> And, it retains a direct link between the wrong done and the kind of punishment imposed in response, thereby giving the correct meaning to the communication of blame.

Undoubtedly, practical problems confront such a model for retribution since the wrongdoer may not accept that the responsibilities are hers. Prompting her to make use of forums and opportunities to restore relations will then be unsuccessful in an important sense. Moreover, sometimes victims may have no wish to be in contact with the wrongdoer, in which case the responsibilities may be honoured only indirectly or metaphorically. Despite these practical issues, responsibility-focused retributive responses not only are more in line with, and more directly communicative of, blame and censure than socially privative measures are, but also are more respectful of the wrongdoer as a person responsive to reasons. Resort to social deprivation not only

is coercive, intolerant, unimaginative, and radical, but also conveys the inaccurate message that the basic rights of socialisation are privileges to be earned rather than secure claims that are essential for a minimally decent human life.

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## Notes

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<sup>1</sup> A few international documents do make reference to social isolation. Article 30 of the *European Social Charter* states that 'everyone has the right to protection against poverty and social exclusion.' Principle 7 of the UN *Basic Principles for the Treatment of Prisoners* (1990) states that 'efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.'

<sup>2</sup> Henry Shue states that '...the substance of a basic right is something the deprivation of which is one standard threat to rights generally. The fulfillment of a basic right is a successful defense against a standard threat to rights generally. This is precisely why basic rights are basic. That to which they are rights is needed for the fulfillment of all other rights.' Shue, Henry (1996), *Basic Rights: Subsistence, Affluence, and US Foreign Policy*, second edition. Princeton: Princeton University Press, 34.

<sup>3</sup> I have borrowed the language of 'secure claims' from James Nickel who uses it to articulate four areas in which, in his view, persons have secure, but abstract moral claims upon others: a) secure claim to have a life; b) a secure claim to lead one's life; c) a secure claim against severely cruel or degrading treatment; and d) a secure claim against severely unfair treatment. Nickel argues that these four abstract rights are 'secure' in the sense that they do not have to be earned through membership or good behaviour and their availability does not depend upon that person's ability to

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generate utility or other good consequences. However, Nickel does qualify his view on their 'security'; he says that, although these claims do not depend upon good behaviour 'claims to liberty can be justifiably suspended upon conviction of a crime.' Nickel, James (2005), 'Poverty and Human Rights' in *Philosophical Quarterly*, 55, 220, 391. C.f. Nickel, James (2007), *Making Sense of Human Rights*. Oxford: Blackwell, ch. 9.

<sup>4</sup> I do not mean to imply that either persons who are unable to develop some of these abilities or persons who lose some of these abilities necessarily lead lives that are not minimally decent. Rather, I mean that a minimally decent life is one in which persons have the opportunities to develop and to maintain these abilities according to their own capacity to do so.

<sup>5</sup> Shue (1996), *Basic Rights*. 24-25.

<sup>6</sup> C.f. Shalev, Sharon (2008), *Sourcebook on Solitary Confinement*. Nuffield Foundation report. Retrieved from: [http://www.solitaryconfinement.org/uploads/sourcebook\\_web.pdf](http://www.solitaryconfinement.org/uploads/sourcebook_web.pdf).

<sup>7</sup> Nickel (2005), 385-402. Emphasis added.

<sup>8</sup> A critic might argue that the social needs I am highlighting are adequately captured by references to a right to basic education. This would require an atypical notion of 'basic education'. The social developmental needs of children are akin to their subsistence needs. Just as adequate food is needed for children to grow taller and healthier, so too adequate social contact and care is needed for children to acquire language as well as physical, social, emotional, and cognitive abilities. It is no more appropriate to say that socialising children during critical stages of development is part of 'basic education' than it is to say that feeding children is part of 'basic education'. Furthermore, the social needs I am concerned with are not exclusively developmental. The need of all persons for social contact and community exists independently of any developmental or educative purpose it may serve, that is, the need for protection against social deprivation holds even for adequately developed and educated adults.

<sup>9</sup> It is noteworthy, for instance, that, in our technologically savvy world, many of the often cited

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basic needs to food, shelter, and so on can be met in the absence of adequate social contact.

<sup>10</sup> Yet, even those who reasonably choose social isolation must contend with the risks that accompany it. Atul Gawande reports that 'Long-distance solo sailors...commit themselves to months at sea. They face all manner of physical terrors: thrashing storms, fifty-foot waves, leaks, illness. Yet, for many, the single most overwhelming difficulty they report is the "soul-destroying loneliness," as one sailor called it. Astronauts have to be screened for their ability to tolerate long stretches in tightly confined isolation, and they come to depend on radio and video communications for social contact.' Gawande, Atul (2009), 'Hellhole: The United States holds tens of thousands of inmates in long-term solitary confinement. Is this torture?' *New Yorker* (30 March 2009). Retrieved from: [http://www.newyorker.com/reporting/2009/03/30/090330fa\\_fact\\_gawande](http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande).

<sup>11</sup> Barry, Brian (2002), 'Social Exclusion, Social Isolation, and the Distribution of Income' in *Understanding Social Exclusion*. Phil Agulnik, John Hills (eds.), Oxford: Oxford University Press.

<sup>12</sup> See footnote 3 above. It has been suggested to me that, in addition to hostility and brutality, indifference toward a person can sometimes be cruel and degrading. There are good reasons to think this is true; marked silence, dismissal, and a refusal to recognise another as a person can be ways to degrade a person as something less than fully human.

<sup>13</sup> Gawande (2009).

<sup>14</sup> A lovely example of meeting such needs is described by Matthew Liao: a touted success story of the US President's Emergency Plan for AIDS Relief is of a hospice in Nairobi, under the leadership of Father Angelo D'Agostino, which brought together 750 children who had lost their parents and 250 elders who had lost their children to AIDS to create the Nyumbani Village, and which, according to the Office of the U.S. Global AIDS Coordinator, offers 'what every child needs most – love.' What is not highlighted, but is equally important is that the program also served the social needs of the elders. Liao, Matthew (2006), 'The Right of Children to be Loved' in *The Journal of Political Philosophy*, 14: 4, 420–440.

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<sup>15</sup> See footnote 10ff in Liao (2006) for references to empirical studies on the effects of social isolation upon children.

<sup>16</sup> Liao (2006) 420-440.

<sup>17</sup> Studies such as Cacioppo's indicate that the blood pressure of lonely people can be as much as 30 points higher than that of people with healthy social connections.

<sup>18</sup> Cacioppo states that human beings, whose abject dependency at birth is the longest of any species and who are dependent throughout life upon conspecifics for survival and prosperity, do not fare well when they either are living solitary lives or perceive themselves to be living in isolation. 'The average person spends about 80% of waking hours in the company of others, and the time with others is preferred to the time spent alone...Social isolation, in contrast, is associated not only with lower subjective well-being...but with broad based-morbidity and mortality...' For extensive references, see Cacioppo, John, Research summary, Faculty of Psychology, University of Chicago, <http://psychology.uchicago.edu/people/faculty/cacioppo/index.shtml>.

<sup>19</sup> In his memoir, journalist Terry Anderson reports on his solitary confinement in prison: 'The mind is a blank. Jesus, I always thought I was smart. Where are all the things I learned, the books I read, the poems I memorized? There's nothing there, just a formless, gray-black misery. My mind's gone dead. God, help me.' Cited from Gawande (2009).

<sup>20</sup> According to Gawande (2009), a U.S. military study of a hundred and forty naval aviators imprisoned in Vietnam reported that 'they found social isolation to be as torturous and agonizing as any physical abuse they suffered.'

<sup>21</sup> Statistics on the number of convicted offenders held in long-term solitary confinement in the United States range from 20,000 to 120,000. C.f. Casella, Jean, and James Ridgeway (15 June 2010), 'No Evidence of National Reduction in Solitary Confinement' *Solitary Watch*. Retrieved from: <http://solitarywatch.com/2010/06/15/no-evidence-of-national-reduction-in-solitary-confinement/>. Data on the US and other western countries show that tens of thousands of offenders

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are held in restrictive social conditions marked by brutality and hostility. For an examination of the use of segregation and isolation in Canadian federal penitentiaries, see Jackson, Michael (2002), *Justice Behind the Walls*. Douglas & McIntyre. Online edition accessible at: <http://www.justicebehindthewalls.net>. For an examination of abuse in US prisons, see (2006) *Report of the Commission on Safety and Abuse in America's Prisons*. Retrieved from: <http://www.prisoncommission.org/>.

<sup>22</sup> Compare with Shue (1996) on physical security and basic subsistence: 'No one can fully ... enjoy any right that is supposedly protected by society if he or she lacks the essentials for a reasonably healthy and active life.... Any form of malnutrition, or fever due to exposure, that causes severe and irreversible brain damage, for example, can effectively prevent the exercise of any right requiring clear thought.'

<sup>23</sup> Nickel (2005; 2007).

<sup>24</sup> Feinberg, Joel (1994), *Freedom and Fulfilment*. Princeton: Princeton University Press, 82.

<sup>25</sup> Michael Sandel has argued that the only value that rights might have for intimate relations is in providing a remedy for corruption within those relations. C.f. Sandel, Michael (1982), *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press, 15-56. Cited from Tomasi, John (1991), 'Individual Rights and Community Virtues' in *Ethics*, 101: 3, 521-536. John Tomasi argues compellingly that the language of rights is compatible with the exercise of loving virtue in intimate communities: 'You cannot most properly be generous with what you do not know is yours; you cannot truly forgive without first recognizing a debt.'

<sup>26</sup> That persons may develop and maintain the conditions for minimally decent lives outside stereotypical social arrangements (as in the case described in footnote 14) removes the possible objection that 'nothing can be done'.

<sup>27</sup> C.f. Raz, Joseph (1999), *Practical Reason and Norms*. Oxford: Clarendon Press; Raz, Joseph (1986), *The Morality of Freedom*. Oxford: Clarendon Press.

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<sup>28</sup> C.f. Bennett, Christopher (2008), *The Apology Ritual*. Cambridge: Cambridge University Press.

<sup>29</sup> C.f. Scanlon, Thomas (2008), *Moral Dimensions: Permissibility, Meaning, and Blame*. Harvard University Press.

<sup>30</sup> A practical model for this interpretation of the retributive insight can be found in some European penal systems which eschew the harsher methods of Anglo-American systems in favour of practices that respect offenders' sense of honour and dignity, give those in prison a voice about their conditions, assign to them transparently meaningful responsibilities related to reparation, and enable them to retain many of their familial responsibilities (in some jurisdictions, families can live with prisoners). C.f. Whitman, James Q. (2005), *Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe*. New York: Oxford University Press.