Justice Beyond Borders

A Global Political Theory

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32. The phrase comes from the title of one of Miller's articles, 'The Ethical Significance of Nationality' (1988).
33. For a third important contribution to recent nationalist theory see Margaret Canovan (1996*a*). Cf. also her (1996*b*).
34. This classification combines two common distinctions, namely that between civic (what I have termed statist) and ethnic nationalism (cf. Smith 1991: 8–14) and that between political (statist) and cultural nationalism (Gilbert 1996: 102–18; Hutchinson 1994: 40–63). For further pertinent discussion on political and cultural nationalism see de-Shalit (1996: 906–20). This threefold distinction is explicitly invoked by Kai Nielsen in his article entitled 'Cultural Nationalism, Neither Ethnic nor Civic' (1996–7: 42–52).
35. For Miller and Tamir's repudiation of the statist conception see Miller (1995: 18–19) and Tamir (1993: 58–63). For their repudiation of the ethnic conception see Miller (1995: 19–21) and Tamir (1993: 65). In his 'Self-Government Revisited' Barry also criticizes statist and ethnic conceptions of nationality: see Barry (1991*a*: 168–70, 172–3) for why nationality is distinct from ethnicity and (1991*a*: 171–2) for why nationality is not equivalent to membership of a state. See further (1991*a*: 170) in particular on the nature of nationality.
36. In referring to this third conception as a cultural conception I am taking my prompt from Miller, Nielsen, and Tamir. All three consider ethnic and statist conceptions and, rejecting both, all invoke the concept of culture in their characterization of nationality. See Miller (1995: 25, 27), Nielsen (1996–7: 42–52), and Tamir (1993, esp. p. 67, but more generally 1993: 63–9; 1991: 572–80).
37. This conception is not without difficulty. One problem with defining nationality in terms of culture is that we then need to explain how national cultures and non-national cultures differ. (For a related observation see Mason 1995: 246).
38. See, further, note 27.
39. For another, but quite different, threefold categorization see Doyle (1997). Doyle distinguishes between realists, liberals, and socialists.
40. A note to the reader: the typology has least relevance to the issues discussed in Ch. 2. It will, though, inform to a much greater extent the discussion of the remaining chapters.

2

Universalism

This chapter explores the question of whether there are universal moral values. Are there moral values that apply to all persons? Or is morality culture relative? If there are no universal moral values, what sort of moral values, if any, are there? These questions are clearly of considerable practical import. Many politicians and political activists assert there to be universal values and on this basis are highly critical of their own country and of other countries. They are joined in this by many moral and political philosophers. Onora O'Neill, for example, outlines and defends a universalist perspective in *Towards Justice and Virtue* (1996). Similarly, Brian Barry (1995*a*) and Jürgen Habermas (1986, 1992*a*, 1992*b*, 1993) both seek to ground a universalist political morality. Others, by contrast, eschew such a transcultural perspective, arguing that a universalist point of view is unattainable or, if attainable, highly undesirable. They canvass instead a relativist approach, according to which morality requires fidelity to the norms and values of one's community. According to this approach, we should adopt a more contextualist conception of moral argument and practical reason (cf. for example Walzer 1983).

Before giving more precise definitions of universalism and relativism and evaluating the arguments for and against them, it is important to make a preliminary point about the role of this chapter in relation to later chapters. It is common to contrast human rights, on the one hand, with cultural relativism, on the other. One might thus expect human rights and cultural relativism to be discussed together in the same chapter. In what follows, however, I will adopt a different approach. This chapter examines the general question of whether there are universal values or whether cultural relativism is correct. Its focus is on arguments for and against moral universalism *as a whole*. The next two chapters then examine two specific types of proposed universal values: Chapter 3 examines the plausibility of universal principles of civil and political justice and Chapter 4 examines the plausibility of universal principles of distributive justice. This chapter is, thus, a necessary backdrop to the later chapters.

The central reason for proceeding in this way stems from the fact that there are universalist theories which do not assert human rights and it is hence wrong to equate universalism with human rights. One might, for instance, be a universalist and affirm an authoritarian morality (such as an anti-liberal religion) which one thinks should be applied everywhere on this earth. Theories of human rights are, then, but some of the members of the class of universalist theories. With this in

mind, we can discern three reasons for examining the arguments for and against universalism first before proceeding to consider the arguments for civil, political, and economic human rights. First, on a methodological level, it makes sense to consider if there are, as many think, any convincing arguments against universalism as a whole before moving on to consider specific universalist claims. If there is a compelling general argument against all universalist approaches then there is little point in examining whether any particular universalist claims are true. Second, the implications of the critiques of universalism are wider than the conclusion that there are no human rights. Accordingly, it would not fully recognize the significance of this conclusion to treat it *merely* as a refutation of human rights for it would be a more wide-ranging conclusion than that. A third reason for not discussing human rights and cultural relativism in the same chapter is, as we shall see later, that there are many critiques of human rights that are not relativist but which affirm universal values. Discussing human rights and relativism in separate chapters frees up room and thereby enables us to consider non-relativist challenges to human rights. A chapter that considered human rights and both relativist and non-relativist objections would be unmanageably large. For all these reasons it is useful to deal with universalism and cultural relativism first.[1]

This chapter takes the following form: Section I engages in a conceptual analysis of the terms 'moral universalism' and 'cultural relativism'. The following four sections then critically examine four arguments for moral universalism, finding three unpersuasive and one more promising (II–V). This is then followed by an analysis of nine challenges to moral universalism (VI–XIV). None of these challenges, it is argued, is persuasive. Some rest on implausible assumptions or misconceive the nature of universalism. Others, it is claimed, actually, on closer inspection, themselves rest on moral univeralism. In the course of examining the objections to universalism, the case for universalism is, it is claimed, strengthened further.

I

Let us begin, then, by defining 'moral universalism' and 'cultural relativism', starting with moral universalism. Moral universalism, as I shall employ this term, maintains that there are some moral values that are valid across the world. If X is a moral universal then X applies to all persons: everyone is bound by, say, the duty not to murder or the duty not to rape. O'Neill provides a useful framework for defining universalism, identifying two key features. The first concerns 'form': universalists claim that the same values apply, without exception, to all members of a group. The second concerns 'scope': universalists claim that the relevant group is 'all persons'. Putting these two together, universalists claim that the same values apply, without exception, to all persons (1996: 11, 74).[2]

Thus defined, universalism is a familiar doctrine. O'Neill herself defends a universalist approach. She maintains that principles are valid if they can be

universalized (1996: 51–9) and, drawing on this idea of universalizability, she argues that there should be universal principles prohibiting injury (1996: 163–8, cf. further pp.168–78). An alternative conception of universalism, defended by Brian Barry, claims that there are universally applicable principles of justice, where these are defined as those principles that cannot be rejected by any reasonable person, and on this basis he defends several civil, political, and economic human rights (1995*a*, esp. pp. 3–7).

Several points are worth noting about this characterization of universalism. First, it is of vital importance to distinguish between what Charles Larmore terms a 'universalist content', on the one hand, and 'universal justifiability', on the other (1996: 57, cf. generally pp. 57–9). The former refers to values that apply to everyone in the world and conforms to the definition of universalism introduced at the beginning of this section. We might term it 'universalism of scope and form', or more briefly 'universalism of scope'. The second brand of universalism, by contrast, refers to values that can be justified to everyone in the world in terms that they would accept. It claims that there are values that can be justified to everyone in the sense that everyone would accept the justification. We might term this 'universalism of justification'.[3] These two kinds of universalism are very different and are not coextensive. One way of seeing this is to note that we can combine a rejection of universalism of justification with an affirmation of universalism of scope. Consider, for example, someone who thinks that morality requires being faithful to one's traditions and who rejects the possibility of being able to persuade everyone of the rightness of their morality. Suppose, however, that the content of their moral scheme includes moral principles which are intended to apply to all (such as that all persons have rights). Such a person affirms one kind of moral universalism (universalism of scope) but denies another (universalism of justification): they 'affirm a set of duties binding on all without supposing they must be justifiable to all' (1996: 57). This is indeed Larmore's view (1996: 57–9).[4]

This distinction, we might note, is not particular to Larmore. Thomas Pogge draws a similar distinction.[5] In *Realizing Rawls* he points out that a moral ideal can be non-universal and parochial in two distinct ways. First, it might have a parochial source (it can only be justified to members of our culture). This is the opposite of universalism of justification. Second, an ideal might have a parochial (that is, non-universal) scope, applying only to members of one culture (1989: 212–13). This is the opposite of universalism of scope. As Pogge points out, these two are quite distinct for one may hold moral ideals grounded in the values of 'our' culture but which make claims about all persons. As he puts it, '[o]ur considered judgments support a conception of justice whose scope is universal, even though its present appeal is not' (1989: 270).[6]

This distinction—between universalism of scope and universalism of justification—is a pivotal one and, as we shall see, critiques of universalism frequently fail to distinguish between them. The key concept, for the purposes of this work, is universalism of scope, for it is this position that is affirmed by all universalists (although some may also affirm universalism of justification).

Religious universalists, for instance, think that their values should hold across the whole world. Similarly, as noted above, this is the kind of universalism affirmed by Barry and O'Neill, both of whom maintain that their principles of justice should apply to all. Another leading universalist, Martha Nussbaum, also affirms universalism of scope. Nussbaum identifies some key human goods that she claims are common to all human beings and, on this basis, defends principles of justice that include all in their scope (1992, 1993, 1999, 2000*a*, 2002). If we turn now from specific thinkers to more general concepts, we should also record that the concept of human rights is another example of universalism of scope. Proponents of human rights assert that one value (rights) should be applied, without exception, to all persons. They, thus, affirm a universalism of scope without necessarily being committed to universal justification.[7] This point is brought out nicely by Beitz who writes: 'To say that human rights are "universal" is not to claim that they are necessarily either accepted by or acceptable to everyone, given their other political and ethical beliefs. Human rights are supposed to be universal in the sense that they apply to or may be claimed by everyone' (2001: 274). Another eminent example of a universalist theory is, of course, utilitarianism for it applies the same principle, without exception, to all persons (and indeed, all sentient beings). As such, it observes universal form and universal scope.

It should, of course, also be recorded that some universalists *also* affirm a version of universalism of justification. Contractarian thinkers like Scanlon (1998), for example, claim that correct moral principles are ones that no one can reasonably reject. Moreover, Barry, drawing on Scanlon's theory, maintains that correct *principles of justice* are ones that no one can reasonably reject (1995*a*).[8] Similarly, Jürgen Habermas, another eminent universalist, argues that valid moral norms are those that free and equal persons consent to in an 'ideal speech situation' (1986, 1992*a*, 1992*b*, 1993). He, therefore, endorses a universalism of scope (the principles of the ideal speech situation should apply to all) but also a universalism of justification (decisions are valid only if they command the consent of free and equal persons).[9] So the point of the distinction is not to dismiss universalism of justification. It is, rather, to note both that universalism of scope and universalism of justification are importantly different and that all the leading universalists affirm universalism of scope. Hereafter, the term universalism shall be used to mean 'universalism of scope'.

A second key feature of universalism is that it maintains only that some values are universal: it refrains from claiming that all are. This is in conformity with leading universalists such as Barry who, whilst stating that some values are universal, insist that other moral norms may legitimately differ in different cultures (2001: 286–91).[10] Scanlon's claim that sound moral principles are principles that no one can reasonably reject (1998) represents another example of this kind of hybrid position. It is a universalist moral theory—the principle applies to all societies and all persons—but it sanctions cultural variety and diversity where no one can reasonably reject them (1998: 338–49).[11]

A third significant feature of universalism (as defined above) is that it maintains there to be some universal *values*. As such, moral universalism would be satisfied in a world in which people of different cultures observe the same (just) values even if they do so for different reasons and on the basis of different moral doctrines. Adopting a terminology created by John Rawls, a number of thinkers have argued that there is an international 'overlapping consensus' on some moral values.[12] By this they mean that people of different faiths or secular traditions (what Rawls terms comprehensive doctrines) can and do converge on some common moral values. There is thus an 'overlapping consensus' on values even though there is no consensus as to which moral theory is the most plausible. Note that if there is an overlapping consensus of this kind it would bring together universalism of scope and universalism of justification. It satisfies the former for it claims there to be values that should apply throughout the world and it satisfies the latter for it claims that these values can be accepted by all.

Fourth, it is worth noting what Scanlon terms 'parametric universalism'. The latter affirms a set of universal values but adds that they are applicable only when certain conditions are satisfied. As Scanlon writes, 'actions that are right in one place can be wrong in another place, where people have different expectations, or where different conditions obtain' (1998: 329). To give one example, one might follow John Stuart Mill (and many political scientists) in thinking that democratic institutions will function and flourish only when certain social preconditions are met (1977*b* [1861]: ch. 1, (esp. pp. 376–80), 413–21).[13] Bearing this in mind, one could affirm as a transcultural value the importance of democracy and yet, consistent with this, deny that every society should have democratic institutions right here and now. There is a universal value but its relevance depends on some empirical conditions being met. This, it should be emphasized, is not a cultural relativist claim for it is not argued that democracy is wrong simply in virtue of the fact that it does not cohere with the local values. The Millian can think that to the extent that the local values reject democratic institutions they are quite wrong. The local mores and conventions thus do not have fundamental moral authority: they are not constitutive of what is just or unjust. But they do, on a parametric universalist account, have importance and should not be neglected.[14] Put otherwise: the universalist component in parametric universalism is apparent when we recognize that on this account, any society that does meet the specified criteria should have democratic institutions and those that do not meet the criteria have reason to strive to bring them about.

An additional point should be made about universalism. It will be fairly clear from the above that all cosmopolitan thinkers are universalists. Utilitarian cosmopolitans, for example, aver that the same fundamental principle (to maximize utility) should apply to all sentient beings across the world. Cosmopolitans who embrace the notion of rights will, in a similar vein, maintain that this value should be applied universally to all. Since one fundamental cosmopolitan claim is that the values that apply to some persons should be applied to all, cosmopolitans are, of course, universalists. This much is obvious.

One might be tempted to think that thinkers who adopt a broadly communitarian perspective, such as nationalists, will necessarily accept a relativist perspective and repudiate moral universalism. Such a claim is, however, deeply mistaken in two ways. First, many adopt a universal account of the rights of nations, averring that all nations are entitled to be self-determining. The latter is a universalist claim in virtue of the fact that it exhibits a universal form (the *same* right is ascribed without exception) and a universal scope (it is ascribed to *all* nations). An example of this kind of universalism can be found in the later work of Michael Walzer, who defends what he terms 'reiterative universalism', where this affirms the universal right of all nations to be self-governing and to affirm their own values. Walzer contrasts this with what he terms 'covering-law universalism', where this identifies a blueprint that should be applied to each and every society (1990: 510–15). To see a second reason why it is wrong to assume that communitarians are necessarily anti-universalist, it is important to distinguish between different kinds of communitarian claim. Some communitarians defend a specific normative claim, arguing that community is an important human good. When contemporary Aristotelian communitarians, for example, argue that persons flourish by living and taking part in the polis they are making a universal claim about human flourishing that applies to all human beings. Such normative communitarian claims thus unsettle the common view that communitarian thinking is necessarily relativist.[15]

One final clarificatory point should be made. Universalism, it should be observed, is compatible with one sort of contextualism (Miller 2002*a*: 8; Pogge 2002*a*, esp. pp. 38–40). Many argue for a contextual approach according to which the rules appropriate for one domain (say the family) are distinct from the rules appropriate for another domain (say the marketplace) (Walzer 1983). A universalist can, of course, recognize *this* kind of contextualism and can happily accept that one rule should always apply to the family but that another, different rule should always apply to the marketplace. Both rules are universal in the relevant sense for both have a universal form and a universal scope.

Having analysed universalism, we may turn now to consider the main alternative to this, 'cultural relativism'. As defined here, cultural relativism maintains that correct moral principles are those that conform to a community's commonly held values. As Gilbert Harman writes, '[m]oral relativism denies that there are universal basic moral demands and says different people are subject to different basic moral demands depending on the social customs, practices, conventions, values, and principles that they accept' (1989: 371). A clear and emphatic statement of this view comes from Walzer in *Spheres of Justice*. Walzer famously maintains that '[a] given society is just if its substantive life is lived in a certain way—that is, in a way faithful to the shared understandings of the members' (1983: 313, cf. further 1987). We often think of etiquette or taste in a cultural relativist way (on which see Foot 2002): modes of greeting people are not uniform and universal but differ in different cultures. Another exponent of this particularist kind of reasoning is James Tully who in *Strange Multiplicity*

argues against abstract universal principles (1995). He is critical of what, quoting Wittgenstein, he calls 'the craving for generality' (1995: 105). Instead, he defends a particularist conception of practical reason according to which the moral norms that bind people are those that issue from their practices and are the product of a historical process of negotiation and accommodation. As with universalism, we gain a fuller understanding of relativism by noting a number of distinctions.

First, it is useful to distinguish between the claim that all values are culturally relative and the more modest claim that some are. The latter claim is, of course, quite compatible with maintaining some values to be universal. One might, for example, think that there are some universal human rights but that there are other non-rights-related values that are culturally variable.[16]

Second, for a clear understanding of relativism we must have an account of the entity to which values are relative. As its name suggests, cultural relativism specifies that correct values are those values that accord with the commonly held values of a culture. The criteria of moral correctness for a person derive from his or her culture and the social practices in which he or she participates. This, however, requires further specification for we need to know what the culture in question is and how to identify the contours of a culture. Both tasks are difficult. In the first place, there is the question of which culture(s) someone belongs to. A person's identity might be defined in terms of their religion, gender, class, ethnicity, profession, nationality, region, or citizenship. If cultural relativism is to prove a viable moral theory it must be able to specify which of the above descriptions of a person's culture is the appropriate one and why. Second, it must be able to demarcate the borders of the relevant community(ies) and this is intensely problematic since the borders of cultures are notoriously inexact.

Prior to evaluating the arguments for and against moral universalism, we should make two preliminary points. First, it is useful to distinguish between two different kinds of argument for moral universalism and for cultural relativism. More specifically, we can distinguish between *normative* arguments, on the one hand, and *conceptual* arguments, on the other. A normative argument, as I define it, objects to moral universalism or to cultural relativism on the grounds that the latter entails some morally unacceptable implications. To give an example of a normative argument for universalism and against relativism: some maintain that cultural relativism is untenable on the grounds that it cannot condemn morally repugnant practices (Section II). Or to give an example of a normative argument against universalism: many argue that moral universalism should be rejected on the grounds that it suppresses cultural diversity (Section XII). By contrast with normative arguments, a conceptual argument, as I define it, objects to moral universalism or cultural relativism on the grounds that the latter fails to accommodate a key conceptual feature of a moral theory. To give an example of a conceptual argument against relativism: some argue that cultural relativism is conceptually incoherent for it contradicts itself (Sections III and IV). Or to give an example of a conceptual argument against universalism, some

argue that morality must be able to motivate persons to comply with it and since universal principles cannot do so universalist conceptions of morality are untenable (Section VIII). Second, it is worth noting in advance that many of the critiques of universalism are motivated by a common source, namely the existence of considerable cultural diversity throughout the world. However, they differ considerably in their explication of how this diversity undermines moral universalism.

II

Having conducted the necessary preliminary analysis, let us now consider four arguments for moral universalism. An appropriate place to begin is to consider a common normative argument against cultural relativism and for moral universalism. This argument contends that cultural relativism should be rejected because there are some cultures that hold repulsive moral views and cultural relativism would therefore sanction evil customs and traditions. Cultural relativism, it is argued, would, for example, condone slavery or the subjugation of women in cultures whose shared beliefs are, respectively, pro-slavery and in favour of the subjugation of women.[17] In a similar vein Jürgen Habermas criticizes those post-structuralist and post-modernist writers critical of moral universalism on the grounds that they are unable to provide and *justify* normative criteria by which to judge and condemn existing practices (1987: 283–6).

The philosophical source of this problem for relativism is well captured by Thomas Scanlon who observes that relativism is concerned with the reasons persons have to act and not with the point of view of the persons acted upon. As he puts it

> those who defend relativism generally focus on how moral requirements could give agents reason to act, while those who oppose it focus on how these requirements could ensure that the victims of these actions have reason to accept their results. (1998: 406, fn. 11)

If Scanlon's suggestion is true (and it seems plausible) it would help explain the origin of the problem that the argument under scrutiny highlights. For if relativists concentrate on the reasons and motives that agents act upon and which guide their conduct rather than on the impact of these actions on other people then it would hardly be surprising if relativism yields outcomes that treat others unfairly. Against relativism, then, this argument draws attention to the victims of cultural traditions, such as subjugated women or homosexuals or individuals who dissent from the majority religion.

How might a cultural relativist respond to this line of reasoning? One common rejoinder is that it underestimates the possibility of internal social criticism. One need not rely on universal moral principles to criticize repugnant practices: cultures are always contested and, as such, it is always possible to draw on some existing social norms to criticize and reject others (Bell 1993: 64–5; Walzer 1987, esp. pp. 35–66). Cultures are, therefore, not necessarily wedded to morally grotesque outcomes.

This reply is right to point out that cultures are open to different interpretations. Where a culture is said to endorse a repugnant practice, there may indeed be other construals of the culture that do not condone (or even reject) the practice. However, it is not clear whether this response can fully absolve the relativist of the charge pressed against it. A culture may, for example, be so saturated with injustice that the prevailing concepts and perspectives are laden with it (O'Neill 1996: 22, cf. pp. 21–3). Furthermore, once we allow several rival interpretations of a culture we then face the problem of how we choose between them. On what grounds can a relativist claim in advance that in a community which contains traditions both of persecution and of tolerance the latter ones are the ones that count?[18]

A second response is to argue that the universalist criticisms are always too rash and fail to put the condemned practices into context. The claim is that when we gain a deeper knowledge and understanding of other cultures we appreciate that practices that might initially appear morally grotesque are not so.[19] As with the first response, there is some truth in this objection. Many are quick to condemn other cultures without bothering to acquire a sufficient understanding of them. However, whilst this response might show that some practices that seem evil are not so when inspected more closely, we have no reason to think that this strategy can work in each and every case where a culture adopts an abhorrent way of life.

Even if neither of the first two counter-arguments succeeds, however, the universalist argument is insufficient. Its problem is that it does not really amount to an argument against cultural relativism. It reports our view that such practices are intolerable but that does not constitute a justification for the condemnation. It says simply that 'we think that those practices are grotesque' but one needs to do more than this. One needs to be able to give reasons as to how and why the practice condemned is wrong and this presupposes that there are universally valid reasons. This argument therefore assumes that universalism is correct rather than vindicates it. The universalist argument is therefore inadequate (Caney 1999*b*: 22; cf. more generally, 1999*b*: 21–2).

III

Having considered one normative argument against relativism and for universalism let us turn now to conceptual arguments. A second argument for universalism and against cultural relativism maintains that the latter is incoherent and self-defeating. Thomas Nagel advances this line of reasoning in *The Last Word*. He argues that a relativist has two options. First, she may contend that relativism is universally true. To this the reply is that relativism is self-defeating. Second, she may contend that relativism is relatively true. To this the reply is that those who are not initially persuaded of it have no reason to embrace it (1997: 15).[20] Either way, relativism cannot be stated in a coherent fashion. The point is put pithily by Tzvetan Todorov: '[t]he relativist inevitably ends up contradicting himself, since he presents his doctrine as absolute truth, and thus by his very gesture undermines what he is in the process of asserting' (1993: 389).[21]

This argument is, however, unconvincing for a relativist can reply that claims in some domains are universally valid but claims in other domains are not. He might then reason that the statement that all moral values are culturally relative belongs to the first category (that is universally valid claims) and, accordingly, that all moral judgements belong in a second category (that is, claims whose validity is culturally relative). Scanlon, who is no relativist, makes this point clearly (1998: 329–30). On this approach one can affirm a universally valid theory of morality with universally valid conceptual claims but also, as a consequence of this theory, maintain that there are no universally valid moral values. This response thus resolves Nagel's dilemma by denying the accuracy of the first horn of that dilemma. It claims, moreover, to do so consistently by making clear that not everything is relative: moral judgements are, but theories about the nature of morality are not.

A universalist might reply that this response is ad hoc. Why, it might be argued, are some claims universally true and other claims only relatively valid? Isn't such a division rather mysterious? Relativists can, however, respond to this objection in two ways. First, they can point out, on an *ad hominem* level, that almost all universalists think that some moral ideals are universal and that others are not. Hence they themselves are putting forward a two-tiered approach. Second, they can show that the proposed distinction on which the response rests is a commonplace and intelligible distinction that we accept elsewhere. Let me explain. Consider etiquette and courtesy again. Most people adopt a relativist position, thinking that the criteria of polite and courteous behaviour vary depending on which culture one is in. However, as such they are also affirming a universally valid claim about the nature of politeness. The thesis that the nature of polite conduct depends on cultural conventions is deemed to be universally valid. Nagel's dilemma is, therefore, flawed for it ignores a third option open to the relativist.

IV

The first two critiques of relativism are, therefore, unpersuasive. Given this, let us consider a third critique of relativism, one that claims that relativism is self-refuting. The argument can be simply stated. It maintains that according to relativism correct moral values are those that match the shared understandings of their culture. But, it argues, the shared understanding of our culture and many others is that it is not true that the correct moral values for a person are those that match the shared understandings of their culture. Cultural relativism is thus self-defeating because the deep values of our culture and others are that cultural relativism is false. This argument is stated with particular clarity by Ronald Dworkin in his critique of Walzer's *Spheres of Justice*. As Dworkin put the point: 'it is part of our common political life, if anything is, that justice is our critic not our mirror . . . Walzer's relativism is faithless to the single most important

social practice we have: the practice of worrying about what justice really is' (1986*b*: 219). Nussbaum makes the point with equal force:

> normative relativism is self-subverting: for, in asking us to defer to local norms, it asks us to defer to norms that in most cases are strongly nonrelativistic. Most local traditions take themselves to be absolutely, not relatively, true. So in asking us to follow the local, relativism asks us not to follow relativism. (2000*a*: 49)

Relativism may therefore be rejected as conceptually incoherent.

A relativist might be inclined to challenge the empirical assumption made by this argument, arguing that the shared understandings of 'the people' are in fact relativistic. This claim will be explored in greater detail later in this chapter (Section X) but in the meantime we might raise a doubt about its truth. For example, according to many, people's religious convictions include beliefs and as such it would be inaccurate to comprehend their views as being culturally relative. Rather, it is claimed, persons maintain their beliefs to be true.[22]

Even if we grant, for the moment, this assumption to Dworkin and Nussbaum, the relativist may still deny the conclusion for she might argue that we can disregard people's meta-ethical beliefs as erroneous. According to this second reply, a culture's views about ethics (such as what distribution is just) are correct but its views about meta-ethical questions (such as whether relativism is true) are false and should be disregarded. This kind of view is, however, theoretically unstable and rather mysterious. How can it be that a community's shared views about justice including distributive justice, punishment, the treatment of women, and so on, are correct but its shared views about the nature of moral beliefs are profoundly mistaken? If shared understandings are constitutive of ethical correctness then why should this not apply to meta-ethics as well? Why would a culture's common meta-ethical views be more susceptible to error than its ethical views? It is hard to think of any reason why they should be.

Even if neither of the above relativist responses succeed, however, this argument is not a fully convincing defence of moral universalism. In the first place, to show that cultural relativism is self-defeating entails universalism *only if* these are the only two positions available. But this is not so: for example, one can be a moral sceptic. Furthermore, this argument does not tell us what any moral theory must tell us: how to derive these (universal) values. It works best, then, as a critique of relativism rather than a positive defence of universalism.[23]

V

Having analysed three arguments for universalism, I want, in this section, to outline the beginnings of what I take to be a more persuasive argument for moral universalism. I shall term this the *General Argument for Moral Universalism*, or more briefly, simply the *General Argument*. The argument begins with (P1), the assumption that there are valid moral principles. (P1) simply denies a moral scepticism that rejects all moral principles. As such, (P1) is relatively uncontroversial.

Thoroughgoing moral sceptics are hard to find and they must provide a powerful argument as to why there are no moral principles.[24] The next step in the argument is (P2), the claim that the moral principles that apply to some persons apply to all persons who share some common morally relevant properties. (P2) is similarly hard to dispute: it simply affirms a truism. To this the argument then adds (P3), that persons throughout the world share some morally relevant similarities. (P3) maintains that, notwithstanding the many differences between different persons from different cultures, there are some morally significant commonalities. This, as we shall see, is the most controversial step in the argument and the ensuing discussion assesses its validity. If, however, it is correct, it is clear that there is a cogent argument for moral universalism. For given (P1), that there are some valid moral principles, (P2), that valid moral principles apply to all those who are similar in a morally relevant way, and (P3), that persons throughout the world are similar in a morally relevant way, it follows, (C), that there are some moral principles with universal form (the same principles apply) and universal scope (these principles apply to all).

Both (P1) and (P3) require further elaboration. Let us begin with (P3). Although controversial, this premise does possess some prima facie plausibility. Persons throughout the world have a significant number of morally relevant properties in common. First, they have some common *needs and vulnerabilities*. They suffer from physical pain, require food and water to survive, and are susceptible to disease, sickness, and malnutrition. This point is well made by Stuart Hampshire, who refers to 'the raw and basic necessities which are common to the whole species' (1983: 142, cf. pp. 128, 142, 143).[25] As he goes on to stress, these 'universal, species-wide requirements, derived from basic human necessities, are very unspecific; they are very general restraints which are compatible with many different conceptions of the good life for men' (1983: 143, cf. also p.155). The existence of needs common to all humans is also well brought out by John Kekes. As he records, some moral

> requirements are set by universally human, historically constant, and culturally invariant needs created by human nature. Many of these needs are physiological: for food, shelter, rest, and so forth; other needs are psychological: for companionship, hope, the absence of horror and terror in one's life, and the like; yet other needs are social: for some order and predictability in one's society, for security, for some respect, and so on. (1994: 49, cf. also p. 50)[26]

In short, then, persons have some common needs.[27]

Second, persons throughout the world have some common goods. Nussbaum develops this point persuasively, arguing for a specific list of human goods and capabilities. These include the following: 'life' (the ability to live a full life), 'bodily health' (the ability to live a healthy life with sufficient food and protection from the elements), and 'bodily integrity' (the ability to act on one's choices concerning sex and procreation without suffering from violence). Other goods include what Nussbaum terms 'senses, imagination, and thought' (the ability to employ these faculties), 'emotions' (the capacity for emotional bonds with other

people), and 'practical reason' (the ability to choose and to reflect on one's conception of the good). They also include what she terms 'affiliation' (where this involves both 'friendship' and being treated with 'respect'), caring for 'other species', the capacity for 'play', and, finally, 'control over one's environment'—both 'political' and 'material' (2002: 129–30).[28] As Nussbaum stresses, these ten goods may take a variety of different cultural forms. Nonetheless, Nussbaum maintains, the above goods are universal human goods.

Persons throughout the world then have some common needs, common capacities, and common ends.[29] The preceding observations, needless to say, are tentative and suggestive. They do not constitute conclusive proof; but they do provide some prima facie support for the claim that persons throughout the world have some morally relevant properties in common (and hence that some of the principles that apply to some apply to all). (P3) can be strengthened further in two ways. First, it can be justified by defending some specific claims about the ways in which persons throughout the world share morally relevant properties. This task is undertaken in Chapters 3 and 4 which explore the rationale for universal principles of civil, political, and distributive justice. These chapters defend particular claims about persons' morally relevant commonalities and thereby support (P3). Second, (P3) can be supported further by considering challenges to it and exploring the ways in which such challenges are unpersuasive. Sections VI, VII, and VIII aim to do precisely this.

Prior to considering these challenges, it is worth now turning to (P1). As noted earlier, few will deny that there are some valid moral principles. However, (P1) is incomplete as it stands for it is silent on the methodological issue of how one can justify moral principles. It needs to be supplemented with an account of how one can defend some moral conceptions and criticize others. Following Rawls, I take it that the most plausible way of engaging in this enterprise is to strive for what he terms a process of 'reflective equilibrium' between moral theories and considered moral judgements. That is, one should take one's moral judgements and analyse them—seeking to eliminate bias, self-interest, and so on—and one should then test moral theories against such considered moral judgements, adjusting theory or judgements until they cohere. Through this process and through the critical scrutiny of moral judgements one can generate principles that are based on sound moral reasoning and not based on error or confusion (Rawls 1999*c*: 40–6). To this one should also add that any adequate moral theory must be able to cope with the objections that others may level at it, including objections from those from different cultures. This approach to moral justification, of course, has its critics (some objecting to any use of moral intuitions and some objecting to the use of moral theories) but space precludes a fuller examination (cf. for excellent discussion, Griffin (1996, esp. pp. 3–18, 123–36)). My aim, here, is not to defend this moral methodology but rather to make clear the approach that will be employed in the rest of the book.

Having outlined the General Argument it is important to make three observations. First, we should record that the General Argument is not simply an

argument for moral universalism. It is not merely a sufficient condition for accepting universalism: it is also a necessary condition. The General Argument must hold if moral universalism is to be valid. Why? The answer is that if there are to be rules with a universal form (they apply without exception to all in the relevant group) and with a universal scope (the relevant group encompasses all humanity), then there must be some relevant commonalities (P3). To insist that the same values apply to all requires, if it is not to be wholly whimsical or arbitrary, that all have certain morally relevant properties in common. An argument of the above kind is therefore the only kind that can ground moral universalism. Moreover, if the above argument were false, moral universalism would be false. This means that the stakes are higher and that a refutation of the General Argument would constitute a refutation of the necessary presuppositions of moral universalism.

A second point worth recording has already been alluded to, namely that the General Argument, as outlined above, is not intended to defend any particular universal values (e.g. the right to freedom of expression or the right to have basic needs met). Rather, it outlines the logical structure of the rationale for a universalist position but does not specify its content. As such it needs then to be supplemented by additional arguments for specific individual universal values. This task is taken up in Chapters 3 and 4.

This leads to a third and final point about the argument: one implication of the General Argument is that any successful argument for a *particular* universal value (e.g. universal principles of civil and political justice, or universal principles of distributive justice) will have the same logical structure as the General Argument. It will, that is, identify a value and then show that the reasoning for it has universal force because all persons are similar in a morally relevant way (i.e. they will show that (P3) obtains). The General Argument, thus, provides the logical structure to which any specific individual universalist argument must conform. We shall return to this point in Chapters 3 and 4 when particular universal principles are considered and defended.

Having set out the basic structure that an argument must possess to vindicate moral universalism, the sections that follow explore nine challenges to moral universalism—during the course of which the plausibility of (P3) will be further assessed.

VI

Let us begin with some conceptual arguments against moral universalism and in favour of cultural relativism. In this section and the following five sections, six conceptual arguments will be considered. These include the objection that universalism is: (1) flawed because committed to the idea of a common human nature; (2) too abstract and decontextualized to have relevance; (3) unable to provide an adequate account of moral motivation; (4) false to the experience of moral reflection; (5) unattainable because moral argument can take place only within historical traditions; and (6) vitiated by the existence of profound moral disagreement.

Let us consider the first argument. According to one anti-universalist argument, there is no common human nature and to subscribe to such a notion is to be guilty of an untenable essentialism. Richard Rorty, for example, opines that there is no common human nature.[30] If this were true it would be wrong to infer from the fact that some principles apply to some that they apply to all. (P3) is therefore incorrect and moral universalism rests on an implausible philosophical anthropology.

However, although many are critical of the idea of a common human nature, the reasons for dispensing with it are less clear.[31] Arguments against the concept tend to fall into one of three errors. The first error is to confuse *commonality* with *identity*. We might distinguish here between modest accounts of human nature, which maintain that persons hold a few properties in common (*commonality*), and ambitious ones, which ascribe a detailed and comprehensive account of what it is to be a human being (*identity*).[32] For instance, a modest account might ascribe to all human beings the capacity to feel pain. Such spare accounts of human nature can be contrasted with fuller accounts that define human nature in terms of a large number of essential properties. We should not think of this distinction as being one between two separate categories; rather, it makes sense to think of there being a continuum, at one end of which is the view that persons are identical and at the other end of which is the view that persons have nothing in common at all. Now this distinction is of critical importance because some argue against the notion of a common human nature that people can vary dramatically in their abilities, conceptions of the good, affiliations, motivations, and so on. The idea of a common human nature, it might be said, is incompatible with such enormous variations in people's norms, beliefs, behaviour, and desires. But such a line of reasoning is unpersuasive against the concept of human nature normally invoked by universalists (and against the account introduced in Section V) for it assumes that a common human nature entails *identity* whereas all that is required is the assumption of *commonality*. For example, the account outlined in Section V listed only several commonalities—such as some common needs and some common goods.

A second error is to move from objections to particular conceptions of human nature to a rejection of all conceptions of human nature. Many, for example, are critical of universalist moral theories on the grounds that their particular conception of human nature is ideological and biased. It is objected, for example, that the properties specific to one culture are treated as being universal (Foucault 1974: 173–4). The premise of this argument is true: but it hardly follows from the fact that *some* specific conceptions are biased that *all* are, and hence there is no such thing as a common human nature. The appropriate reaction to this concern is to construct an account of human nature and then to appraise it in the light of the observations and criticisms of other people of other cultures.

A third error is to assume that to posit a common human nature is to deny the historicity of persons. Again, though, this is misconceived for, as was noted above, to affirm a conception of human nature is to affirm some properties that

persons have in common. As such it does not deny the many ways in which persons' membership of cultures render them different.

We have yet to see, then, why moral universalism (and (P3) of the General Argument for universalism) are flawed because reliant on the idea of a common human nature.[33]

VII

In the light of the failure of the last argument, let us turn then to a second conceptual argument against universalism and for cultural relativism. For some the problem with moral universalism (and hence with the argument adduced in Section V) is not (or not simply) that there is no common human nature. It is, rather, that universal principles are inappropriate, if not useless, because they are too general and abstract to have much applicability. All the relevant work is done by local circumstance. What is needed is a contextualist approach that articulates principles appropriate for specific historical circumstances. We should take a more parochial and local approach if we are to arrive at principles that are valid and applicable. To put the point another way, one can distinguish between top-down and bottom-up approaches to moral issues, where the former articulate general and universal principles designed to cover all circumstances and the latter maintain that the principles to govern moral relations should be derived from within existing practices and conventions. Top-down approaches, the argument maintains, result in principles that are so attenuated and eviscerated that they lack local relevance.[34] The remedy for this failing is to look more to history and adopt a historicist or particularist approach which emphasizes historical context and specificity (cf. Dunne 1998: 190). This kind of point is pressed by James Tully who, in *Strange Multiplicity*, objects to abstract general principles and celebrates the sort of historical reasoning found, for example, in common law reasoning and casuistry (1995).

This argument, one might note, is directed specifically against what I have termed a universalism of scope. There should not, it claims, be principles with a universal jurisdiction. Rather the world should be a patchwork quilt in which members of different communities are governed by different historical conventions, principles, and practices. Moreover, the reason for this is that (P3) of the universalist argument outlined above is false. Persons face radically different situations and live in societies with different histories, contexts, and backgrounds.

This line of reasoning is flawed in several ways. First, it does not in itself establish the inappropriateness of universal principles. Rather, it shows that they should be combined with a proper recognition of historical and social circumstances. A universalist moral theory can be sensitive to context if it factors these into the application of its principles. To reject the view that valid moral principles are correct if they cohere with the traditions of a community is not to reject the importance of taking account of specific historical circumstances.

A second problem with the argument is that it mischaracterizes universalism. Universal principles are generally proposed to set parameters within which conduct

can take place. They do not require the top-down application of blueprints that map out in precise detail what is to be done. They often specify background constraints on what can be done rather than detailed outlines of how society must be arranged down to the last detail (O'Neill 1996: 75, 78). Put otherwise: they might rule out some options (no murder, no deprivation, no racial discrimination) without requiring any particular options. Universalism, recall, stipulates that some ideals should have universal scope—not all ideals. As such, it is not vulnerable to the objection.

Finally, it is worth distinguishing between those ideals that have value only in certain situations and those that have value in a large number of situations. We can think of there being a continuum with, at the one end, values that are valid only in one specific state of affairs and, at the other end, values that are valid in all states of affairs. To illustrate the distinction, consider, again, the good of democratic government. As was noted above, it is widely held that democracy can flourish only where certain socio-economic and cultural conditions are satisfied. Other values, by contrast, have value in a wider range of circumstances. Consider, for example, the prohibition on torture. This injunction is much less dependent on historical circumstance for it has validity in all circumstances except, perhaps, extreme conditions where it is the only way to prevent a horrendous evil. With this distinction in mind, we can return to the anti-universalist argument. The argument has much more relevance against those ideals that depend on the realization of some very specific conditions. By contrast, ideals that are less dependent on specific historical circumstances are, *ex hypothesi*, more generally applicable and less vulnerable to modification and qualification by local circumstances. Hence the fact that there is very great diversity in social, economic, and political contexts does not undermine the applicability of these ideals. For these three reasons, universalism is not too abstract to have practical relevance.

VIII

With the failure of the last argument, let us turn now to a third conceptual argument against universalism. Some challenge universalism—and would dispute (P3)—by arguing that moral principles apply to people only if they can motivate them and then arguing that universal principles cannot meet this condition. Walzer, for example, maintains that moral principles must resonate with those subject to them: they must be able to inspire them to comply with them. Culturally specific principles can do this and social criticism of practices that draws on local understandings can have an effect. As he puts it in *The Company of Critics*, '[c]riticism is most powerful . . . when it gives voice to the common complaints of the people or elucidates the values that underlie those complaints' (1988: 16, cf. also pp. 233, 235).[35] To be, what he terms, a 'connected critic' (1987: 39) is, thus, a valid form of moral enquiry. Universalistic moral reasoning, by contrast, is not. It is a form of what Walzer terms 'disconnected criticism' (1987: 64) and, as such, it does not speak to people or impel them to act. Alien abstract rules that are divorced from people's social norms

and values stand little or no chance of meeting the motivational standards a morality must meet if it is to be practical. Similar claims are advanced by Daniel Bell. Drawing on Walzer, he argues in defence of a relativistic approach that '[a] critic who tries to push beyond the limits of community consciousness cannot generate any politically relevant knowledge; only criticism which resonates with the habits and modes of conduct of the intended audiences can do so' (1993: 65, cf. pp. 65–6).[36]

This argument is vulnerable to two objections. First, it assumes that 'disconnected' criticism based on universal principles cannot resonate with members of communities and, as such, cannot inspire people to comply with them. However, it is not clear on what basis this assumption is grounded. Second, and more crucially, the argument presupposes that *if* a principle does not inspire the members of a community *then* it does not apply to them. It assumes that one (conceptual) property of a valid moral scheme is its ability to induce people to comply with it. But this is a highly implausible stipulation. It may be true that the articulation of universal principles does not effect a change in a culture, but why does this invalidate those principles? (C. Jones 1999: 181–2; Kymlicka 1993: 215). Put differently, it is important to bear in mind that moral language often performs a descriptive role. We might want to say that a society is unjust even if those in charge have no inclination to reform it and do not recognize the force of a critique. To deny this and to claim that a principle is valid only if it impels people to change overlooks the descriptive character of much moral language. We may, for example, condemn a society that practises slavery or paedophilia or human sacrifice even if the members of the society in question find the critique of these practices alien. For this reason it is an exaggeration to claim that 'social criticism is *only* relevant if it's an aid to effective practice' (Bell 1993: 65, my emphasis). To rework Marx's famous eleventh thesis on Feuerbach, we might say that philosophers should interpret the world: the point is not simply to change it (although it is that).[37] Even if political philosophy does not induce any change, it is relevant.

IX

The preceding three conceptual arguments for cultural relativism have proved unpersuasive. There are, nonetheless, other important conceptual arguments against universalism and in favour of a relativist perspective. In *Interpretation and Social Criticism*, Walzer outlines an additional conceptual argument. He distinguishes between three conceptions of moral reasoning. The first maintains that we *discover* moral values; the second maintains that we *invent* them; and the third maintains that we arrive at the appropriate moral values by *interpreting* our social practices (1987). Walzer defends the third, relativistic, conception. One of the main arguments he presents in its favour is that when we reflect on the way in which we make moral decisions we will see that we do so by interpreting our existing social norms: 'moral argument is most often interpretive in

character' (1987: 22). As he puts it, '[t]he experience of moral argument is best understood in the interpretive mode. What we do when we argue is to give an account of the actually existing morality' (1987: 21). His claim, then, is that if we examine an argument and 'study its phenomenology, we will see that its real subject is the meaning of the particular moral life shared by the protagonists' (1987: 23). The experience of moral reasoning, thus, fits best with the interpretive (relativist) model.

This argument, note, challenges the claim at the heart of Dworkin and Nussbaum's claim that relativism is self-undermining, namely the claim that the shared norms of communities are anti-relativistic (Section IV). Walzer's claim, by contrast, is that the participants in moral arguments conceive of what they are doing not as following universal principles but rather as adhering to the shared values of their culture. Walzer's position is, however, hard to sustain. As an analysis of the ways in which people hold their ethical beliefs brings out, people do not construe their moral convictions as valid because they conform to their community's way of life. Rather they believe these convictions (e.g. the view that paedophilia is evil) are valid because they are supported by cogent arguments. Amy Gutmann makes the argument persuasively. As she points out, 'the moral claims' made by members of a culture 'are not that their social understandings are *ipso facto* justified because they are dominant, regardless of the content of those understandings' (1993: 176–7). Rather, people adduce arguments for their views on, say, abortion or capital punishment or distribution according to need. It is, thus, inaccurate to claim that we make the decisions on the basis of what we think is the social consensus. Consider a culture that maintains that women should not work but should remain at home. As Gutmann observes

> The cultural relativist claim that this social understanding could be justified by virtue of being the dominant understanding . . . creates a tension with the very content of the understanding itself, that a woman's place is in the home *because* of her natural social function, not because men (or for that matter most men and women) sincerely believe that a woman's place is in the home. (1993: 177)

So, far from fitting in with our moral experience, cultural relativism is actually in conflict with it. And it misdescribes the attitude of those who hold religious or moral beliefs to say that the belief is right because it conforms to the views of the overwhelming majority. One way of putting this point is to say that from *within* a practice persons think of their convictions as being universally valid. The relativist position may work as a third-person account of other people's views (*they* are just following the norms of their culture) but is incompatible with the first person perspective of the participants themselves.[38]

Two further points have to be made in this context. First, it is true that sometimes we make a decision on the basis that something is the convention in our society. The interpretive position may be true of some decisions and, as such, is compatible with universalism, as defined in Section I, which claims only that *some* values have

universal form and scope. But it is false as a description of how we think, say, of many key moral values—such as our position on slavery or abortion or genocide or rape or assault. Second, universalists claim that universal norms may be interpreted in different ways depending on the cultural and historical context.[39] They can, then, accept that there is a degree of interpretation without relinquishing their commitment to moral universalism. It is, accordingly, false to construe all moral reasoning as interpretive: interpretation may sometimes be necessary but it is not sufficient.

X

Universalism has, thus far, managed to deal with the objections levelled against it. For many, however, the most persuasive critiques have yet to be discussed. One common objection levelled against moral universalism is that it presupposes a 'view from nowhere' and the latter, it is argued, is unattainable.[40] The claim is that we all look at moral issues from our point of view: particularity is inescapable and objectivity is a chimera. Our moral judgements and theories are, this argument insists, inextricably shaped by our culture. One cannot transcend one's social environment and thereby secure the 'universal' point of view. Accordingly, we should accept a relativist perspective that is true to our traditions: to ask for more is to ask for the unobtainable. This is, in the terms I am employing, a conceptual argument for it does not object that universalism is morally objectionable. Its complaint, rather, is that universalism requires what is not possible.

This kind of reasoning is commonly adduced. Rorty has long argued 'that there is no standpoint outside the particular historically conditioned and temporary vocabulary we are presently using from which to judge this vocabulary' (1989: 48).[41] Similar claims are advanced by the communitarian political theorist, Daniel Bell. Bell, for example, opines that 'all knowledge is context-bound—the critic cannot extricate herself from her context so as to be true to principles of rational justification independent of any context, even if she tries' (1993: 66: cf. further pp. 66–8). As he adds:

> once we recognize that our knowledge is context-bound, that there's no 'objective' standpoint from which to evaluate how we think, act, and judge, this should lead us to abandon this project that aims at finding independent rational justification for morality, an external and universal perspective that's to serve as a critical standard from which to evaluate the morality of actual communities. And if there's no trans-communal ground from which to seek independent vindication for the moral standards of communities, this means that standards of justification emerge from and are part of a community's history and tradition in which they are vindicated. (1993: 67)[42]

Although frequently invoked, it is not clear how much this argument shows. Its central weakness is that many universalist approaches do not deny that persons' values are shaped from their social perspective. They recognize that we see the world and reach our moral convictions from within our own schemes but observe that this in itself does not establish that there is no correct position.[43] They do not aspire to a 'view from nowhere'. Nussbaum's position is a good case

in point. She works from within human experience and posits certain human goods that are presented as being derived from human experience (1992, 1993, 1999, 2000*a*, 2002). Her position, she notes, 'does not derive from any extrahistorical metaphysical conception, or rely on the truth of any form of metaphysical realism' (1992: 223). More generally, the universalist argument sketched in Section V does not posit any view from nowhere but relies rather on the assumption that persons throughout the world possess certain morally relevant properties in common. Furthermore, the method it uses—Rawls's reflective equilibrium—works with persons' moral convictions and moral theories.[44] In other words, a universalist need not adopt a perspective that claims to be outside of history and culture. Perhaps some universalisms do claim to be able to articulate a point free from any societal influences but the crucial point is that not all do.[45]

This last point is unlikely to persuade a relativist fully for underlying the emphasis on the fact that people's identities and beliefs are formed within a cultural context is often a further assumption, namely that *since people come from different cultures they will not agree on any moral values*.

XI

This leads on to the next argument for cultural relativism. For a sixth conceptual argument draws on the extent of disagreement between members of different cultures and argues, on this basis, that a universalistic ethics is untenable. To present the argument more fully, it makes two claims. First, it claims that there is profound and intractable disagreement across the world on ethical matters. A casual glance at the plurality of different ethical traditions and doctrines makes it apparent that the disagreement is both profound and extensive. To give some highly familiar examples, there is insurmountable disagreement about issues such as abortion, the rights of women in general, the equality of persons, and female genital mutilation/female circumcision. To this we can then add a second claim, namely that the existence of profound disagreement refutes a universalist approach. Universalism, it is claimed, presupposes that people can reach a consensus on ethical matters.

This argument is worth analysing in some depth for two reasons. The first is that it is an extremely popular argument and many find it compelling. The second is that an analysis of the problems that the argument faces provides a positive argument for a version of universalism of justification. Having noted this, let us evaluate this argument. This sixth conceptual defence of relativism is vulnerable to three different types of response.

1. One strategy is to call into question the first premise of this argument—that which asserts the existence of deep and irreconcilable disagreement. It is worth elaborating on this with six comments. First, many maintain that persons from many different cultures converge on some basic moral norms—such as that

persons should not kill innocent people, or rape others, or steal. Such prescriptions can be found in Judaism, Christianity, Islam, Buddhism, and all other religions as well as in secular traditions of thought.[46] Second, this response can be strengthened further if we return to the concept of an 'international overlapping consensus' introduced earlier. As we have seen above, some philosophers have argued that although people affirm different comprehensive doctrines (such as Islam or Buddhism or Daoism) they can and do converge on some specific ethical prescriptions (An-Na'im 1999, esp. pp. 153, 166–8; Bielefeldt 2000: 114–17, esp. p. 116; Dower 1998: 12–13, 43; Pogge 1989: 269, cf. also pp. 227–30; and Taylor 1998, esp. pp. 37–8, 48–53; 1999, esp. pp. 124–6, 133–8, 143–4). There would seem to be some force to this suggestion and it importantly recognizes that disagreement as to which (if any) religion, say, is correct does not preclude convergence on very many moral claims. To these two points we should add a third, namely that cases where societies adopt very different principles might seem to be evidence of a value conflict but often are actually cases where there is no principled disagreement. The members of two different societies may adhere to radically different ideals but do so only because they face different scenarios. This does not constitute a fundamental disagreement. To give an illustration: compare a society faced with a fuel shortage with one that does not and suppose that the former, unlike the latter, restricts people's ability to use up natural resources. The two societies adopt different policies but, and this is the salient point, the difference is not a fundamental one for society 2, let us suppose, would agree to society 1's restrictive policy if it were faced with the same shortage (Brink 1989: 200).[47]

A fourth point should be made. Relativists often suggest that if people follow different principles then this provides support for relativism. As such it is useful to consider alternative universalist responses to the same evidence. A universalist might, for example, adopt the pluralist position defended by Sir Isaiah Berlin. Berlin repudiated relativism; he also rejected a monistic brand of universalism that affirms there to be one universal value. In its stead he argued that there is a plurality of universally valid principles. One is thus faced with a number of incompatible principles and as such some people will inevitably choose to prioritize some principles and others choose others (Berlin 1991*a*, esp. pp. 10–14; 1991*b*: 78–90; Kekes 1994; Perry 1998: 64–5, 70).

What these four points all suggest is that the first premise is more suspect than might first appear. There is far more agreement than it allows. Many, however, are deeply sceptical of such claims, arguing that different cultures are incommensurable and hence unable to resolve disagreements. It is worth then considering whether this is true and its implications for universalism. First, we need to distinguish between two types of incommensurability—conceptual incommensurability and moral incommensurability.[48] Let us consider the first. Conceptual incommensurability obtains when the terms and concepts of some cultures cannot be grasped by the members of other cultures. Moral incommensurability, by contrast, obtains not when members of different cultures cannot grasp the concepts of another culture but when they can but do not see any moral value in them.

With this distinction in mind, let us consider both kinds of incommensurability in turn.

A number of theorists have defended the idea of conceptual incommensurability, arguing that the ethical concepts of one culture cannot be accurately translated into the terms of all other cultures. To give one example, it is often said that some cultures do not have the concept of 'rights' and that the latter cannot be translated into their languages. If this conceptual incommensurability obtains then this would undermine the universalist conception of universal justifiability. However, we have good reason to be suspicious of such claims. First, as both Donald Davidson and Hilary Putnam have argued, there is reason to doubt the coherence of the concept of conceptual incommensurability. Justifications of conceptual incommensurability are prone to undermine themselves for they tend to give an example of a concept that they claim is untranslatable. But in doing so they give a full description of that concept (Davidson 1984, esp. p. 184; Putnam 1981: 114–15).[49] Second, the existence of a common human nature facilitates cross-cultural understanding and communication and thereby undercuts claims of conceptual incommensurability (Berlin 1991*a*: 11).

Let us turn now to what I have termed moral incommensurability. A critic of universalism might argue that members of different cultures often talk past each other, not in the sense that they cannot understand each other, but rather that they have completely different moral priorities. Some western cultures might prioritize rights over community, whereas some African or East Asian cultures may prioritize community over individual rights. Some of these issues will be dealt with in more depth in Chapter 3. In the meantime, however, several points can be made in response to this point. First, we should be wary of any generalizations to the effect that one culture ranks x over y. For example, claims that western cultures prize individuality over community are grossly overstated for they neglect the extent to which very many members of western societies prize friendship, family, workplace solidarity, and their membership of a religious or regional community. Moreover, claims that East Asian traditions are wholly communitarian overlook individualistic strands in Islam, Buddhism, and Confucianism (Inoue 1999: 50–4). Furthermore, any incommensurabilities that obtain are surely likely not to take the form of all the members of one society affirming one value whereas all the members of another society repudiating it. Disagreement will more likely exist within cultures and this undermines, rather than supports, cultural relativism. Finally, this kind of incommensurability is quite consistent with a universalism that affirms a pluralism of values of the kind espoused by Berlin.

2. It may, at this stage, be useful to recap the argument. Thus far we have seen that much of what appears, at first glance, to be ethical disagreement is not in fact disagreement. We have seen, moreover, that anti-universalist arguments that invoke conceptual or moral incommensurability are unconvincing. The points adduced thus far have been directed against the first claim made by the argument under consideration. It is, however, also worth noting that the second

step in the argument is also vulnerable. It suffers, in particular, from two problems.

The first is that the phenomenon of moral disagreement is actually, perhaps surprisingly, problematic for relativism. The point is well made by Nicholas Sturgeon and Bernard Williams. As both observe, when people are parties to a disagreement they both presuppose that there is a correct answer. Without that they are not disagreeing: they simply have different wishes. As Sturgeon writes, '[i]t is at least a superficial oddity in relativism about any topic, not just morality, that a view that typically begins by insisting on the intractability of disagreements that others might hope could be settled, should conclude that the disagreements were never real to begin with' (1994: 81, cf. also Williams 1985: 156–7). Consider, for example, abortion: it is false to all sides in the dispute to take a relativist approach. The point being made returns to the argument given in Section IX to the effect that relativism is in tension with people's understanding of their own moral commitments and principles. This is particularly evident in cases of ethical disagreement. From the point of view of the participants, their view is correct and the view of the other protagonists is false. It would completely misdescribe the situation of people disagreeing about whether women should have the right to vote to say that each is right from their own point of view.

There is a second critical point that can be made against the contention that disagreement entails the falsity of universalism. The latter assertion is frequently made but it requires further support for one might quite consistently hold that (i) 'there is disagreement' and (ii) 'moral universalism is correct' because one also thinks that (iii) 'some disagreement arises because of the fallibility of human reasoning' (Brink 1989: 198; Nagel 1986: 147–8; Scanlon 1998: 354–60, esp. pp. 356–9). Two points are worth making here. The first, and more modest, is that even if one dismisses all the previous objections levelled against the argument, the latter is insufficient. For it to succeed it must not simply establish that there is disagreement but must also discredit universalist attempts to explain such disagreement. Without additional arguments showing that all such attempts are unsuccessful, the argument is insufficient. The second, and more ambitious, point is that, although highly controversial, (iii) has some plausibility. Indeed it would be highly hubristic to claim that one cannot ever be wrong and that our moral reasoning is infallible. A number of everyday phenomena contribute to our fallibility. Inconsistency, factual mistakes, selfishness, manipulation, dogma, laziness, pride and an unwillingness to admit that one is wrong, complacency, and wishful thinking clearly affect people's judgements—*everyone's* judgements—and as such should feature in explanations of ethical disagreement.[50]

3. This section has outlined two critical responses to the defence of relativism under scrutiny. Before proceeding to consider a third set of objections to the argument it is appropriate to pause and note that the last two sets of objections provide some support for a version of universalism of justification. The latter maintains, recall, that there are some moral values that are justifiable to all.

The upshot of the preceding comments is that this is a plausible position. This is borne out by both sets of claims. First, the fact that there is considerable intercultural agreement and that often what appears to be disagreement is not lends support to the idea that some norms could be justifiable to all. The latter gains further support if we adopt the model of an overlapping consensus and if we recognize Berlin's pluralist conception of universalism. In all of these ways we can see ways in which some values can be justified to all. Second, the implication of the second set of points is that some disagreement arises from error, selfishness, indoctrination, and so on. This implies that there would be more agreement among people if their judgements were reached in a situation of full information, equality and with the freedom to make up their own minds. As such, it generates support for a particular version of universalism of justification, namely one that asserts there to be values that can be justified to all persons *when those persons' reasoning is not distorted by self-interest, factual mistakes, complacency, and so on.* Both sets of comments thus support the idea that there are universal norms justifiable to all.

4. Having seen that some of the flaws in the argument under consideration actually provide support for one version of universalism of justification, it is worth returning to a critique of the relativist argument for the latter is vulnerable to a third set of objections. The problem in particular is that the relativist argument being evaluated fails because it overlooks the distinction between the two kinds of universalism distinguished in Section I, named 'universalism of scope' and 'universalism of justification'. Even if one accepts steps one and two of the argument under scrutiny it has force only against the ideal of universal justifiability. It shows that moral norms will not command the assent of all. This, however, does not undermine universalism of scope. One might accept cultural relativism, as defended by this argument, and yet also embrace a morality that has a universal scope (one example of this being Long 2001).

In response to this a relativist might introduce an additional claim. She might argue that moral norms ought to be applied to all people only if they can be justified to all people. This additional premise links universalism of justification and universalism of scope by stipulating that unless universalism of justification is true (i.e. unless moral principles can be justified to all) then universalism of scope is inappropriate (i.e. moral principles should not be applied to all). The argument would then read as follows:

(i) there is profound disagreement
(ii) this disagreement invalidates universalism of justification

Therefore:

(iii) universalism of justification is wrong
(iv) if moral norms cannot be justified to all then they ought not to be applied to all (the new premise linking universalism of scope and universalism of justification)

Therefore:

(C) There are no universal moral norms. (cf, further, Wong 1984, 179–90 and Long 2001, esp. 259–71)

Setting aside the truth or falsity of the first and second premises, this argument, and in particular the additional premise, suffer from one critical weakness. This is that the additional premise—premise (iv)—is itself a transcultural normative principle. It affirms a universal principle that it is wrong to impose a principle on a person unless it can be justified to them. The argument is thus self-refuting for it affirms a universalism of scope in order to ground an anti-universalist position. This is not to say that the additional premise is false. It is that if (iv) is true then it subverts the argument for it articulates a universal moral principle.

This section has covered much ground and for this reason it may be useful to draw together its conclusions. What has been seen is that an argument that grounds relativism on the existence of moral disagreement rests on a dubious empirical assumption (point 1) and contains a mistaken inference (disagreement refutes universalism) (point 2). We have also seen that it has no force against a universalism of scope (point 4). Furthermore, the analysis of the first two limitations of the argument have provided support for a universalism of justification (point 3).

XII

Having considered six conceptual challenges to universalism we may now turn to examine three normative challenges, namely the charge that universalism: (1) represses difference and imposes uniformity, (2) legitimizes power politics, and (3) is illegitimate because a form of external interference.

To take the first charge first, one common complaint against universalist theories is that they stifle diversity and are repressive of plurality and difference. This objection is levelled by some (but not all) postmodernists and post-structuralists.[51] Universal principles are, by their nature, so it is argued, a form of repression: they generate uniformity and sameness and as such are hostile to plurality. A statement of this kind of reasoning can be found in the work of Emmanuel Lévinas who in *Otherwise than Being* objects to 'the subsuming of particular cases under a general rule' (1999 [1974]: 159). The claim is that to invoke universal principles is to subsume all under a general heading and hence to be inattentive to diversity.

This argument against universalism is unconvincing. To see why, it is useful to return to O'Neill's point that universalism is defined in terms of applying the same values (universal form) to all (universal scope). As such, moral universalism, in itself, is not committed to any specific content (O'Neill 1996: 75) and, as we have seen earlier, there is great diversity among universalist approaches from Walzer's 're-iterative universalism' to Nussbaum's Aristotelianism to Habermas's 'discourse ethics'.[52] This point is significant because whilst the argument under scrutiny is applicable against some brands of universalism it lacks force against

others. To see this, it is useful to make a distinction between proscriptive and prescriptive principles.[53] The former prohibit some specific activities but do not prescribe any specific ones that everyone must follow. Prescriptive principles, by contrast, do specify some particular activities that everyone must adopt. This distinction is of immense importance because the argument is forceful only against prescriptive universalism and not against proscriptive universalism. Some examples of universalist theories may help to illustrate this point. Stuart Hampshire has defended a procedural form of universalism, according to which all societies should honour certain procedures for resolving conflict. His position is compatible with difference and diversity because these procedures are highly likely to result in different policies in different cultures (1989: 54–5, 63, 72–8, 108–9, 135–46).[54] His brand of universalism does not prescribe any specific policies but permits considerable variation. Furthermore, as we shall see in the following chapter, the same point can be made about individual rights to freedom of association, speech, and belief (Chapter 3, Section X). They permit individuals to choose widely differing personal ideals and hence cannot be accused of being repressive. The challenge thus applies to some tokens but not the type.

Some may concede that some kinds of universalism are less restrictive of cultural diversity than others but, they might argue, all universalisms (whether proscriptive or prescriptive) are insufficiently sensitive to cultural diversity. No matter what the content of one's moral theory, to ascribe the same values to everyone curtails diversity. The argument of the preceding paragraph does not get to the root of the problem because to impose the same rules (universality of form) on everyone (universality of scope) treats everyone identically and subsumes everyone under the same heading. As such universal values cannot show respect for people's particularity and their own distinct cultural identities.[55] Instead, one needs to abandon universal rules and instead grant some exemptions to enable people to practise their way of life.

To this four points should be made. First, a universalist can accept that there should be exceptions to some rules. Their claim is only that there should be *some* universal norms and this is compatible with allowing that some issues should not be governed by universal norms. Second, as Barry has argued, any proposal to exempt some people from general rules must satisfy a number of stringent conditions. It must show that there is a rationale for a rule. It must then show that there is a case for exempting some from that rule. And it must also show that this case applies only to some, and not to all, people for otherwise it would call for the abolition of the rule. As Barry points out, these conditions are hard to meet and consequently many proposed exceptions to rules should be rejected (2001: 32–50, cf. esp. pp. 43, 48, 62).[56] A third point to note is that often exemptions to rules are not required to show respect to different cultural practices. The objective—to have legal arrangements that do not discriminate against cultural minorities—can often be met by new universal rules (Caney 2002*b*: 88–90). Fourth, we should not accept unquestioningly the tacit assumption that cultural diversity should never be restricted and that universal

rules should be discarded if they clash with some cultural practices. Two reasons can be given in support of universal rules. First, one standard source of injustice is where like cases are treated in a different way. A framework with universal rules provides a fair environment because, unlike one in which there are differential rules, it treats all persons in an identical fashion. To this it might be added that a situation in which there are no universal rules and some are treated differently to others is a ripe source of discontent and disputes.

A third point to note is that the anti-universalist argument is, itself, actually a form of universalism. The proponents of this argument are opposed to projects that thrust a set of uniform values on everyone else. As such, however, they are themselves articulating a universal principle—namely 'show respect to other persons, allow them the space to practise their way of life'. Their critique can thus be best understood as a critique of some kinds of universalism drawing on an affirmation of another more culturally sensitive universalism. As such, although the argument officially opposes universal rules it is itself inspired by a universal ethic.[57]

XIII

Given the lack of success of the first normative argument, let us consider a second moral argument against universalism. According to a common line of reasoning, the problem with universalism is that universal moral values are nothing more than a cover for power politics. Imperialists and states with aggressive foreign policies, it is argued, invoke universal moral principles to legitimize their power-driven selfish aims. Universalist projects are inevitably partial and power-motivated and all universalist ideals are suspect because they are used to defend policies of conquest, exploitation, and oppression. Such a line of reasoning is often made by realists. E. H. Carr, for example, levels this accusation against so-called utopians in his celebrated *The Twenty Years' Crisis*. As he writes, 'these supposedly absolute and universal principles were not principles at all, but the unconscious reflexions of national policy based on a particular interpretation of national interest at a particular time' (1995 [1939]: 80). Universal principles are merely 'weapons framed for the furtherance of interests' (1995 [1939]: 65). Scepticism about universal values is also forcefully expressed by Carl Schmitt. He claims that 'a universal concept' like 'humanity' will always be abused by states: '[t]he concept of humanity is an especially useful ideological instrument of imperialist expansion, and in its ethical humanitarian form it is a specific vehicle of economic imperialism. Here one is reminded of a somewhat modified expression of Proudhon's: whoever invokes humanity wants to cheat' (1996 [1932]: 54).

This kind of reasoning is, however, unpersuasive as a critique of moral universalism for a number of reasons. First, the principle underpinning the argument is incorrect. The fact that an ideal is sometimes invoked by some people as a cover for their imperialist designs does not logically imply that the ideal is

wrong. It just shows that we should be suspicious of political actors when they invoke moral principles and should not unquestioningly take them at their word. It does not, however, invalidate the (universal) moral norms employed.

A second, and related, problem with the anti-universalist argument is that the argument, if it is a valid one, would also tell against cultural relativism for relativist principles are sometimes used by tyrants to legitimize their oppression. One standard strategy adopted by despots to legitimize practices that outsiders criticize as inhumane is that there are no universal moral values and that their policies are just because they are in conformity with their traditions and history. The argument under examination does not establish that there is anything in particular wrong with universal values.

In addition to this, the argument's empirical claim is, as it stands, far too sweeping to be plausible. Some moral judgements are perhaps nothing more than masked attempts to dominate others but it is incredible to claim of each and every moral judgement made (a) that it is an attempt to exercise power and (b) that it is nothing more than that. A proponent of the argument might address this last point by expanding the notion of power it employs. He or she might draw on the work of Michel Foucault who has argued that all regimes of truth are productions of power. Foucault conceives of 'the exercise of power as a way in which certain actions may structure the field of other possible actions' (2002*b*: 343, cf. also p. 337). On this view, 'power relations' are 'the strategies by which individuals try to direct and control the conduct of others' (1997*b*: 298). To say this is to adopt a very broad definition of power according to which power involves the shaping of people's beliefs. If power is defined in this very broad way then the empirical claim being made becomes much more plausible. Employing this definition Foucault maintains that power is omnipresent. As he writes, '[e]ach society has its regime of truth, its "general politics" of truth—that is, the types of discourse it accepts and makes function as true' (2002*a*: 131). He refers to 'systems of power that produce and sustain' truth (2002*a*: 132).[58]

However, as Foucault himself emphasizes, power thus defined loses its troubling aspect (1997*b*: 298–9; 2002*a*: 120). The idea that power involves affecting others has none of the pejorative connotations that the argument relies on. A philosophical argument can be an exercise of power in this sense but this does not entail either that we cannot evaluate the argument and determine whether it is plausible or that moral argument is somehow repressive. Put succinctly, that moral ideals are exercises of power in Foucault's sense is quite consistent with thinking some sound and some unsound. It is interesting to note in this context that Foucault employs a distinct term, 'domination', to refer to a constant coercive restriction of others' freedom (power as it would normally be defined). And he is emphatic that not all power involves domination (1997*b*: 283, cf. also pp. 292–3, 299). Similarly, he stresses that power is compatible with persons being free (1997*a*: 167; 1997*b*: 292–3; 2002*b*: 342). Broadening the notion of 'power' may thus make the empirical claim more plausible but it does not salvage the argument for the broader concept of power and does not undermine or subvert the legitimacy of universal values.[59]

An additional problem with the argument is that to succeed it has to show that all the techniques that have been proposed to prevent moral argument from being distorted by bias fail. For there are, of course, numerous well-known devices that have been proposed to lessen the probability of moral arguments being employed in the service of one's own ends. One obvious example of a device designed to minimize bias is, of course, Rawls's use of the veil of ignorance in his original position (1999*c*). Another equally familiar example would be Mill's claim that public debate can help reveal biases and interests (1977*a* [1859]). The relevant point is, therefore, that the extent to which persons' moral convictions function as a mask for power politics can be scrutinized, contested, and undermined. Therefore, the argument under scrutiny, to be complete, must show why all such techniques for minimizing power politics inevitably fail.

Finally, we should note that this argument actually presupposes rather than entails that universalism is false. For the structure of the argument is that *since* universalism is false, there cannot be anything more to 'universal moral values' than exercises of power. But this, of course, does not establish the falsity of universalism: it is its starting assumption (and an undefended one). This problem is particularly apparent in Waltz's brief statement that '[s]ince justice cannot be objectively defined, the temptation of a powerful nation is to claim that the solution it seeks to impose is a just one' (1979: 201). This begs the question for it assumes, and does not show, that there can be no objective, that is universal, concept of justice.

The preceding points establish that the argument is not a powerful critique of universalism. A final point to make is simply that, as with the previous argument, this critique of moral universalism is itself driven by a moral commitment. Its misgivings about universalism are in part that it is legitimizing oppression and underlying this charge is the conviction that oppression is wrong. Furthermore the conviction driving the argument is most plausibly construed as a *universal* one for its guiding thought is that it is wrong for all persons to thrust their values and interests on others.

XIV

As we have seen, one fault of the last argument is that it finds no fault with universal principles in particular: its target is really all moral principles. So we need an argument that targets universalism. This leads to the next argument, which like the preceding two arguments is a normative one. According to this third line of reasoning, a relativist position is more plausible because it allows people to pursue their collective ways of life. Universalism, it is argued, is culpable of external interference and does not show respect for different forms of life. This position is articulated very clearly by Walzer. In *Spheres of Justice*, for example, he writes

> We are (all of us) culture-producing creatures; we make and inhabit meaningful worlds. Since there is no way to rank and order these worlds with regard to their understanding of social goods, we do justice to actual men and women by respecting their particular creations. . . . Justice is rooted in the distinct understandings of places, honors, jobs, things of all sorts, that constitute a shared way of life. To override those understandings is (always) to act unjustly. (1983: 314)

He further writes that to disregard the shared understandings of a community is 'an act of disrespect' (1983: 320). A similar argument is made in *Interpretation and Social Criticism*. Moral criticism based on universal criteria—termed 'disconnected criticism'—invades the life of the community (1987: 64–5). He conjures up 'a universal Office of Social Criticism, where an internationally recruited and specially trained civil service (of professional philosophers? political theorists? theologians?) applied the same moral principles to every country, culture, and religious community in the world' (1994: 48). Cultural relativism shows respect to persons enabling them to live their own way whereas moral universalism is a form of external, colonial, rule. James Tully makes a somewhat similar claim. He objects to what he terms 'modern constitutionalism', an approach which demands identical treatment for all, for overriding the local and particular agreements arrived at by members of historic communities. He thus offers us a bottom-up ideal of negotiated agreements and conventions in contrast to the top-down imposition of universal principles (1995).

This line of reasoning is commonplace but it does run into a number of problems. First, we should immediately record that, as with the preceding two arguments, it is a form of universalism in disguise for it is stating as a universal norm that if people consent to something then it is morally legitimate. Underpinning it is a universalist commitment that stipulates that people, and that includes all people, should not interfere.[60] (Walzer appears later to recognize this for, as has been observed already, in work subsequent to *Spheres of Justice* he embraces what he terms 'reiterative universalism' (1990: 513–15)). We can put this point in another way by considering Bernard Williams's critical discussion of what he terms 'vulgar relativism'. Williams defines the latter as affirming both that a society is just if it conforms to the values shared by its members and also that one country should not impose its values on another country. Williams's point is that the second contention is actually a universalist one. Hence it is incompatible with a relativist repudiation of any universal values (1972: 34–5). So to claim, as Walzer does, that people should not interfere with other communities' ways of ordering their society is to make a universal claim and it requires the rejection of cultural relativism. Put otherwise: consider a culture whose shared values are colonialist and imperialist. If it is true to its shared values, as relativism requires it to be, it must, as a matter of justice, colonize other societies. But if it does this it violates the injunction not to interfere in the affairs of another country.

A second point to note is that this view perhaps gains some intuitive force by being confused with another distinct claim. One might endorse the vision of a society being governed by values it has generated simply because one values the good of solidarity and hence endorses a society in which the principles applied to the society enjoy the common support of the people. But this need not be

a relativist claim but rather a universal claim to the effect that there are some universal goods like the good of solidarity or social unity.

A further, related, problem with Walzer's defence of cultural relativism is, as Barry notes, that it rests on a confusion for it suggests that if one accepts universalism one must *ipso facto* endorse intervention (1987: 64, cf. Barry 1995*b*: 76–7). But there is no reason to think that this is so. Two considerations should be noted here. First, one might argue, as Rawls does, that one can disapprove of a society and yet also believe that it has the right to be self-governing (1999*b*). (Rawls's theory is examined in further depth in Chapters 3 and 4). Second, there is no straightforward inference from the claim that X-ing is wrong to the claim that it should be prohibited and from the claim that it should be prohibited to the claim that outsiders are entitled to prohibit it. To be sure, there are cases where universalists think that the practices observed in some countries are wrong and that they should be prohibited but then to show why this is wrong requires the relativist to provide an argument against intervention in all circumstances. As we shall see later, in Chapter 7, it is difficult to argue that intervention is never justified.

A fourth problem with the argument is that one of the key themes motivating the argument being considered is that universalist reasoning is guilty of one group of people (predominantly, but not exclusively, western) foisting their ideas on the rest of humanity. It is thus appropriate to ask what the alternative is for surely, whatever those who are powerful do, they leave their imprint on the lives of many others. Suppose, for example, that they decide not to implement human rights but argue that the sovereignty of states should be honoured above all. The problem here is that the concept of a sovereign state is also a western idea and to affirm it is to impose one's values on other persons. The core point is that through our actions and omissions we cannot help but affect the lives of other persons: it is an inescapable fact of the world. The argument, thus, rests on an illusion (Pogge 1994*b*: 216–17; 1998*b*: 535 fn. 51).

It may be appropriate to sum up here. What we have seen is that none of the last three arguments invalidates a universalism of scope. Each is vulnerable to specific objections but they share a common defect, namely that each is reliant on an alternative universal ethic which insists, respectively, on the value of 'respecting diversity' or 'not using moral language to further one's interests' or 'respecting the rights of communities to be self-determining'.[61] As Kwame Anthony Appiah has perceptively noted:

> it is characteristic of those who pose as antiuniversalists to use the term *universalism* as if it meant *pseudouniversalism*, and the fact is that their complaint is not with universalism at all. What they truly object to—and who would not?—is Eurocentric hegemony *posing* as universalism. Thus, while the debate is couched in terms of the competing claims of particularism and universalism, the actual ideology of universalism is never interrogated, and, indeed, is even tacitly accepted. Ironically . . . the attack on something called "universalism" leads to the occlusion of genuine local difference. (1992: 58)

XV

It is time to conclude. This chapter has covered much ground. In it we have seen that three common objections to relativism and defences of universalism are unpersuasive. In particular we have seen that

1. the charge that relativism is untenable because it condones unjust practices begs the question;
2. the claim that relativism either aspires to be universally true and is self-contradictory or claims to be relatively true and hence incoherent is too quick; and
3. the contention that relativism is self-undermining is more forceful but that it does not provide support for universalism.

We then

4. turned to a more promising argument for universalism, the General Argument, which argued both that moral principles should apply to all if all persons are similar in morally relevant ways and that persons throughout the world share common morally relevant properties.

Having defended moral universalism, the chapter considered six conceptual counter-arguments. These included the charge that universalism

5. presupposes a common human nature and this is implausible;
6. generates principles that are too abstract and general to be morally relevant;
7. does not chime with people and hence cannot act as effective moral ideals;
8. is false to the way in which we engage in moral argument;
9. fails to recognize the situated nature of moral reflection; and
10. is refuted by the existence of profound moral disagreement.

The chapter argued that none of these arguments is persuasive and also that the criticisms of the last one provide support for a version of universalism of justification. The chapter then turned to consider three normative challenges to universalism, namely the objections that universalism:

11. curtails diversity;
12. is an exercise in power politics; and
13. constitutes interference in the collective life of communities.

Again, it was argued that none of these is persuasive. This chapter has, thus, defended universalism of scope against its critics. It remains to be seen, however, what universal values there are. This task is taken up in Chapters 3 and 4, both of which consider what universal principles of justice there should be.

NOTES

1. In addressing these topics first, however, this book does not divorce the topics of this chapter from the discussions of civil, political, and economic justice in the next two chapters. Some of the points raised in this chapter will be picked up again in the following chapters.
2. O'Neill writes, '[b]roadly speaking, *universalists* orient ethical reasoning and judgement partly by appeal to certain universal principles that are to hold for all lives and across all situations. The most elementary thought of universalists is formal: there are certain ethical principles or standards which hold for all, and not merely for some cases. This claim about *form* is often closely linked to a second claim about the *scope* of universal principles, which universalists generally think is more-or-less cosmopolitan, at least for some basic principles' (footnote omitted) (1996: 11).
3. The distinction between universalism of scope and universalism of justification is also made by David Wong (1984, p. 189). The term 'universalism of justification' is potentially misleading. Those who reject what I am terming 'universalism of justification' (and who embrace 'universalism of scope') may also seek to justify their principles to everyone in the sense that they can outline the arguments for their principles. What they reject, however, is the view that a principle can apply universally only if all accept the arguments for it. They entertain the possibility that a principle should apply with universal form and scope and that one can give good reasons for it, even though the reasons are ones that not everyone accepts. They may thus be committed to justification but not in the sense employed in the term 'universalism of justification'. (I am grateful to Geoffrey Scarre for raising this issue.)
4. See also Long's invocation and use of this distinction (2001). Long defends a universalism of scope (2001, esp. pp. 233–6) but rejects the idea of universalism of justification (2001: 143–63).
5. Seyla Benhabib, too, makes a similar distinction but employs a wider typology. She distinguishes between four kinds of universalism (1999: 45–7). Universalism, she points out, can have 'a moral meaning' where this states that all persons should be treated as 'moral equals' (1999: 46). This is similar, although not identical, to universalism of scope because it states that one value should be applied to all in the same way. (It is not identical to universalism of scope because it says that *individuals* should be treated with equal respect and universalism is compatible with principles with universal scope and universal form which concern non-individual entities such as nations). A second kind of universalism is what she terms universalism as 'a justification strategy', where this states that norms are universal if justifiable to all (1999: 46). This, then, is equivalent to universalism of justification. A third kind of universalism makes the descriptive claim that all persons share a common human nature (1999: 45–6). Finally, a fourth kind of universalism is a legal universalism that maintains that there should be a universal legal system that treats all in the same way (1999: 46–7). Although Benhabib points out that the four kinds are distinct, she argues that adequate defences of one kind of universalism might rely on one of the other kinds. For example, she holds that legal universalism is plausible only if one embraces moral universalism and, unlike Larmore, she maintains that moral universalism is tenable only if it relies on universal justifiability (1999: 59, fn. 9; cf. also p. 47). I have altered the order in which Benhabib arranges these four kinds of universalism.
6. There is a footnote at the end of this sentence which cites Beitz (1983: 596), cf. Pogge (1989: 270, fn. 37).

7. See, for example, Pogge's statement of moral universalism: (2002*a*, esp. pp. 30–2).
8. The term 'reasonably' is critical here for their claim is that norms must be justified to all who are not exclusively committed to their self-interest and who wish to be able to reach a fair agreement with others.
9. See also Benhabib (1992, 1995, 1999), Forst (2002, esp. pp. 154–229), and Andrew Linklater (1998)—all of whom embrace a universalism of justification as well as a universalism of scope.
10. For other examples: cf. C. Jones (1999: 175) and Hampshire (1983, throughout but esp. pp.126–39). See also Walzer (1987: 23–5).
11. See, more generally, Scanlon's discussion of relativism (1998: 328–61).
12. See Bielefeldt (2000: 114–17, esp. p. 116); Dower (1998: 12–13, 43); Pogge (1989: 269, cf. also pp. 227–30); and Taylor (1998, esp. pp. 37–8, 48–53; 1999, esp. pp. 124–6, 133–8, 143–4). See also Abdullahi An-Na'im (1999, esp. pp. 153, 166–8). For the concept of an overlapping consensus see Rawls (1993*b*: 133–72).
13. For a contemporary analysis see Putnam (1993).
14. For a similar point see Beitz (2001: 279).
15. Some communitarians, of course, do make the meta-ethical claim that valid moral principles are those that map onto the common moral beliefs of a community and, as such, deny moral univeralism. To confuse matters, Walzer explicitly made this claim in *Spheres of Justice* (1983: 313). In his later work, however, he has reconfigured his position, describing it, as noted above, as a kind of univeralism—namely a reiterative universalism.
16. See also Jack Donnelly's distinction between radical, strong, and weak cultural relativism. Radical relativism claims that the only rights people have are those that are derivable from their culture; strong relativism argues that rights are in the main derived from people's culture but should be qualified by some basic human rights; weak relativism maintains that human rights may be abrogated in extreme circumstances. For the definitions see Donnelly (1989: 109–10). Cf. further (1989: 109–24).
17. For examples of this line of reasoning see Alan Gewirth (1994: 29) and Tzvetan Todorov (1993: 389–90).
18. For further germane discussion see Kymlicka's discussion of what interpreting shared values might mean (1993: 211–15).
19. John Kekes explores (but does not endorse) this way of defending relativism: see his discussion of the Dinka practice of burying people alive (1994: 53–9).
20. Hilary Putnam indicts relativism on similar grounds: (1981: 119–24, esp. pp. 119–21).
21. See, relatedly, Habermas's argument that Foucault's genealogical method is defective because it is self-undermining (1987: 279–81, 286).
22. For references to this line of reasoning see Sect. IX.
23. Having said this, this line of reasoning does perhaps generate some support for moral universalism. The thought here is that moral universalism coheres best with people's moral experience and, as such, this gives it prima facie plausibility. For further discussion of this line of reasoning see Caney (1999*b*: 23–4).
24. Some particularists might dispute (P1), arguing that it is inappropriate to think of morality in terms of 'principles'. Space precludes a full discussion of this view. For a convincing critique of such a position see O'Neill (1996: 77–89).
25. On the identification of common human needs see Foot (2002: 33).
26. On people's physiological needs see Keith Graham's penetrating discussion of what he terms 'the material constraint' (1996: 143: cf. further pp. 143–6) and more generally

his discussion of the different kinds of constraint that agents face (1996, esp. pp. 137–43).

27. This point, it is worth stressing, is also recognized by post-structuralist writers such as R. B. J. Walker. Walker writes that 'there does seem to be overwhelming evidence that we all share common vulnerabilities, a common maldevelopment, and a fragile planet. A universalism framed in the arrogance of empires has to be resisted, but the possibilities inherent in connections, in shared vulnerabilities and solidarities, remain to be explored' (1988: 135).
28. For an earlier version of this list cf. Nussbaum (2000*a*: 78–80). See more generally (2000*a*: 70–96).
29. Cf. further Nussbaum (1999: 7–8).
30. Rorty, for example, objects to certain kinds of liberals on the grounds that they 'hold onto the Enlightenment notion that there is something called a common human nature, a metaphysical substrate in which things called "rights" are embedded, and that this substrate takes moral precedence over all merely "cultural" superstructures' (1991*b*: 207). Cf. also (1989: xiii, 59, 195–6; 1991*c*: 213). See, however, (1991*c*: 215). For a persuasive critique of Rorty's account of human nature see Geras (1995: 47–70).
31. For good defences of human nature and the morally relevant features of persons': cf. Geras (1983: 95–116), Hurka (1993: 9–51), and Perry (1998: 61–71).
32. In his excellent treatment of the concept, Perry is very clear that whilst there is a common human nature this does not require that people are identical (1998: 61–71, esp. pp. 64–5).
33. We might also note that the denial of human nature opens the way to the worst forms of violence since one common way of legitimizing cruelty to others is to deny that these others are genuinely human (Perry 1998: 59). For example, in 1994 the Hutu dominated radio station branded Tutsis cockroaches (*inyenzi*) that had to be eliminated (Keane 1996: 10).
34. For further discussion see O'Neill's analysis of the objection that moral universalism is guilty of an 'empty formalism' that cannot give guidance (1996: 77: cf. futher pp. 77–89). Her wording recalls, of course, Hegel's critique of Kant's universalist moral philosophy (*moralität*) and his justification of the importance of conventional moral norms (*sittlichkeit*).
35. Cf. also Walzer (1977: xv; 1987: 62). See, further, Norman Daniels's perceptive discussion of Walzer. Daniels argues that Walzer embraces an extreme brand of internalism (1996: 112–13). For his subsequent critique of Walzer's internalism see (1996: 113–17).
36. There's a footnote at the end of this sentence in which Bell refers to Walzer (1988: x, 19, 233–5). See Bell (1993: 82, fn. 22). For a very different approach which also invokes considerations about motivation to defend relativism see Gilbert Harman (1989, esp. pp. 372–3).
37. The original, of course, reads: 'The philosophers have only interpreted the world, in various ways; the point is to change it' (Marx 1988 [1845]: 158).
38. The argument in this paragraph has been made by many. See, for example, Galston (1991: 158); Habermas (1992*a*: 45–57); Kymlicka (1989: 65–6); Waldron (1989: 575–8; 2000: 234–6). One of the general themes of Nagel's *The Last Word* is that relativist accounts which treat people's views in a sociological fashion as nothing more than the values of their community misconstrue the way in which people regard their own beliefs: see (1997, esp. pp. 13–35, 101–25). See also Dworkin (1996). For further discussion of how these considerations actually support moral universalism see Caney (1999*b*: 23–4).
39. For pertinent discussion see Brown (1996: 177), McCarthy (1994: 80–1), Walzer (1987: 25; 1994: 1–19).
40. The phrase is, of course, the title of a book by Nagel (1986).
41. See, further, (1991*a*, esp. pp. 29–30; 1991*c*: 212–13).
42. There is a footnote after the word 'communities', which refers to works by Rorty and Tully that advance the same theme: cf. Bell (1993: 82–3, fn. 25).
43. It is interesting, in this context, to consider Alasdair MacIntyre's moral theory. He strongly emphasizes that moral reasoning can only take place within traditions (1988, 1990). But he also denies relativism (1988: 352–69) for he claims that the rational evaluation of traditions is possible (1988, esp. pp. 354–6, 362; 1990: 180–1).
44. A further example of a universalism that is not committed to finding a view from nowhere is Habermas's 'discourse ethics'. As we shall see in Ch. 3 when we examine his defence of universal rights, Habermas defends universalism by analysing the way in which people employ moral language (1992*a*, *b*, 1993). He presents a transcendental argument that derives universal values by exploring the assumptions that underlie our use of moral terms. As such it works from within human experience. For another example see Galston (1991: 49).
45. This argument is also vulnerable to a second objection but since this objection also tells against the next argument it will be discussed in Sect. X.
46. Cf. Harbour (1995: 155–70).
47. For an earlier statement of this last argument see Caney (2000*d*: 57)
48. This distinction is similar, but not identical, to David Wong's distinction between incommensurability of 'translation', 'justification', 'evaluation' (1989: 140–58 esp. p. 140). What I have termed 'conceptual incommensurability' is the same as Wong's 'incommensurability of translation' and what I have termed 'moral incommensurability' combines Wong's last two categories.
49. See also Benhabib's use of Davidson and Putnam in her critique of Lyotard and Rorty (1995: 245).
50. For some of these kinds of consideration see Barry (1995*a*: 195–9, esp. pp. 198–9; 1995*b*: 77–8); Joshua Cohen (1986: 467–8); James Fishkin (1984: 760); James Nickel (1987: 73); and Nagel (1986: 148).
51. It is important to stress that not all postmodernists and post-structuralists make this argument. Some are explicit in their commitment to universal moral principles: Derrida (2000, 2001).
52. O'Neill makes two additional responses against the contention that universalism produces uniformity. She points out, first, that 'universal principles . . . underdetermine action, so must *permit* varied implementation' (1996: 75). Second, she notes that universal principles often apply only to a subgroup of individuals. For instance, a claim that there should be a universal right of parents to financial support would apply only to parents (1996: 75).
53. I borrow this way of putting it from O'Neill. O'Neill seeks to rebut the charge that 'universal principles are *ipso facto* principles that prescribe or proscribe . . . *uniform* treatment for all the cases for which they hold' (1996: 74). My point is that it makes a great difference whether universal principles prescribe conduct, or proscribe it.

54. The same point could be made with reference to Andrew Linklater's brand of universalism. Linklater affirms a universalist approach but, drawing on Habermas, strongly emphasizes the importance of dialogue (1998, esp. pp. 85–108).
55. For an extended argument to the effect that modern liberal thinkers, by treating others on their own liberal terms, assimilate them and disregard their particularity see Tully (1995, esp. pp. 17, 23–5, 31, 34–98). Tully objects strongly to the line of argument—typified by (P3)—to the effect that we should extend rights and duties to others on the basis that they have the same moral properties and standing as everyone else (1995: 97).
56. I believe that Barry somewhat overstates his case and rather more exemptions pass his test than he thinks; cf. Caney (2002*b*).
57. That many critiques of universalism themselves presuppose universal moral principles has often been noted. See, for example, Linklater (1998: 48, 67–73); Thomas McCarthy (1992: xiii, fn. 12); and Stephen White (1992: 134–5).
58. See (2002*a* throughout, esp. pp. 114, 119, 131).
59. Foucault, one might also note, embraces some universal values such as human rights: (2002*c*: 474–5) and (1997*a*: 164). Having said this, he is sceptical of the idea of a universal intellectual (2002*a*: 126–33). Moreover, he is critical of the belief that criticism involves the 'search for formal structures with universal value' (1997*c*: 315).
60. This point is noted by White in his brief but astute comment on Walzer (1992: 134–5).
61. Note, this chapter has concentrated on how well a universalism of scope deals with the anti-universalist arguments since this is the brand of universalism that universalists all affirm. It bears noting that some of the anti-universalist arguments also lack force against a universalism of justification. For example, the claim that moral universalism does not respect cultural diversity would have little force against a universalism of justification for the latter claims that norms are correct only insofar as they can be justified to all. As such it prevents minorities from having the values of a majority imposed on them.

3

Civil and Political Justice

> Three degrees of latitude reverse all jurisprudence, a meridian decides what is truth . . . That is droll justice which is bounded by a stream! Truth on this side of the Pyrenees, error on that . . . Can there be any thing more absurd than that a man should have the right to kill me because he lives across the water.
>
> Blaise Pascal (1885 [1670]: 61)

Having critically examined various objections to moral universalism and indicated a rationale for universalism, Chapters 3 and 4 consider arguments for two different types of universal value. This chapter begins this enquiry by analysing what universal principles of *civil and political justice* (if any) should obtain, where the phrase *civil and political justice* refers to those principles of justice which specify what civil and political liberties, if any, people should enjoy.[1] It explores questions such as: to what civil and political liberties are individuals entitled as a matter of justice? and, on what grounds are individuals entitled to these liberties?' Does civil and political justice entail a commitment to 'rights' and indeed 'human rights'? Or is the language of rights, as many critics allege, morally unacceptable and a cause of fragmentation and a lack of cohesion? Furthermore, are attempts to promote human rights to civil and political liberties nothing more than cultural imperialism?

The following chapter (Chapter 4) then complements this chapter, examining what universal principles of *distributive justice* should be adopted. These two chapters thereby link together to provide an analysis of what universal principles of justice should apply at the global level.[2]

To address the questions that are the focus of this chapter, the chapter begins, in Section I, with an analysis of human rights since this term plays a central and important role in a plausible account of civil and political justice. It then puts forward a general thesis about justifications for civil and political human rights (Section II). This is followed by an analysis of four cosmopolitan arguments for human rights that criticizes three of them but defends the fourth (Sections III–VII). The chapter then considers an alternative non-cosmopolitan approach to defending civil and political human rights, presented by John Rawls in *The Law of Peoples* (1999*b*) (Section VIII). The remainder of the chapter explores four misgivings about civil and political human rights. These include the objections that such human rights are a species of imperialism (Section IX), produce homogeneity (Section X), and generate egoism and destroy community (Section XI). It then