

Recognizing States and Governments

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When the international community recognizes political entities as states, it confers upon them the rights and powers of statehood.¹ These include

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- 1 International law distinguishes the *existence* of states from their *recognition*. As one international legal text puts it:

A state comes into existence when the community involved acquires the basic characteristics associated with the concept of a state: a defined territory, an operating and effective government, and independence from outside control. ... [However, a] state may exist for a long time, functioning as an operative political community, without being a 'state' in the legal sense. Transformation into the legal personality known as a state comes about only through the admission of the entity in question as a recognized member of the community of nations. Numerous communities possessing territory, citizens, a government, and all other appurtenances commonly associated with the concept of a state were not 'persons' in international law until admitted to the community.

Thus, in one sense, a state just is an entity that possesses certain political characteristics — like territory, a government, and independence — which make it eligible to receive recognition. But it does not become a state in the legal sense unless the international community decides to recognize it as a fellow member, with certain rights and powers under international law. Following international law texts, I will call the former *political entities* (or simply, *entities*), to distinguish them from recognized states. (See Gerhard Von Glahn, *Law Among Nations: An Introduction to Public International Law*, 6th ed. (New York: Macmillan 1992): 87, 54.)

The role of a normative theory of recognition is to offer criteria for determining which political entities the international community *ought* to recognize as states. For example, a theory might claim that all political entities, regardless of their moral quality, should be granted recognition automatically, or that they should be granted recognition if and only if they meet minimal requirements of justice, or that they should be granted recognition if and only if doing so would be the best means of achieving global peace and justice. Other positions are available as well, but my concern here is with the latter two.

the right to territorial integrity, the right to noninterference in their internal affairs, the power to make treaties, and the right (subject to certain restrictions) to enforce legal rules on those within their territory.² According to the *justice-based* account of recognition, political entities ought to be recognized as states if and only if they satisfy minimal requirements of internal and external justice. According to the *pragmatic* account, they ought to be recognized as states if and only if cooperating with them and giving them international support would be the best means of achieving peace and justice among and within them — that is, *global* peace and justice — whether or not they themselves currently satisfy minimal requirements of internal and external justice.³

My aim is to show that, despite the intuitive appeal of the justice-based account, we should embrace the pragmatic one instead. Before doing that, though, I want to explain what is at stake in the disagreement between them. The political stakes involve securing long-term global peace and justice and maintaining the credibility of the international community when its officials speak in a public forum. If we embrace the justice-based account, I hope to show, the international community would be forced to choose between endangering global peace and justice and compromising its credibility. This problem is inherent in any justice-based account that (rightly) concedes a role to pragmatic considerations.

2 Von Glahn, 125. Unfortunately, the term ‘recognition’ seems to suggest that to recognize a political entity as a state is merely to acknowledge that it possesses the characteristics of statehood. But in fact, to recognize an entity as a state involves much more than that: it confers legal personality upon that entity, with certain rights and powers under international law. It is ‘a political act with legal consequences’ — indeed, highly significant ones, like conferring (or acquiring) the right to territorial integrity, the right to noninterference in their internal affairs, the power to make treaties, and the right (subject to certain restrictions) to enforce legal rules on those within their territory (Von Glahn, 85). A decision to grant or withhold recognition is therefore a highly important *moral* decision.

3 Technically, the granting of recognition is performed by individual states, not by the international community as a whole (Von Glahn, 89). But here I will speak of the international community as the agent that grants (or ought to grant) recognition, since a normative theory of recognition is a theory of the conditions under which any state (and hence all states) should recognize another entity as a fellow member of the international community, with certain rights and powers under international law. Similarly, the granting of recognition by any state, or even by all states, technically does not commit any international body (like the United Nations) to admit the recognized state into its membership (*ibid.*). But here I will assume that, if the international community should recognize another entity as a fellow member, with the rights and powers of statehood, then it should also be a member state in international organizations like the U.N. (Later, in section IV, I relax this assumption to see how it affects the argument.)

But the stakes are philosophical as well. Any account of recognition must concede a role to pragmatic considerations if it is to be taken seriously. By conceding this, though, such accounts risk compromising our standards of justice. To avoid this, we should keep our standards for recognition separate from our standards for justice, as the pragmatic account recommends. Admittedly, this does involve a compromise: we may have to grant recognition to some unjust entities as a result. But it is a compromise in the right place. It is a political compromise, not a philosophical one. Our theories of justice need to be taken seriously too.

By rejecting the justice-based account, I realize that I will be laboring against a view that holds considerable intuitive appeal. The justice-based account seems to have the best of both worlds: normative force *and* real-world applicability. It has normative force, because it apparently makes the most reasonable of moral demands in requiring entities seeking state-recognition to be minimally just. And it has real-world applicability, because it acknowledges a rightful role for pragmatic considerations. By contrast, the pragmatic account seems to sacrifice its normative force because it does not even place *minimal* moral demands on entities seeking state-recognition. In the interest of letting the international community reach decisions about recognition without requiring minimal justice from the entities that seek it, the pragmatic account seems overly concerned with real-world applicability, at the cost of being soft on injustice. In addition to defending the pragmatic account, therefore, I will try to show why these respectable and understandable sentiments about being soft on injustice are misplaced.

While my primary concern in this paper is with the recognition of states, I will also argue that the justice-based account is not plausible as a theory for recognizing governments either, and that the pragmatic account is superior in this area as well.⁴ But in order to see why, we must first decide what criteria we should have for recognizing states, for two

4 Besides distinguishing the existence of states from their recognition, international law also distinguishes the recognition of *states* from the recognition of *governments*:

Recognition of a government is a political act differing from the recognition of a state only in the nature of the entity being recognized. ... What is involved is the authority of a new group or a new person to act as the governing agency of a state and to represent it (to act as its agent) in its international relations.

By recognizing a state's government, then, members of the international community confer upon it the right to exercise the rights and powers of statehood for that state. They also indicate that they will enter into normal international relations with it, exchange diplomats, and hold it accountable for that state's international obligations (Von Glahn, 94, 99).

reasons. First, under international law, decisions about whether to recognize a government as the legitimate agent of a state *presuppose* recognition of that state. So we need criteria for state-recognition before we can even consider whether to recognize the government of a state. Second, the reason why the justice-based account fails as a theory for recognizing governments is strikingly similar to the reason why it fails as a theory for recognizing states. Once we appreciate why the justice-based account fails as a theory for recognizing states, therefore, we will be better positioned to see why it fails as a theory for recognizing governments, too.

To defend these claims, I will begin by explaining the concept of minimal justice, and then, drawing on this discussion, present the central argument against the justice-based account of state-recognition and for the pragmatic one. I shall then argue that, if the justice-based account were implemented in the real world, it would not only have dangerous practical consequences but implausible philosophical ones as well — confirming and illustrating the central objection. Next, I consider amendments to the justice-based view designed to meet this objection — including recasting it as a theory for recognizing governments — and argue that they fail. With this done, I show that the main objection to the pragmatic account — that it makes the international community an accomplice in injustice by allowing some unjust entities to be recognized — rests on mistaken assumptions about what it must claim. Finally, I consider the wider implications of these results. The weaknesses of the justice-based account, I suggest, are symptomatic of a deeper mistake about the role that practical considerations should play in our theorizing about international recognition and justice, and unless we correct it, we risk compromising the credibility of the normative advice that we want our public officials to follow.

I Minimal Justice

When we judge that a political entity satisfies minimal requirements of justice, what we mean is that it is minimally just, in the sense of being *good enough* or *acceptable*. What we mean by this, though, is ambiguous. In many contexts, what we mean by ‘good enough’ (or ‘acceptable’) is relative to a particular role or purpose. In other contexts, what we mean is not relative to any particular role or purpose but is rather an overall assessment of some sort.⁵ In order to clarify this distinction, and to

⁵ The distinction I have in mind in the examples below is roughly analogous to the

determine what we mean when we judge an entity to be minimally just, let us consider some situations where we make one or the other of these judgments.

Suppose that we want to hire a philosopher. After reading the candidates' files, conducting interviews, and bringing several candidates to campus, we meet with our colleagues to rank the finalists. For the sake of simplicity, we can assume that the members of our department all agree on what qualities the ideal candidate should possess and the extent to which each finalist has or lacks them (although this is not necessary). As a result, we all agree in our rankings. Now comes the crucial decision. Should we make an offer to the leading candidate? It depends. If the leading candidate is unimpressive, we may well decide to reopen the search or postpone it until the following year. Suppose, though, that we judge that she is good enough to merit an offer, but she declines. The second-ranked candidate then comes under consideration, but we judge that he is not good enough to merit an offer. As a result, we reopen the search.

Notice the following about this situation. First, the judgments that we make are relative to a particular role or purpose. For the purpose of being a new member of the department, only the top-ranked candidate is good enough — only she exceeds the minimal standards for teaching, research, and collegiality that the department expects. Second, while these standards need not be the product of a formal or explicit decision, our sense for where they lie involves a substantive determination, not an arbitrary choice. If two members of the department disagreed over what the minimum should be, we would recognize them as having a substantive disagreement, not an arbitrary one (like one over the minimum hair someone can have without being bald). Third, we reach these judgments by comparison with a certain standard or ideal. We decide what qualities the ideal candidate should possess, then evaluate candidates by comparing them with that standard. In principle, we could even list these qualities, give them a lexical ordering, then rank the candidates by deciding which of them possess the ones most important for the position. Yet once we have this information, we must still decide whether a candidate meets our minimal standards. Again, we make a comparison. How far from the ideal can a candidate's qualities be and still be good

one Aristotle draws at 1097b25-1098a20 of the *Nicomachean Ethics*, where he distinguishes the good or virtue of someone who performs a particular function (like that of a carpenter, leatherworker, or harpist) from the good or virtue of a human being. The main difference is that I am concerned with one's *minimal* goodness (or virtue) at a particular function, or as a human being.

enough or acceptable — that is, still meet minimal standards?⁶ We must exercise judgment, no doubt, in making this decision, and in some sense we must draw a line. But as we have just seen, the decision is still a substantive one, which explains why we take it seriously.

However, these judgments, while clearly evaluative, do not seem to be *moral* ones, as they would be if we were giving an overall assessment of a candidate's personal character. One's talent as a philosopher may be related to one's excellence or virtue as a person, but it is not what we typically regard as the whole of it. Suppose we learn many terrible things about the top-ranked candidate. She is routinely insensitive, cruel, even criminal in her dealings with everyone except her students and colleagues (which the search process failed to uncover). The second-ranked candidate, by contrast, volunteers significant amounts of time each week at the soup kitchen and devotes large portions of his income to famine relief. In this situation, we would be inclined to say that the first candidate, despite her redeeming qualities as a philosopher, is not even a minimally decent person, while the second candidate, despite his shortcomings as a philosopher, is truly an excellent one. The first candidate fails to meet the minimal standards for being a decent person. The second candidate does meet them.

Although these latter judgments are not relative to any particular role or purpose, the way we reach them is the same. We judge a person's character by comparing it with a certain standard or ideal. Were we to make the standard explicit, it would specify certain qualities, possession of which makes a person fully good, and lack of which makes a person fully bad (or evil), depending on the degree to which a person has or lacks them. In principle, we could even give them a lexical ordering and rank individuals as better or worse depending on how closely they approximate the ideal. Yet once we have this information, we can still intelligibly ask for an overall assessment of their character. We can ask whether they are minimally decent persons, despite their imperfections. So we make another comparison. How far from the ideal can someone's character be and still be good enough or acceptable — that is, still meet minimal standards? Again, the decision requires judgment, and in some

6 Notice that even if we hold different ideals and decide to set the minimum where they overlap, our individual judgments will still be reached by comparison with some ideal or other — just different ones. Each one of us will have decided to draw the line (so to speak) where the overlapping consensus exists. Since the minimum is still determined by its distance from an ideal — which is the basic point — it will simplify the exposition if we continue our discussion under the assumption that we share the same ideal, but keep this qualification in mind.

sense draws a line, but is still substantive. If two people disagreed over what the minimum should be — over the standard which, if unmet, labels a person beyond the pale, someone we don't want to deal with unless we have to — we would recognize them as having a substantive disagreement, not one over the arbitrary application of a term.⁷

Sometimes, we combine these two types of judgment. We sometimes *embed* a judgment that makes an overall assessment within one made relative to a particular role or purpose. A member of the clergy, for example, is usually expected to have an exemplary personal character in addition to certain administrative, counseling, public speaking, and community relations skills. In many cases, however, the expectations are lower, and implicit. When we make an offer to the top-ranked candidate, for instance, we may only expect her to be a minimally decent person, not an exemplary one, even if our expectations of her teaching, research, and collegiality are higher. In principle, though, we can separate the overall assessment from the purpose-relative judgment and consider it independently of that purpose.

Which of these types of judgment are we making when we judge an entity to be minimally just? In some cases, we are making a purely moral judgment. We mean not that the entity is 'good enough' or 'acceptable' relative to a particular role or purpose, but that, as an overall assessment of some sort, it is 'good enough' or 'acceptable.' In other cases, we are embedding this overall assessment within a purpose-relative judgment. If being minimally just is a condition for membership on certain international bodies, for example, then we mean that its favorable overall assessment enables it to meet one of the conditions for being declared 'good enough' or 'acceptable' for that purpose.

Either way, we are left with an intelligible notion of minimal justice. Like judgments of minimal decency, judgments of minimal justice make a comparison with a certain standard or ideal — in this case, with the best theory of justice — and the minimum is determined by its proximity to what that theory requires.⁸ How far from the ideal can an entity's political institutions be and still be good enough or acceptable — that is, still meet minimal standards? Like the previous decisions, this decision also requires judgment, and in some sense draws a line, but is still substantive.

7 They would be disagreeing, that is, over whether possession of certain qualities (in certain degrees) is *morally sufficient* for being minimally decent — which is a substantive moral disagreement.

8 See note 6.

One feature of these judgments that will interest us is the extent to which pragmatic considerations may justifiably influence them. Again, consider the analogy with the faculty search. Suppose that for the fifth consecutive year, we fail to fill the position because none of the candidates has published her dissertation, which is one of our minimal standards. Meanwhile, our class sizes are increasing faster than we can handle with existing faculty (and the Dean is growing *very* irritated). These kinds of pragmatic considerations might convince us that our minimal standards are too utopian, and we might justifiably adjust them downward as a result.

But while pragmatic considerations may influence our minimal standards to this extent, there are some important qualifications. If our minimal standards are not utopian to begin with, for instance, we might decide that the problem is not with the standards themselves, but with the way the world is. There are limits to how far we can adjust them without compromising them altogether. Suppose that the only way to fill the position is to hire someone who commits basic logical fallacies and teaches students that, according to Plato, there is no difference between knowledge and opinion. In that case, it would be more candid to admit that pragmatic considerations force us to hire someone who *fails* to meet minimal standards than to suggest that he meets minimal standards that pragmatic considerations have convinced us to adjust. A similar point holds for our overall assessment of his personal character. Pragmatic considerations *might* appropriately influence whether we decide to hire someone who is minimally decent rather than exemplary as a person. But they do not appropriately influence our judgment of what counts as minimal decency itself. If the only way to fill the position is to hire a known criminal and thug, for instance, then again, it would be more candid to admit that pragmatic considerations force us to hire someone who fails to meet minimal standards of decency than to suggest that he meets minimal standards of decency that pragmatic considerations have convinced us to adjust.

Similarly, pragmatic considerations might appropriately influence whether we decide to grant state-recognition to entities that are minimally rather than fully just. But they do not appropriately influence our judgment of what counts as minimal justice itself. If the only way to achieve our pragmatic aims is to recognize some entities that are *international* thugs, for example, then it would be more candid to admit that they fail to be minimally just than to suggest that they satisfy minimal requirements of justice that pragmatic considerations have convinced us to lower.⁹

9 Ronald Dworkin makes a similar point in a different context. In a recent article, Dworkin argues that if security concerns require us to treat legal immigrants

We can summarize these findings as follows. The notion of minimal justice carries independent weight. It is not an inherently flexible standard that can be adjusted to whatever level is necessary to achieve our pragmatic aims and needs, or whatever other ends we may have. It is not a mere consequence of decisions we make on pragmatic grounds. It is, in this sense, objective, because its level is not entirely up to us to determine. To emphasize this, I shall from this point forward refer to *the best theory of justice* as what determines or sets the minimum, or according to which the minimum is set, even though, of course, *we* must ultimately do the determining or setting. As we will see, the justice-based account has difficulty accommodating this fact about minimal justice.

II The Central Argument

We are now ready to consider the central argument against the justice-based account and for the pragmatic one. To begin, both accounts of recognition assume that, for the foreseeable future, decisions about whether to recognize certain entities as states will remain on the international agenda. This is not to deny that other matters related to state-recognition deserve international attention — whether to recognize certain peoples as having special rights of self-determination within a recognized state, for example, or as having the right to form a state even if they do not yet have a recognized territory. But given that states today are the primary international actors, and given the tremendous importance attached to state-recognition (in some cases whether an entity survives as a state depends on it), there is a pressing practical need to develop a theory of state-recognition, which both accounts try to fill. As Allen Buchanan, who defends a justice-based view, writes: ‘The decision whether to recognize an entity as a state has important moral implications.... [recognized states] are entitled to support for their territorial integrity and to noninterference in their domestic affairs, and ought to be allowed to participate in the basic processes of international law.’¹⁰

unfairly, then we should at least be candid about that and admit that our treatment of them is unfair (yet required for security reasons) instead of insisting that such treatment meets lower standards of fairness. See Ronald Dworkin, ‘The Threat to Patriotism,’ *New York Review of Books* 28 (February 2002), 44-9. In the next section, I will have more to say about the content of the pragmatic aims mentioned.

10 Allen Buchanan, ‘Recognitional Legitimacy and the State System,’ *Philosophy & Public Affairs* 28, 1 (1999), 51. In his latest work on this topic, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (New York: Oxford Uni-

In addition, both accounts accept the following claims. First, justice as well as peace is an appropriate goal for the international legal system. Justice is not in significant conflict with peace, its value is not merely instrumental toward achieving peace, and it is not an unrealistic goal. Second, by their very nature, accounts of recognition belong to nonideal theory. Whereas ideal theory provides goals toward which we should work, nonideal theory tells us which acts are permitted, required, or prohibited in transitioning to the ideal. In this case, the goal toward which we should work — the ideal — is a world characterized by global peace and justice, and accounts of recognition tell us which acts of recognition are permitted, required, or prohibited in our efforts to achieve it.¹¹ Third, because of the importance of recognition, the criteria for recognition must be realistic. At the very least, they should not be so utopian as to make the pursuit of global peace and justice self-defeating. Fourth, in addition to conferring the rights and powers of statehood, recognition confers an entitlement to participate in the processes for formulating, adjudicating, and implementing international law — processes crucial to realizing long-term global peace and justice.¹²

In accepting these claims, however, the justice-based account encounters a problem that the pragmatic account avoids: it lets pragmatic considerations rather than the best theory of justice determine what counts as minimal justice. The reasoning goes like this. If the best theory of justice sets a standard of minimal justice that is high enough, then on the justice-based account, where minimal justice is required for recognition, only a few entities may qualify for recognition as states. If only a

versity Press 2004) — released just as this article was going to press — Buchanan develops more fully the argument of his earlier article. I discuss this work in notes 16 and 40.

- 11 For two philosophers who accept the view that accounts of recognition belong to nonideal theory but who otherwise disagree over which one is correct, see my 'Recognition and Legitimacy: A Reply to Buchanan,' *Philosophy & Public Affairs* 28, 3 (1999), 257; and Allen Buchanan, 'Rule-governed Institutions versus Act-Consequentialism: A Rejoinder to Naticchia,' *Philosophy & Public Affairs* 28, 3 (1999), 259.
- 12 As we shall see, there are two different versions of the justice-based account that accept these claims. There are strong versions, according to which failing to meet minimal requirements of justice automatically defeats a claim to state-recognition. (See, for example, Allen Buchanan, 'Recognitional Legitimacy and the State System,' *Philosophy & Public Affairs* 28, 1 (1999) 46-78.) There are also weaker versions, according to which failing to meet minimal requirements of justice merely creates a presumption against state-recognition that can be defeated. My focus here is on both kinds of justice-based theory, and in arguing that we should reject them in favor of the pragmatic account, I shall be embracing these same four claims.

few entities qualify for recognition as states, though, then only a few entities will be entitled to participate in the processes for formulating, adjudicating, and implementing international law. But if only a few entities are entitled to participate in these processes, that may make the pursuit of global peace and justice inefficacious. If so, then the requirement that our criteria for recognition be realistic dictates lowering our standard of minimal justice so that enough entities qualify for recognition as states to make the realization of peace and justice a genuine possibility. That suggests that pragmatic considerations — not the best theory of justice — drive the level of the minimum. Alternatively, even if enough entities do qualify under the higher standard to make the pursuit of peace and justice efficacious, the requirement that our criteria for recognition be realistic still implies that, hypothetically, if too few did qualify, we would have to lower the minimum. That again suggests that pragmatic considerations drive the minimum. Since the justice-based account allows its minimum to be adjusted to whatever level is necessary for enough entities to qualify — since its standard for state-recognition must be adjusted to satisfy that pragmatic need — it seems like the justice-based account is really a pragmatic theory in disguise.

The pragmatic account is more straightforward: it candidly admits that pragmatic considerations determine which entities we should recognize as states. Moreover, by severing the connection between the recognition of an entity and minimal justice, it prevents the exigencies of international politics — the need to bring enough entities into the processes for formulating, adjudicating, and implementing international law — from influencing our judgment of what constitutes minimal justice.

We can see the central problem with the justice-based account, then, in the following example. Suppose for the sake of argument that the best theory of justice is a noncomprehensive liberalism that requires neutrality toward the good, respect for equal liberal rights (democratic political rights and rights against discrimination), and a guarantee of the fair value of the political liberties. Political entities that satisfy these requirements are *fully just*. Also suppose that, according to this theory, entities that do not respect basic human rights — defined as rights to life (to personal security and means of subsistence), to liberty (to freedom from slavery, serfdom, forced labor), and against religious persecution — are *severely unjust*. Between these two points lies a continuum. Assume: (1) Entities that fail to guarantee the fair value of the political liberties but otherwise respect the equal liberal rights and observe neutrality toward the good are the next-closest to being fully just; (2) Entities that do not guarantee the fair value of the political liberties but respect the equal liberal rights, yet are not neutral — that advance some perfectionist liberalism, say — come next; (3) Then come entities that do not respect

the equal liberal rights — that are nondemocratic, permit discrimination, or both — but do respect basic human rights.

How should we establish where *minimal* justice falls on this continuum? The answer, we have seen, is this: by comparison with the best theory of justice. Suppose, then, that according to the best theory of justice, official discrimination involves such a deep affront to human dignity that even minimal justice must forbid it. The equal liberal rights forbid such discrimination — whether it is based on race, gender, religion, or any other morally irrelevant feature of persons. By contrast, basic human rights do not, since they permit unequal religious liberties and thus some degree of religious discrimination (provided it does not rise to the level of persecution). However, according to the best theory of justice, entities that do not guarantee the fair value of the political liberties or observe neutrality toward the good (that use state funds to promote art and culture, say) — though they depart from full justice — do not commit a deep affront to human dignity the way that entities that officially discriminate do. Therefore, according to the best theory of justice, minimal justice demands that entities respect the equal liberal rights, even if they do not guarantee the fair value of the political liberties or observe neutrality toward the good; minimal justice requires (2). No doubt the reasoning here is largely intuitive. But the exact reasoning is unimportant. What is important is that minimal justice is determined by *the best theory of justice* — as it intuitively seems it should be — and not by pragmatic considerations.¹³

But the justice-based account cannot accept this as long as the possibility of conflict exists between what the best theory of justice requires for minimal justice, and what the realities of international politics require for recognition if we are to bring enough entities into the processes for formulating, adjudicating, and implementing international law.¹⁴ Because it accepts the claim that our criteria for recognition should not be so utopian as to make the pursuit of peace and justice inefficacious, it

13 This substantially develops and extends the reasoning first sketched in my 'Recognition and Legitimacy: A Reply to Buchanan,' *Philosophy & Public Affairs* 28, 3 (1999) 242-57.

14 Notice that this argument is perfectly general. It does not rest on the assumption (used for purposes of illustration) that the best theory of justice is a noncomprehensive liberalism. It can also be easily extended to cover Rawlsian 'overlapping consensus'-type defenses of minimal justice. If an overlapping consensus among *reasonable* conceptions of justice establishes x as minimal justice, but standard y (lower than x) is needed to bring enough entities into the processes for formulating, adjudicating, and implementing international law, we reach the same result.

must resolve this conflict by lowering its standard for recognition beneath what the best theory of justice requires for minimal justice, while insisting, misleadingly, that this standard identifies what minimal justice is.¹⁵

III The Real World

Although the force of this argument rests solely on the possibility of conflict between what the best theory of justice requires for minimal justice and what the realities of international politics require for recognition, I shall now argue that this conflict *actually* exists with the standards that any plausible theory of justice would deem minimally just. As a result, the justice-based theory must lower them further — exactly as the objection charges.

Consider two different standards for minimal justice. Both require entities to respect basic human rights, but one is stronger than the other. According to the *weak* standard, the basic human rights are rights to life (to personal security and means of subsistence), to liberty (to freedom from slavery, serfdom, forced labor), and against religious persecution. The weak standard intends to capture the idea that an entity could enjoy basically peaceful and benevolent rule even if it is not democratic and allows some inequalities based on gender, race, ethnicity, nationality, or religion. According to the *strong* standard, the basic human rights also include rights against discrimination based on gender, race, ethnicity, nationality, and religion; and rights to democratic governance in the minimal sense of requiring representative bodies, accountable officials, and some free speech and assembly (to be sensitive to the different ways that democracy can be realized in different culturally-specific settings).¹⁶

15 Another way of putting this is that its notion of minimal justice carries no independent weight. It can be lowered to whatever level is necessary to bring enough entities into the processes for formulating, adjudicating, and implementing international law. Its level, in other words, is merely a consequence of a decision we make on pragmatic grounds. Surely, though, it would be more straightforward simply to admit this fact, as the pragmatic account does.

16 Depending on how broadly we construe it, then, minimal democracy could include, say, an Afghan-style *loya jirga*. The strong standard for state-recognition is defended by Allen Buchanan in 'Recognitional Legitimacy and the State System,' 53; and 'Justice, Legitimacy, and Human Rights,' in *The Idea of a Political Liberalism: Essays on Rawls*, Victoria Davion and Clark Wolf, eds. (Totowa, NJ: Rowman & Littlefield 2000) 73-89. As I explain in note 40, however, Buchanan seems to lower his standard for state-recognition in *Justice, Legitimacy, and Self-Determination*.

In what follows, I will mostly focus on whether entities meet these standards in their internal relations, even though, with the weak standard, we can ask whether they meet it in their external relations as well. This is mainly due to the availability of evidence. In any case, if too few entities qualify for state-recognition when we consider internal relations alone, even fewer will qualify if we consider both internal and external ones.

1. The Strong Standard

Is the strong standard feasible? Will enough entities qualify for recognition as states under it to make the pursuit of peace and justice — the moral goals of the international legal system — efficacious? That depends on whether it brings enough entities into the processes for formulating, adjudicating, and implementing international law to achieve them. Rather than focusing on whether it brings enough entities into these processes from the entire world, however, let us focus on a few strategic regions and ask whether it brings in enough entities from those regions to make the pursuit of peace and justice *there* efficacious. This will be a more manageable task, and if we can show that the pursuit of peace and justice in those regions would be inefficacious, then we will have established a presumption against the strong standard (at least if the regions are large enough or important enough strategically for the purpose of establishing global peace and justice).

The best recent evidence available suggests that no country in the strategically important Middle East (which includes parts of northern Africa) meets the strong standard.¹⁷ Even under the most charitable

17 Here I rely primarily on the U.S. State Department (DOS) Country Reports on Human Rights Practices, which, while having certain limitations, are not as limiting as United Nations pronouncements or Nongovernmental Organization (NGO) reports, the main alternatives. U.N. pronouncements are limiting because the U.N. only reviews the human rights practices of a few countries each year, whereas the DOS reports cover all countries annually. In addition, the U.N. is notoriously reticent to condemn countries for human rights violations and its language is painstakingly meek. When it does condemn them in Security Council (S/RES), General Assembly (A/RES), or Commission on Human Rights (UNCHR) resolutions, we may rely on these official pronouncements, but we should understand that there will probably be other countries that violate the strong (or weak) standard as well. NGO reports are a bit better, but because the DOS reports rely on multiple sources (such as domestic and international reports as well as reports from individuals, academics, and embassy employees), they are more likely to be complete than a report drafted by an independent organization using its own sources and contacts. Further, the State Department has access to intelligence information, which

interpretation of their political practices, Algeria, Bahrain, Egypt, Israel, Jordan, Kuwait, Morocco (including Western Sahara, which Morocco administers), Oman, Qatar, and United Arab Emirates all fail to meet the strong standard, in most cases because they legally discriminate on the basis of gender, race, nationality, or religion.¹⁸ The rest of the countries in the region — Iran, Iraq, Lebanon, Libya, Saudi Arabia, Syria, Tunisia, and Yemen — all fail to meet the strong standard because they do not even meet the weak one, in most cases because their security forces arbitrarily arrest or detain people, commonly use torture or abuse, or commit extrajudicial killings to such an extent that it constitutes a violation of personal security guaranteed by the right to life.¹⁹

If the international community recognized no country in the Middle East — if, among other things, U.N. membership from the region dropped from 18 to zero — how would that affect prospects for peace and justice there? The answer seems obvious. Peace and justice do not happen on their own. They have to be worked at. They require the collective efforts of many countries — enough to form a critical mass willing to work under difficult circumstances to overcome decades (or centuries) of suspicions that have ossified into hatreds. But if every single country in the Middle East is barred from the processes for formulating, adjudicating, and implementing international law in that region — as

gives it an independent way of verifying accusations that a country violates human rights (accusations often raised by NGOs themselves). The main drawback to relying on the DOS reports, of course, is that they do not address whether human rights are adequately honored in the United States. Consider this statement from the U.N. Human Rights Committee, Subcommittee on the International Covenant on Civil and Political Rights (ICCPR): 'The Committee ... regrets the easy availability of firearms to the public and the fact that federal and state legislation is not stringent enough in that connection to secure the protection and enjoyment of the right to life and security of the individual guaranteed under the Covenant' (Concluding Observations of the Human Rights Committee: United States of America. 03/10/95. CCPR/C/79/Add. 50; A/50/40, para. 282). (Although this statement was issued in 1995, I doubt that circumstances have changed enough since then to render it inapplicable.) Using this statement as authority, we would have to conclude that the U.S. violates the *weak* standard — something the DOS reports could hardly acknowledge. Still, for the purpose of assessing the justice-based account, I shall stipulate that the United States would now receive recognition under the strong standard, since that is the interpretation most favorable to establishing the feasibility of the strong standard elsewhere and worldwide (and hence the interpretation most favorable to the justice-based account).

18 See Table 1.

19 See Table 2.

the strong standard seems to imply — that isn't likely to happen. The prospects for peace and justice look bleak.²⁰

2. *The Strong Standard Reconsidered*

Rather than take this a priori shortcut to that conclusion, however, let us establish it empirically. To do this, we will first need to get clearer about which kinds of relations are open to, or permitted with, unrecognized entities.

Recall that recognition confers certain advantages. Recognized states possess the moral power to form agreements, treaties, and alliances with other states, a power that nonstate entities generally do not possess. Further, recognized states possess rights to preserve their territorial integrity and direct their own internal affairs, rights that the international community has a duty to support. Since unrecognized entities lack those rights, they cannot justifiably claim that other states act wrongly in providing aid to rebels or secessionists or in taking their territory. Finally, recognition is what entitles states to participate in the processes for formulating, adjudicating, and implementing international law.

However, this seems too restrictive. Surely unrecognized entities should be permitted to form certain bilateral (or multilateral) agreements — like ones to reduce their militaries, say, or pull back from disputed borders — and have the international legal system recognize them as binding. To the extent, therefore, that such agreements would be recognized as legally binding, unrecognized entities would have some role in formulating international law.

Perhaps, then, unrecognized entities should be permitted to have some role, but a secondary one in comparison with recognized states. But then, we might ask, what other relations should they be permitted to have? Since we don't want to act toward them in ways that will threaten world peace and justice, it is very tempting to answer prudentially. When we refuse to recognize entities, for instance, surely we should not be required to refuse to negotiate with them, or to engage in hostile actions toward them that are likely to result in war. Instead, it seems, we should be allowed to exercise prudence in exerting pressure — both individually and collectively, through regional or international institutions — to encourage peaceful and just behavior. Therefore, al-

20 In response to this argument, someone perhaps might want to press the distinction between recognizing *states* and recognizing *governments*. That is to say, one might reply that my objections concern a too stringent standard for recognizing governments, not states. I will examine this reply in detail in section IV.

though unrecognized entities earn no entitlements to participate in any particular way (as recognized states do), they should still be permitted to form whatever relations best promote peace and justice (like bilateral agreements to reduce their militaries) as a matter of simple prudence.

The more general point is this: from the fact that unrecognized entities lack rights or entitlements to do certain things, nothing follows about what they *ought* to be permitted to do, or what recognized states ought to be permitted to do with respect to them. Nothing follows, that is, about what relations should be open to them and to recognized states in dealing with them. So the justice-based theory needs to provide some account of what those relations are. The proposal under consideration is that unrecognized entities should be permitted to form whatever relations best promote peace and justice.

But however reasonable this proposal may seem, the justice-based theory cannot accept it without failing once again to distinguish itself from the pragmatic theory. The reason is as follows. When the justice-based theory argues against recognizing an entity, the pragmatic theory will either agree or disagree with that judgment. Now suppose the two theories agree. In that case, the justice-based theory will hold that the entity should be permitted nonetheless to form whatever relations best promote peace and justice. But so will the pragmatic theory. Alternatively, suppose they disagree. In that case, the pragmatic theory will hold that it should be recognized as a state with the rights and powers of statehood, and an entitlement to participate in the processes for formulating, adjudicating, and implementing international law. The justice-based theory will claim instead that it should not be recognized and that it should only be permitted to form whatever relations best promote peace and justice. However, by hypothesis, the relations that best promote peace and justice are the ones that it would have if it were recognized as a state with the rights and powers of statehood and an entitlement to participate in the processes for formulating, adjudicating, and implementing international law — that, after all, is why the pragmatic theory recognizes it. It follows, then, that the justice-based theory is also committed to recognizing it as a state, with the rights, powers, and entitlements of statehood — *for the exact same reason* that the pragmatic view does — that it best promotes peace and justice. Therefore, if the justice-based theory holds that unrecognized entities should be permitted to form whatever relations best promote peace and justice, the two theories will wind up being equivalent once again, with the same ground for recognizing entities as states, and the same criteria for how we ought to treat unrecognized entities.

So the justice-based theory must provide some other account of what relations are open to unrecognized entities. I would like to suggest that we should distinguish the secondary processes that unrecognized enti-

ties are permitted to engage in from the primary ones they aren't on the basis of their military, economic, and political significance, since this can be done in a way that generally accords with the justice-based view. The idea is this. The justice-based view seeks a principled connection between the relations that entities are permitted to have and the moral appraisal that they receive. Entities that meet minimal standards of justice get to be full participants in the processes for formulating, adjudicating, and implementing international law. Entities that fail to meet those standards get something less. They pay a moral penalty: they may only engage in less significant military, economic, and political processes.

For example, let us suppose that unrecognized entities may not receive military assistance from, or form military alliances with, recognized states, for if (as the justice-based theory contends) recognizing them would make the international community an accomplice in their injustices, providing military support would make it more so.²¹ Nor may they establish formal trade relations with recognized states, since that would compel the legal systems in recognized states to acknowledge their right to put forth claims in trade disputes, which would essentially give them standing in an important process for adjudicating international law. Similarly, they may not obtain full membership in international trade mechanisms like the World Trade Organization, International Monetary Fund, or World Bank, since membership in these bodies would involve them in important processes for adjudicating and implementing international law. They may not hold positions of authority within international standards-setting bodies like the International Atomic Energy Agency, since that too would involve them in important processes for formulating international law. Finally, they may not have direct diplomatic ties with recognized states, since such ties are by definition an aspect of recognition. These all seem like relations reserved for primary participants in international law.

Secondary participants would seem to be eligible for processes with less significant economic or political consequences. For example, indi-

21 The basic idea, according to the justice-based account, is that if we recognize internally unjust entities, we confer upon them the right to noninterference in their internal affairs and thus support their ability to continue wielding unjust coercive power within their territories — and this, claims the justice-based account, makes us an accomplice in injustice. I will examine this claim in detail in section V. For now, we need only note that, for the purposes of this section, we are attempting to characterize a 'best version' of the justice-based account that respects this commitment. So, for present purposes, references to conduct that makes us an accomplice in injustice should be understood as referring to *what the justice-based account claims or implies*.

viduals in these territories may engage in informal trade with individuals in recognized states. Secondary participants may sign international conventions whose provisions they enforce internally, but recognized states would incur no obligation to provide them with related assistance. They may recognize the jurisdiction of the International Atomic Energy Agency or sign onto the Biodiversity Convention, for instance, but they may not enter NATO or the European Union. Finally, they may deal with recognized states only through covert or informal meetings, or negotiate with them through intermediaries.

Given these prohibitions and permissions on their relations, what would the consequences be for world peace and justice if the international community recognized no country in the Middle East? We can only speculate, of course, but the following seem like reasonable conjectures.

First, it is very likely that the Iraq-Kuwait conflict would have escalated. The direct military intervention by the allied coalition, recall, was legally justified by recognizing the territorial integrity of Kuwait.²² But if Kuwait had no right to its territorial integrity, as the strong standard implies, then it could not validly claim that Iraq acted wrongly in taking its territory. And if Kuwait could not validly assert that claim, then the allied coalition could not justify its intervention by claiming that it was righting that wrong.²³ In fact, if the allied coalition did intervene to defend the Kuwaiti regime, then — on the justice-based view — it would become an accomplice in Kuwait's injustices.²⁴

If the allied coalition had let Iraq annex Kuwait, the consequences for peace and justice on the Arabian Peninsula would have been severe indeed. Iraq, a clearly aggressive power, would control the northern Persian Gulf area, home to over 20% of the world's known oil reserves.²⁵ Most likely, it would have used its increased oil revenues to strengthen its military capability.²⁶ With a strengthened military, Iraq most likely would have set its sights on settling territorial disputes with Iran and

22 S/RES/661 (1990).

23 In addition, allied coalition members Egypt, Saudi Arabia, and Syria, which fail the strong standard, would have been ineligible to implement S/RES/661.

24 'Voting was restricted to male citizens over 21 — about 3.5 percent of the population' prior to the war, so Kuwait failed the strong standard back then too. See *Middle East Report* (Nov./Dec. 1990), 14.

25 *Middle East Report* (Nov./Dec. 1990), 13

26 'Invading Iraqis Seize Kuwait and Its Oil; U.S. Condemns Attack, Urges United Action,' *The New York Times* (August 3, 1990), A1 (citing government analyst).

Saudi Arabia.²⁷ Even if that did not occur, Iran and Saudi Arabia might have been tempted to annex or otherwise dominate Qatar, Bahrain, and the United Arab Emirates (none of which has a right to territorial integrity on the strong standard), since the power imbalances between the former and the latter are comparable to that between Iraq and Kuwait.²⁸ The consequences of a major war in this region, which contains over 65% of the world's known oil reserves, would have a ripple effect throughout the economies of many nations, exacerbating injustices that already exist there.²⁹

Second, it is very likely that the Arab-Israeli conflict would have escalated. In the 31 years prior to the signing of the Camp David Accords in 1979, there were four major wars between Israel and its neighbors, creating a Palestinian refugee crisis that destabilized Jordan, Syria, and Lebanon. In the 25 years since then, there has been just one — the Israeli invasion of Lebanon — caused in part by the issue of the final status of Palestinian refugees. The Camp David Accords thus had a dramatic impact on the Arab-Israeli conflict.³⁰

But under the strong standard, the Camp David Accords (or something similar) most likely would not have been negotiated.³¹ The Accords committed the United States to providing billions of dollars in military assistance to Israel and Egypt.³² But military assistance is not permitted

27 Anthony Cordesman, 'Symposium on Dual Containment: U.S. Policy Toward Iran and Iraq,' *Middle East Policy* (Fall 1994) 11-13

28 Hassan Hamdan al-Alkim, 'The Gulf Subregion in the Twenty-First Century: U.S. Involvement and Sources of Instability,' *American Studies International* (February 2000) 72-95

29 *Middle East Report* (Nov./Dec. 1990), 13. Notice that one may consistently accept the points made in this paragraph whatever one's positions are regarding (i) whether sanctions should have been given more time to work before the war began; (ii) whether the postwar sanctions were justified; (iii) whether the particular way the war was conducted (like the 'turkey shoot' on the 'highway of death' at war's end) was justified; (iv) whether members of the allied coalition overconsume oil.

30 Shlomo Gazit, 'Israel and the Palestinians: 50 Years of War and Turning Points,' *Annals of the American Academy of Political & Social Science* (January 1998) 82-97

31 Egypt failed the strong standard in 1978-79 due to a state of emergency that had been in force since 1967, which curtailed rights to liberty. Israel also failed it in 1978-79 due to discriminatory laws against Arabs. See report by U.N. Human Rights Committee, Subcommittee on the International Covenant on Civil and Political Rights, Concluding Observations of the Human Rights Committee: Israel, 18/08/98. CCPR/C/79/Add. 93 (covering the period 1978-1998).

32 Stephen Zunes, 'The Strategic Functions of U.S. Aid to Israel,' *Middle East Policy* (October 1996) 90-1

to states not recognized by the international community. Further, the United States would have been barred from conducting direct negotiations with both governments, as well as subsequent negotiations with Jordan, Syria, and the Palestinians, which have proven instrumental for other peace talks.³³ As a consequence, the resolution of one of the causes of the 1973 war — the occupation of the Sinai Peninsula by Israel — which was brought about in part at Camp David by United States negotiators, would have been much less likely to occur.³⁴ Thus Egypt, which at the time was desiring to tie itself more closely to the United States and distance itself from the Soviet Union, would have most likely calculated that its interests did not lie with the United States, and would have continued hostilities.³⁵ In that case, it is likely that Israel would still be fighting wars on several fronts instead of local conflicts in Lebanon and the occupied territories.

Now in order to avoid these consequences of following the strong standard, it is very tempting to invoke a generic duty of justice to authorize action by the international community. A defender of the justice-based account might then claim that, although Kuwait lacked a right to territorial integrity that the international community had a duty to support, the international community still had a duty of justice to remedy the injustices that *accompanied* the taking of Kuwait's 'territory' (like the violence done to the civilian population) even if they did not *consist* in taking that territory. Similarly, although Egypt and Israel both lacked a right to territorial integrity that the international community had a duty to support, the international community still had a duty of justice to prevent injustices that would accompany any future aggression between the two countries, a duty it judged it could best fulfill by providing military and diplomatic support. Thus, a defender of the justice-based account might claim that, when a country lacks a right to territorial integrity, it is not as if a moral vacuum exists. The duty of justice fills the gap.

But if we invoke the duty of justice like this whenever unjust aggression threatens to place global peace and justice in severe danger, then the

33 Stephen Zunes, 'The Israeli-Jordanian Agreement: Peace or *Pax Americana*?' *Middle East Policy* (April 1995) 57

34 Shibley Telhami, 'From Camp David to Wye: Changing Assumptions in Arab-Israeli Negotiations,' *Middle East Journal* (Summer 1999) 380-2

35 See *ibid.*; also see A. Safty, 'Sadat's Negotiations with the United States and Israel: Camp David and Blair House,' *American Journal of Economics & Sociology* (October 1991) 473-85.

crucial normative work is being done by this general duty and not the success of our policy in recognizing enough entities as states. To see this quite clearly, suppose that we make full, not minimal, justice our standard for recognition and that no entities in the entire world meet it. According to this view, there is, strictly speaking, no international community of recognized states. Yet suppose that a group of unrecognized entities bands together and, acting on this general duty of justice, successfully resists all threats to global peace and justice. (We can even imagine them forming their own international institutions, although not, of course, with full justice as the criterion for membership.) Now clearly, if the efforts of this 'international community' did make the pursuit of peace and justice efficacious, that would be in *spite* of, not *because* of, our policy of recognizing only entities that meet full standards of justice, for by hypothesis no entities at all meet it. It would be more accurate to say that our pursuit of peace and justice was efficacious because the duty of justice, operating in the background, provides blanket authority to all unrecognized entities to form whatever relations best promote peace and justice (or at least avoid endangering these goals). As a result of that blanket authority, we were able to salvage efforts to achieve peace and justice that would otherwise fail. But since this blanket authority exists regardless of what our standard for recognition is and how many (or few) entities meet it, we can generalize this argument. Therefore, if we invoke a general duty of justice to authorize action that our policy of recognition fails to authorize, and, as a result, we salvage efforts to achieve peace and justice that would otherwise be doomed, then it is this general duty that is doing the crucial normative work and saving our policy of recognition from the consequences of its failure.

To prevent this subterfuge, we must evaluate standards for recognition without appealing to a general duty of justice. And according to the strong standard, unrecognized states like Kuwait, Egypt, and Israel may not receive military and diplomatic support even if that is critical to achieving peace and justice in the region.

So if we adopt the strong standard for minimal justice, our efforts to achieve peace and justice in the Middle East — an area of intense hostility in the last half century and the focus of much international attention — would be inefficacious. And whatever benefits there are to following this standard elsewhere in the world, they could not cancel out the threat to peace and justice that it would cause here.

3. *The Weak Standard*

Perhaps one might want to object that this does not undermine all justice-based accounts, just ones that use the strong standard for minimal justice. What if we *lower* our standard and adopt the weak one instead?

The international community could then recognize Kuwait, Egypt, and Israel, and the above objections would no longer apply.

But in Africa (excluding Morocco, Algeria, Tunisia, Libya, and Egypt, which were counted in the Middle East), only one-fourth of the countries would qualify for recognition under that standard. Under the most charitable interpretation of their political practices, only twelve countries — Botswana, Cape Verde, Djibouti, Lesotho, Mauritania, Mauritius, Namibia, Niger, Sao Tome and Principe, Seychelles, South Africa, and Swaziland — would qualify (and four of them are located in the Atlantic or Indian Oceans).³⁶ The other 36 countries — including Angola, Chad, Rwanda, Sierra Leone, Sudan, Uganda, and Zimbabwe, among others — all fail to meet that standard, in most cases because of arbitrary arrests, torture, abuse, or extrajudicial killings committed by their security forces.³⁷ Africa's U.N. membership would therefore drop from 48 to 12.

Again, we can only speculate about the impact that refusing to recognize this many countries would have on prospects for peace and justice in Africa. But the following seem like reasonable conjectures.

First, United Nations peacekeeping operations in Africa and elsewhere in the world would be significantly affected. Currently, one-fourth of all U.N. peacekeepers come from Africa.³⁸ Yet over four-fifths of them would be ineligible to participate, since they come from countries that fail to meet the weak standard, which would render them ineligible to implement international law. In Africa, this would be particularly troublesome. Peacekeeping missions conducted there would be greatly complicated by barring so many soldiers, police, and observers from the region who possess the experience, cultural acuity, and language skills that are crucial for successful peacekeeping. In addition, the demographic makeup of troops eligible to participate would be much less likely to reflect that of Africa — something that would not only open the U.N. to charges of racial bias, but would also place these troops in greater danger, given the region's hostility and sensitivity to colonial domination. This in turn would alter the calculation in support of each specific mission.

36 See Table 3.

37 See Table 4.

38 The U.N. Peacekeeping Operations Reports by the Secretary General, May 2004, state that there were 55,470 total U.N. peacekeepers, of whom 14,020 were African. Of the contributing African countries, only Djibouti, Namibia, Niger, and South Africa pass the weak standard. Together, they supply 2,574 peacekeepers, roughly 18.4% of African peacekeepers and 4.6% of the total.

Second, even if these limits on contributing troops could be overcome, the weak standard still implies that three-quarters of Africa's countries have no rights of territorial integrity or noninterference, and thus cannot validly claim that other entities act wrongly in taking their territory or interfering in their affairs. But if they cannot validly assert these claims, then the international community cannot justify corrective action by claiming that it is trying to right such wrongs. In Africa, where 22 countries experienced interstate war, internal conflict, major political or religious violence, or wars of independence during 2000 alone, this would clearly be troublesome.³⁹ Of course, we could always invoke a general duty of justice to authorize action that our policy of recognition fails to authorize. But then, as we saw earlier, even if this succeeds in containing the threats to peace and justice, it would be this duty, not our policy of recognition, that does the crucial normative work.

Under either standard, therefore, it seems that the pursuit of peace and justice would be inefficacious in some strategically significant regions. I take this to create a strong presumption against the feasibility of either standard *worldwide*. Ideally, to establish this stronger conclusion, we would have to consider how each standard fares in all parts of the globe. Nonetheless, in *these* regions, the costs to peace and justice are sunk. They do not disappear. The threats to peace and justice that they pose will continue to exist no matter what benefits there are to following each standard elsewhere. Matters can only get worse.

If these findings are sound, then the justice-based account must respond by lowering its standard even further, since it accepts the claim that our criteria for recognition should not be so utopian as to make the pursuit of global peace and justice inefficacious. But this would compromise the international community's credibility, since countries that systematically violate the weak standard surely are *not* minimally just. If international officials ever were to claim that even (some) systematic violators of the weak standard should be recognized because they are minimally just, it would be widely (and rightly) perceived as a mere pragmatic attempt to bring more entities into the processes for formulating, adjudicating, and implementing international law — not as a stand having anything to do with justice. I take this to be sufficient reason for rejecting the justice-based account in the form in which we've considered it so far.⁴⁰

39 Only one (Namibia) passed the weak standard. See reprint of report by S. Mullen and J. Woods, in 'Special Report: Peacekeeping in Africa,' *United States Institute of Peace* (February 13, 2001), 5.

IV Amendments

If the justice-based account fails, it fails because it insists that minimal justice should be *necessary* for state-recognition. I now want to consider amendments to it that weaken that claim. All of the amendments share one thing in common: they concede that minimal justice should not be strictly necessary for recognition, but they insist that facts about injustice still ought to play a role in decisions about it. They differ from one another in *how* those facts matter.

40 It might be objected that the theory is only *meant* to apply to future cases of recognition, not to past cases. But it is important to see that this position is incompatible with anything that deserves to be considered *justice*-based, since it allows scores of countries which have rarely, perhaps never, met its minimum standards — many of them massively unjust — to enjoy the rights and powers of statehood, and an entitlement to participate in the processes for formulating, adjudicating, and implementing international law, while denying those same rights and entitlements to entities that may actually be morally better.

Similarly, it is important to see how the argument of this section actually *predicts* (see note 10 above) the way in which Buchanan's argument evolves in his latest work on this topic, *Justice, Legitimacy, and Self-Determination*. In four critical respects, he lowers his standard for state-recognition from the strong standard, which he embraced in his earlier work (see note 16 above). First, he claims repeatedly that, in order to merit recognition, states need only make *credible efforts* to satisfy minimal standards of justice (see 70, 187, 234, 247, 257, 260, 331, 336, 375, 434). But making credible efforts to satisfy minimal standards of justice falls short of *actually satisfying* those standards. Second, he permits states to be recognized even if they fail to be minimally democratic — which he regards as a minimum standard of justice — and even if minimally democratic institutions are not feasible in the short run, provided that such institutions could be developed in the long run with the benefits of recognition (235, 254, 257, 259). Third, he permits states to be recognized even if their agent, the government, violates minimal standards of justice, provided that their constitution guarantees these standards (pp. 354-5). But despite the fact that we often speak of constitutional 'guarantees,' the constitution itself does not guarantee that these standards are satisfied. The constitution is just a piece of paper. It would be more accurate to say that the constitution *promises* to satisfy these standards. But promising to satisfy minimal standards of justice falls short of *actually satisfying* them. Fourth, and most dramatically, he insists that his theory is only meant to apply to future cases of recognition, not to past cases (273-8), since it would result in withdrawing recognition from too many existing states. But this is problematic for reasons explained in the paragraph above. All of these moves appear to be motivated by the need to bring enough entities into the processes for formulating, adjudicating, and implementing international law. The result is not a plausible standard of minimal justice but rather an acknowledgment that, if we are to make moral progress, we must (unfortunately) recognize many entities that fail to satisfy minimal standards of justice (277) — exactly as the pragmatic account admits.

For example, the justice-based account might claim that failing to meet minimal standards of justice is still a consideration against recognition, though one that can be outweighed. This seems plausible enough. Who would deny it? Unfortunately, this is precisely the problem with it: the pragmatic account does not deny it either. To see why, recall that, according to the pragmatic account, political entities ought to be recognized as states if and only if cooperating with them and giving them international support would be the best means of achieving global peace and justice. Global justice, though, is composed of just relations among states (just external relations), and just relations within them (just internal relations).⁴¹ It follows that political entities that fail to meet minimal standards of justice will fail to be a part of that composite. So, according to the pragmatic account, failing to meet minimal standards of justice will also be a consideration against recognition — though one that can be outweighed if it can be shown that recognizing some such entities as states is the best means of achieving global peace and justice in the long run.

If the justice-based account is to be distinguishable from the pragmatic one, then, facts about injustice must carry more weight than merely being a consideration against recognition. For example, the justice-based account might claim that failing to meet minimal standards of justice creates a strong presumption against recognition that can only be overridden by a compelling argument about global peace and justice. In contrast, the pragmatic account accepts a weaker presumption that is more easily overridden. Since the pragmatic account implies that this presumption is overridden whenever cooperation and international support would be the best means of achieving global peace and justice, the justice-based account must insist on imposing an additional burden of some sort. What might this additional burden be?

The most logical candidate (for a *justice*-based account) would be to claim that we must not recognize political entities that are *too* unjust, even if recognizing them would best promote global peace and justice. The justice-based account would then set a standard for identifying which entities are too unjust, and therefore ineligible for recognition.⁴²

However, this version of the justice-based account encounters the same problem that the unamended version did. Too few entities may qualify for state-recognition under this standard to make the pursuit of

41 See the first paragraph of this article for this characterization of global justice.

42 By 'too unjust,' I mean a standard that falls farther *below* the standard for minimal justice.

global peace and justice efficacious. If so, then the requirement that our criteria for recognition be realistic dictates lowering our standard so that enough entities qualify. That suggests that pragmatic considerations drive the level of the standard. Alternatively, even if enough entities do qualify under this standard, the requirement that our criteria for recognition be realistic still implies that, hypothetically, if too few did qualify, we would have to lower it. That again suggests that pragmatic considerations drive the level of the standard. Since the justice-based account allows this standard to be adjusted to whatever level is necessary for enough entities to qualify — since its standard for recognition must be adjusted to satisfy that pragmatic need — we find once again that the justice-based account becomes a pragmatic theory in disguise.⁴³

At this point, a defender of the justice-based account might try a different strategy: lowering not the standard needed to qualify for recognition but the penalty for failing to meet it. For example, suppose that a defender of the justice-based view were to claim that entities that fail to meet minimal standards of justice should not be denied the rights and powers of statehood, but only membership in international organizations like the U.N. Would that make it defensible?

For two reasons, the answer has to be no. First, this move basically *concedes* that the justice-based account fails as a theory for recognizing states, for on this view all entities, regardless of their moral quality, are to be recognized as states and granted the rights and powers of statehood — they get these rights and powers, morally, for free. Second, even if we reinterpret the justice-based account as a theory for determining which recognized states ought to be members of international organizations, it would still be implausible, because too few African states would qualify to make the pursuit of peace and justice there efficacious. One of the most striking features of the United Nations Development Program's *Human Development Report* is the contrast it draws between the extreme economic and human deprivation that exists in developing countries and the amount of influence they have in international organizations like the International Monetary Fund, World Bank, and World Trade Organization. According to the report, 'the number of people in extreme poverty in Sub-Saharan Africa rose from 242 million to 300 million' during the 1990s, and '20 countries in Sub-Saharan Africa, with more than half of

43 Notice that this argument applies no matter *how* we identify what counts as being too unjust. Whether we identify it with a failure to protect certain rights and liberties, or with a failure to garner a certain level of popular support (however we might determine that in the absence of democracy), if too few entities qualify under that standard, we must lower it further.

the region's people, are poorer now than in 1990.⁴⁴ Furthermore, of the 173 countries ranked by their human development index (a weighted function of life expectancy, education, and income, among other factors), the bottom 27 are all African.⁴⁵ Assuming that justice requires the amelioration of extreme economic and human deprivation, what impact would denying membership to this many African countries have on its achievement? Judging from the *Human Development Report*, it would only make matters worse:

Empowering people to influence decisions that affect their lives and hold their rulers accountable is no longer just a national issue. In an integrated world these democratic principles have a global dimension because global rules and actors often affect people's lives as much as national ones ... [For this reason], existing international institutions need reform. Developing countries should be given a stronger voice in their operations.... Although developing countries are deeply affected by the decisions of institutions such as the IMF, World Bank and WTO, they have little power in their decision-making.... The role of developing country governments in global governance needs to be bolstered through changes in formal representation.... What is needed is to rewrite the way seats and votes are allocated within international organizations, to better recognize the increased stake of developing countries.⁴⁶

But of course, by denying membership in international organizations to so many African countries, a defender of (this version of) the justice-based view would be recommending the exact *opposite* course of action. The result can only be to make efforts to achieve peace and justice in this region even more inefficacious than they have been.

What if we lower the penalty further? What if we claim, instead, that entities that fail to meet minimal standards of justice should be denied neither the rights and powers of statehood, nor membership in international organizations, but that their *governments* should not be recognized, with the right to exercise the rights and powers of statehood for these states? Would that make it defensible?

Once again, the answer has to be no, for two reasons. First, suggesting that all entities, regardless of their moral quality, are to be recognized as states, granted the rights and powers of statehood, and admitted as members to international organizations, basically concedes that the justice-based account fails *both* as a theory for recognizing states and as a theory for determining which recognized states ought to be members of international organizations. On this view, all entities get these rights,

44 United Nations Development Program, *Human Development Report* (2002) 10

45 United Nations Development Program, *Human Development Report* (2002) 151-2

46 United Nations Development Program, *Human Development Report* (2002) 7, 8, 113

powers, and membership, morally, for free. Second, even if we reinterpret the justice-based account as a theory for recognizing governments, it is still implausible, because too few governments in the Middle East and Africa would qualify to make the pursuit of peace and justice there efficacious. Under the weak standard, it would require us to deny recognition to 44 of the region's 66 governments — two-thirds of the governments in one-third of the globe. So it's not as if the justice-based view would require us to isolate a few, select, rogue regimes — the very worst of the worst — like the regimes of Saddam Hussein and Robert Mugabe. It would require the wholesale isolation of most of an entire continent and beyond. Given that normal international relations are part of what government-recognition involves, and given that economic relations are a part of that recognition, it would follow that there could be no legitimate economic relations with those who control the political and economic institutions in wide swaths of the globe (much of it destitute). It is hard to see how such a *blanket* prohibition is compatible with the pursuit of peace and justice.

Suppose we lower the penalty even further. For instance, suppose we claim that entities that fail to meet minimal requirements of justice should be denied neither the rights and powers of statehood, nor membership in international organizations, and that those who control the political and economic institutions of those entities should have the right to exercise certain state powers (like the power to make treaties), regardless of the moral quality of those institutions, but that only recognized governments (those that do meet minimal requirements of justice) should be granted the right to exercise the other rights and powers of states. Now it seems clear that pragmatic considerations are simply driving the level of the *penalty*. The penalty itself carries no independent weight. It has become an inherently flexible standard that can be adjusted to whatever level is necessary to achieve our pragmatic aims and needs — a mere consequence of decisions made on pragmatic grounds.

We can put that point another way. As a matter of justice, we should expect the moral penalty to be proportional to the moral crime. Thus, entities that systematically violate basic human rights, it would seem, should pay a moral penalty proportional to that moral crime. But instead, what we find, with this version of the justice-based view, is that the penalty will be raised or lowered to whatever level is necessary to make the pursuit of peace and justice efficacious. There is no concern with proportionality.

In any case, it seems inconsistent (or at least arbitrary) for the justice-based account to limit its scope to the recognition of governments. If a government's justice matters for whether we should recognize it, then why not the same for states? A defender of the justice-based account, it would seem, is committed to embracing that view as an overall theory

for recognizing states, governments, and members of international organizations. But if we apply the justice-based account across the board, then, as we saw earlier, too few entities qualify for recognition as states to make the pursuit of peace and justice efficacious.⁴⁷

There is one final amendment to consider. A defender of the justice-based view might insist that we can maintain both our standard of minimal justice and an appropriate moral penalty for failing to meet it if we simply claim that we will act *as if* (some) entities that fail to meet that standard are entitled to recognition, even though in fact they are not. Hence, international officials who do so can maintain their credibility *without* jeopardizing global peace and justice.

We can interpret this suggestion in two ways. On one interpretation, as-if recognition is not genuine recognition: the entities are, technically, *unrecognized*. In this case, we need an account of what relations are open to them (and to recognized entities in dealing with them). As we saw earlier, (III.2), however, if we claim that unrecognized entities should be permitted to form whatever relations best promote peace and justice, then the justice-based theory becomes equivalent to the pragmatic view;⁴⁸ and if we distinguish the relations that unrecognized entities are permitted to form from the ones they aren't on the basis of their military, economic, and political significance, then the international community is forced to choose between jeopardizing global peace and justice and compromising its credibility.

On the other interpretation, as-if recognition is genuine recognition, but recognition of a lesser sort. According to this view, as-if recognition is genuine, in that entities so recognized have all the rights and powers of statehood, or (for governments) the right to exercise those rights and powers. But it is lesser because it expresses no moral approval of the entity, whereas regular recognition does. The idea that motivates this suggestion is that the (regular) act of recognition ought to be construed as a symbolic expression of moral approval. Thus international officials

47 Presumably, the justice-based account is committed to something like the following. A political entity that meets minimum requirements for a sufficient period of time qualifies for state-recognition. But then, brief lapses in human rights protection do not automatically trigger derecognition of the state. Instead, they first trigger derecognition of the government as a step in that direction. Persistent failure to protect basic human rights, however, requires derecognition of the state. I maintain that this last condition is satisfied.

48 This is because, by hypothesis, the relations that best promote peace and justice are the ones that they would have if they were recognized, as the pragmatic view (by hypothesis) would recommend in these cases.

should tailor their statements and organize their ceremonies so that the act is understood as an expression of moral approval, the withholding of recognition is understood as disapproval, and as-if recognition is something in between.

But now we must distinguish two ways in which this might be done. One way is to detach (regular) recognition from the practice of conferring rights and powers under international law. We might have one type of practice — call it *legal* recognition — which does confer these rights and powers, but another type of practice — call it *symbolic* recognition — which expresses moral approval. The main problem with this suggestion is that it basically concedes what I have been arguing all along, which is that the justice-based account fails as a theory of legal recognition: what *grounds* the conferral of rights and powers is no longer the fact that an entity satisfies minimal standards of justice. Nothing prevents us, of course, from having a practice of symbolic recognition that runs simultaneously with a practice of legal recognition. But that would not obviate the pressing practical need for a theory of legal recognition.

In order to avoid conceding that the justice-based account fails as a theory of legal recognition, then, its defender must insist that it guide both our practice of conferring rights and powers under international law, and a practice of expressing moral approval — that it guide both legal and symbolic recognition. Its defender might then claim that, in addition to conferring certain rights and powers, there ought to be an important symbolic element to recognition, which only a justice-based account can justify. But as I have argued, if we embrace the justice-based account as a theory of legal recognition, the international community would endanger global peace and justice. So unless a defender of the justice-based account is prepared to deny that claim, the present proposal amounts to the view that, for symbolic reasons, we should uphold certain standards for recognition *even if it endangers global peace and justice*. But that view hardly seems plausible. However important morally symbolic behavior may be, surely it must yield if it endangers global peace and justice.

I conclude that all of the amendments to the justice-based account fail, either because they fail to distinguish the justice-based account from the pragmatic one, or because they force the international community once again to choose between jeopardizing global peace and justice and compromising its credibility. We may therefore justifiably reject the justice-based account in all of its forms, and turn our attention to the pragmatic one.

V The Main Objection to the Pragmatic Account

The pragmatic account, by contrast, candidly admits that, unfortunate as things are in the world, we must sometimes recognize unjust entities if we wish to make moral progress. If the pragmatic account is superior, then, it is only because it candidly admits what its rival obscures: that pragmatic considerations, not justice or minimal justice, determine which entities we should recognize.

Let's look more closely at what the pragmatic account claims. According to the pragmatic account, entities (taken now to include both states and governments) ought to be recognized if and only if doing so would best promote global peace and justice. This formulation, notice, is formal in two respects. First, it does not indicate the *specific* criteria for recognition that would best promote global peace and justice. Second, it does not indicate the *content* of global justice. These facts have enormous importance for properly understanding the pragmatic account of recognition.

For instance, the pragmatic account does *not* deny that normative criteria may be among the specific criteria for recognition that would best promote global peace and justice. All the pragmatic account claims is that such criteria are driven by our pragmatic need to recognize enough entities to make the pursuit of peace and justice efficacious; they can be raised or lowered to whatever level is necessary for satisfying that pragmatic need; and that this level is not necessarily identical with any plausible standard of minimal justice. The criteria, in short, lack independent weight, are inherently flexible, and are a mere consequence of decisions made on pragmatic grounds. They are not, in the sense specified earlier, objective.

Given that the pragmatic account may employ normative criteria for recognition, it would be a mistake to confuse it with the view that all entities, regardless of their moral quality, should be granted recognition automatically (automatic recognition), or with the view that states, in their foreign policy decisions, including decisions to grant recognition, should consult only their own interests (realpolitik). Nor is it likely that the pragmatic account would *entail* the rejection of normative criteria altogether. In order for that to be the case, it would have to be true that, by *completely* excluding normative criteria from our criteria for recognition, we would best promote global peace and justice — a claim that on its face seems highly problematic. Of course, the pragmatic account would reject making minimal justice our standard for recognition, since that would make our pursuit of global peace and justice inefficacious. But that does not preclude it from accepting a lower standard if that would best promote global peace and justice. From the fact that the pragmatic account may require us to recognize some unjust entities, it does not follow that it necessarily requires us to recognize all such entities.

The upshot is that the pragmatic account does not commit us to recognizing all entities regardless of their moral quality, including the very worst of the worst — like, say, the governments of Saddam Hussein and Robert Mugabe.⁴⁹ If anyone were to suggest that the pragmatic account does commit us to doing that, we would rightly demand proof. There would have to be *evidence* — compelling evidence — that the governments of Saddam Hussein and Robert Mugabe satisfy criteria for recognition that would best promote global peace and justice. It is not knowable a priori.

Just as the pragmatic account does not indicate the specific criteria for recognition that would best promote global peace and justice, neither does it indicate the content of global justice. The pragmatic account leaves that matter entirely open — to be determined by the best ideal theory of global justice. It does *not* assume that consequentialism is the best ideal theory of global justice — despite the consequentialist sound to its claim that entities ought to be recognized if and only if that would *best promote* global peace and justice.

Although the pragmatic account does not assume that consequentialism is the best ideal theory of justice, it might be thought that the pragmatic account is committed to it nonetheless. The reasoning might go like this. First, to say that entities ought to be recognized if and only if that would best promote global peace and justice seems to accept consequentialism as a *nonideal* theory — that is, the theory that tells us which steps taken in transition to the ideal are morally permissible (or required, or prohibited, as the case may be). Second, if we accept consequentialism as a nonideal theory, we must embrace it as the best ideal theory, since it would be implausible to combine consequentialism at the nonideal level with a deontological theory at the ideal level.

But the pragmatic account is not committed to accepting consequentialism as a nonideal theory either. Among many other deontological views, it can even accept the (strongest) view that there are some types of acts which it would be wrong to perform no matter what the consequences, and that we must not perform those acts in transitioning to the

49 Where to draw the line is itself a strategic decision resting on a balance of two considerations: (1) the extent to which conferring any benefits of recognition at all on unjust entities weakens incentives for moral progress (since an entity may be satisfied with those benefits and interested in no more); and (2) the extent to which conferring further benefits of recognition strengthens those incentives. I assume that the more unjust an entity is, the less interested it is in acquiring further benefits, and so at some point granting recognition to entities that are too unjust does not advance but hinders the pursuit of global peace and justice. For further discussion of how to balance these incentives, see my 'Recognition and Legitimacy: A Reply to Buchanan,' 252-3.

ideal. It would only deny that the act of granting recognition to an unjust entity is one of those acts.⁵⁰ I will say more about this in a moment.

The upshot is that, in order to reject the pragmatic account, it will not suffice to 'expose' it as being based on consequentialism — and then run the standard anti-consequentialist arguments up the flagpole. One can consistently accept the pragmatic account of recognition with a deontological view of global justice.

Now that we have looked more closely at the pragmatic account, let us consider the most serious objection to it. According to this objection, if we grant recognition to internally unjust entities, as the pragmatic account allows, then the international community would become an accomplice in injustice. This is because, when we grant recognition to such entities, we confer upon them the right to noninterference in their internal affairs, and thus support their ability to continue wielding unjust coercive power within their territories.⁵¹

However, if recognizing unjust entities necessarily makes us accomplices in their injustices, then this is equally an objection to the justice-based account. Clearly, this is the case with the amended versions, which explicitly do not make minimal justice a necessary condition for recognition. They too allow us to grant recognition to internally unjust entities. But ironically, it is also the case with the unamended version, which does make 'minimal justice' a necessary condition for recognition. The reason is this. As long as the possibility exists of a conflict between what the best theory of justice requires for minimal justice, and what the realities of international politics require for recognition, then as we saw earlier, the unamended justice-based account must lower its standard of 'minimal

50 There are other kinds of deontological view with which the pragmatic account is consistent. For instance, it is consistent with deontological views that require us to protect basic interests without requiring us to maximize value (a policy of recognizing some unjust entities may best protect basic interests even if it doesn't maximize value). Depending on how we are to frame and universalize maxims in (extremely) nonideal circumstances, it may even be consistent with deontological views that reach moral judgments by testing maxims. The only type of theory it is inconsistent with is the (in my view, oversimplified) deontological type which claims that some acts are wrong no matter what the consequences — and then only on the question-begging assumption that recognizing an unjust entity is one of those acts. Of course, *which* of these views (if any) the pragmatic account should accept depends on which of them is independently best justified. Nothing said here implies that the pragmatic account *must* accept the strongest (oversimplified) deontological view if indeed it is implausible.

51 See, for example, Allen Buchanan, 'Rule-governed Institutions versus Act-Consequentialism: A Rejoinder to Naticchia,' 264-7.

justice' beneath what the best theory of justice requires for that. Even the unamended justice-based account, then, licenses granting recognition to some unjust entities, despite *calling* them minimally just — a label that obscures that fact. So if recognizing unjust entities necessarily makes us accomplices in their injustices, then the justice-based and pragmatic accounts are partners in guilt.

Does recognizing unjust entities make us accomplices in their injustices, though? To become an accomplice in injustice, it seems, the international community would have to be doing something blameworthy. And it is far from obvious that the international community would be doing something blameworthy if it acted on those rules (or criteria) which experience has shown best promote peace and justice, relied on its best information in determining whether those rules were met, used its best efforts and resources in gathering that information, and exercised its best judgment in applying them — all of which the pragmatic account demands.⁵² This is a case where, by hypothesis, the international community is doing the best it can: self-deception, negligence, or malice is not involved. This is also a case where, by hypothesis, the alternative — demanding minimal justice according to the best theory of justice — would result in too few entities being recognized to make the pursuit of global peace and justice efficacious (in which case the injustices we want to remedy would remain). Although it may be a paradox, therefore, it does seem true: we do *not* become accomplices in injustice by granting recognition to some unjust entities.

Perhaps someone might protest that, even if we promote global justice *between* states by recognizing some unjust entities, we are still accomplices in the injustices that occur *within* the ones we recognize. But this claim rests on a false assumption. It assumes that the goal of global justice — at which the pragmatic account aims — refers solely to justice between states. There is no reason to construe global justice so narrowly, however. Surely global justice involves more than that: it involves justice within states as well as between them.⁵³ Thus when the international community acts on those rules which experience has shown best promote peace and justice, it is aiming to promote justice within states as well as between them. So long as it relies on its best information, uses its best efforts to gather that information, and exercises its best judgment in applying these

52 I am assuming that the pragmatic account need not use a case-by-case approach to granting recognition, and that it can and should use rules for that purpose if there are good pragmatic grounds for doing so (such as that decisions granting recognition would likely be more predictable, impartial, and easily reached).

53 Again, see the first paragraph of this article for this characterization of global justice.

rules — as long as it does the best it can, as the pragmatic account requires — then it does not appear to be doing anything blameworthy, in which case it is not an accomplice in injustice.⁵⁴

Furthermore, a theory of recognition is concerned (strictly speaking) with just one type of political act: the act of granting or withholding recognition. Political acts taken *pursuant* to granting recognition — the type and level of force used to help a country repel insurgents, for instance — are a separate matter, and involve different sorts of strategic and moral considerations. For example, assuming that the pragmatic account requires us to recognize both the state and government of, say, Colombia (which may or may not be the case), it follows that the government may enforce that state's right to noninterference, a right that the international community has a duty to support. It does not follow, however, that actions taken by the Colombian government in enforcing this right, or ones taken by members of the international community in fulfilling this duty, are exempt from moral considerations. In particular, it does not follow that the international community, or any individual members, must provide equipment, intelligence, and training to its military (or to specific units like the 18th Brigade or the 1st Air Combat Command) when it is with good reason believed that the aid will fall into the hands of right-wing paramilitaries known to commit atrocities against civilians, or contribute to an environment of impunity for reckless military behavior.⁵⁵ All that follows is that the Colombian government has a right under international law to resist the leftist guerillas who are battling it, and that it is not ineligible to receive international assistance in its efforts. Of course, once we grant recognition, questions about what actions (if any) to take pursuant to that open up which would otherwise be foreclosed, so the two are related. But they are in principle distinguishable, and it is the morality of granting recognition to unjust entities that is at issue here.

Nonetheless, one might accept these points yet press the following objection. Granted, the international community does not do anything

54 It would be mistaken to infer from this that the pragmatic account admits no moral constraints at all on the pursuit of peace and justice. Despite the fact that it regards peace and justice as *goals* to be pursued, it does not follow that any means whatsoever may be used to pursue them — that 'the ends justify the means.' Suppose, for instance, that the best theory of justice includes nonconsequentialist restrictions (or even rule-consequentialist ones) on the pursuit of the ends it takes to be valuable. In that case, there are such moral constraints — though they would apply to acts other than acts of granting recognition.

55 See 'Blood Spills to Keep Oil Wealth Flowing,' *Los Angeles Times* (Sept. 15, 2002), A1; and 'Cutoff of Aid a Sign to Bogota,' *Los Angeles Times* (Jan. 14, 2003), A1.

blameworthy when it recognizes unjust entities. Its desire to do justice, its commitment to using the best rules for promoting that, and its determination to exercise its best judgment in applying them are all admirable. These are dispositions that deserve praise. It would be wrong to blame the international community and its officials for having them. But from the fact that the act of blaming international officials would be wrong, it does not follow that the act of granting recognition to unjust entities itself is not wrong or unjust, for this may be a case of blameless wrongdoing. So while it may be too strong to claim that the international community is an *accomplice* in injustice (which suggests malevolent or criminal motivation), it still *commits* an injustice by recognizing unjust entities, even if its dispositions and motives deserve to be praised.

This objection seems to assume that it is always unjust to recognize unjust entities. Of course, if this assumption were analytically true, then it would be not just false but self-contradictory to deny it. But it would also beg the question against the pragmatic account, which does deny it. Here is an all-too-common counterexample. Suppose that an entity's practices fall below the threshold of what the best theory of justice regards as minimal justice (perhaps marginally so). Yet it justifiably feels besieged by rebels funded by a foreign power and based just across its border. As a result, it overreacts by taking, or tolerating, domestic security measures that violate basic human rights. Nonetheless, the international community judges that peace and justice in the region would likely improve if the threat would subside. It bases this judgment on extensive experience and its acquaintance with both the regime in power and the rebels. Its experience is summarized in the form of a rule. Its acquaintance with both the regime in power and the rebels justifiably leads international officials to believe that the situation falls under the rule. So the international community grants recognition to the entity, which opens up questions about what actions to take pursuant to that, questions that would otherwise be foreclosed. For example, it can now consider whether it ought to provide peacekeepers or other kinds of support in the justified expectation that the regime will make progress toward minimal justice as it becomes more secure from the outside threat. In addition, it now becomes eligible to participate in certain international processes, and this may contribute to trust-building. Does granting recognition in this type of case seem obviously unjust? I doubt it.⁵⁶ If anything, this type of case strongly suggests that the burden of

56 This is clearest in the case of consequentialist theories. But it is also consistent with many types of deontological view, for reasons explained earlier (see note 50).

proof should shift to the defender of the justice-based account to explain why it is always unjust to recognize unjust entities.

The pragmatic account, then, offers numerous advantages. It lets the best theory of justice rather than pragmatic considerations determine what counts as minimal justice. It enables the international community to avoid endangering global peace and justice, on the one hand, without compromising its credibility, on the other. It offers all of these advantages, moreover, without implicating the international community in injustice. For all of these reasons, therefore, we should embrace the pragmatic account and reject the justice-based one.

VI Philosophers, Politicians, and Diplomats

The weaknesses of the justice-based account, I would like to suggest, are symptomatic of a deeper mistake about the role that practical considerations should play in our theorizing about international recognition and justice. To see why, consider the case of domestic justice first. When we defend standards of domestic justice, it is common to insist that they must be *motivationally* practical: individuals must be capable of performing what they demand. There is room for disagreement over how strongly to interpret this requirement. We can interpret it weakly: standards meet this requirement if typical individuals can abide by them when compelled to by force. We can interpret it moderately: they meet it if typical individuals can freely accept them to guide their conduct. Or we can interpret it strongly: they meet it if they are likely to accept them given their current desires. Which of these interpretations we should embrace will depend on how much weight we ought to accord motivational practicality relative to other, more purely normative, values.

Consider John Rawls's defense of political liberalism, for example. 'The aim of justice as fairness,' Rawls writes, 'is practical: it presents itself as a conception of justice that may be shared by citizens as a basis of a reasoned, informed, and willing political agreement.'⁵⁷ Onora O'Neill interprets this as embracing the moderate view. Referring to Rawls's claims that his principles can be the focus of an overlapping consensus, O'Neill observes: 'The significant difference here is the ... willingness to abide by principles and standards which all *can* rather than *would* or *will* accept.'⁵⁸ This is more practical, admittedly, than defending standards

57 John Rawls, *Political Liberalism* (New York: Columbia University Press 1993), 9

58 Onora O'Neill, 'Political Liberalism and Public Reason: A Critical Notice of John Rawls, *Political Liberalism*,' *The Philosophical Review* 106, 3 (1997) 411-28, at 416

that individuals will accept only when compelled to by force, but less practical than defending ones they are likely to accept given their current desires. Nonetheless, it is the balance Rawls strikes given the weight he accords the more purely normative value of fairness. While we can argue over whether this represents the best understanding of motivational practicality, I suspect that what will not be disputed is that it is appropriate for standards of domestic justice to be motivationally practical in *some* sense.

However, when we defend standards of domestic justice, it is less common to insist that they must be *politically* practical: that those who advocate policies needed to satisfy them must stand a reasonable chance of succeeding. This is because it does not seem appropriate for us to alter what are otherwise defensible standards just to make them more palatable politically. It would be an outrage, for example, to suggest that justice does not require racial nondiscrimination simply because it might be politically unrealistic to try to achieve that goal.

When we shift attention from domestic justice to international recognition, we find a similar problem. On the justice-based account, recognition depends on minimal justice. But what it counts as minimal justice rests on what is politically, not motivationally, practical. In order for global peace and justice to be politically realistic goals, the justice-based account requires us to lower our standard of minimal justice to whatever level is needed to achieve them, lower than what the best theory of justice deems necessary for minimal justice — lower even than basic human rights.⁵⁹

It is always nice, of course, to have one's normative theories taken seriously by politicians and diplomats.⁶⁰ But as philosophers, we must also be willing to break bad news. In this case, the bad news is that, on any

59 To be sure, there is a slight difference in the two cases. In the domestic case, it is the politically unrealistic attempt to achieve the standard of domestic justice *itself* that is claimed to ground the alteration of the standard. In the international case, by contrast, it is the politically unrealistic attempt to achieve, not the standard of minimal justice itself, but *other* standards — global peace and justice — that is claimed to ground the alteration of the standard of minimal justice. Nonetheless, they share the central defect of compromising our standards of justice or minimal justice so as not to make some goal politically unrealistic. Even if we consider the amended justice-based account, where recognition does not depend on minimal justice but where facts about injustice still matter, the *way* in which such facts matter still rests solely on what is politically practical (as we saw in section IV). Such facts matter only insofar as they affect political strategy and do not carry the kind of independent weight that we would expect facts about injustice to possess.

60 See, for example, Buchanan, 'Recognition Legitimacy and the State System,' 55-6, where he suggests that a normative theory of recognition should not be 'too utopian,' lest it not be taken seriously or provide a useful guide for practice. He repeats this in *Justice, Legitimacy, and Self-Determination*, 268.

plausible standard of minimal justice, too few countries qualify for recognition (if we make minimal justice the standard for recognition) to make the pursuit of peace and justice efficacious. So if we want to make moral progress, unfortunately, we must recognize some unjust countries.⁶¹

I expect that many will want to resist this disappointing conclusion. After all, doesn't it seem morally *outrageous* for the international community to grant recognition to unjust countries, especially ones that systematically violate human rights? It is understandable that we want to condemn such countries in the strongest terms. Denying them recognition seems like an appropriate way to express our moral outrage — a way to make it *count*. If we recognize them, by contrast, it seems like we are being soft on injustice. But it is important here to remember that we don't need to invoke the concept of recognition to express our moral outrage. The concept of justice has room enough. We can continue to condemn systematic violators of human rights as strongly as anyone else can by invoking the concept of justice. Countries that commit systematic violations of human rights are *unjust*. The more serious their violations are, and the worse their abuse is, the more gravely unjust they are and the more strongly we, as philosophers, should condemn them. Nor are we being soft on injustice if we are doing our best to remedy it (as the pragmatic account demands). If anything, we are standing up for justice by insisting that its most basic and minimal commands not be altered to make them more palatable politically. If as philosophers we do not take up arms in the quest for justice, then the least we should do is stick to our guns.⁶²

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61 Alternatively, with the amended justice-based account, the bad news is that facts about injustice matter only insofar as they affect political strategy. They don't carry any deeper normative significance.

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Table 1. Middle East countries that fail the strong standard: supporting evidence.

The following are excerpts from the State Department Country Reports issued March 1, 2002 for the year 2001, which is indicative of the past decade. While there are inevitably variations in a country's human rights performance from year to year, on no occasions do they support a judgment that a country which failed the strong standard in 2001 passed it in one of these other years. Similar remarks apply to tables 2-4 and the weak standard: on only a few occasions do the variations support the judgment that a country that failed the weak standard in 2001 passed it in one of these other years. Even then, just as many support the judgment that a country which passed the weak standard in 2001 failed it in one of these other years. And since we are concerned with a country's overall performance in the past decade, the *overall* picture remains much the same.

Table 1	
<i>Algeria</i>	(2001) Sect 5: 'Women continue to face legal and social discrimination.'
<i>Bahrain</i>	(2001) Intro: 'discrimination based on sex, religion, and ethnicity remains a problem.' Sect 5: 'The Labor Law does not recognize the concept of equal pay for equal work, and women frequently are paid less than men.... [The] Sunni Muslim minority enjoys a favored status. Sunnis receive preference for employment in sensitive government positions and in the managerial ranks of the civil service.'
<i>Egypt</i>	(2001) Sect 5: '... aspects of the law and many traditional practices discriminate against women and Christians.'
<i>Israel</i>	(2001) Intro: 'The Government made little headway in reducing institutionalized legal and societal discrimination against Israel's Arab citizens, who constitute just over 20 percent of the population, but do not share fully the rights provided to, and obligations imposed on, the country's Jewish citizens' (but see end of this note).
<i>Jordan</i>	(2001) Sect 2c: 'religious converts from Islam face legal discrimination.... Druze face official discrimination ... Baha'is face both official and social discrimination.' Sect 5: 'Women, minorities, and others are treated differently under the law and face discrimination in employment, housing, and other areas.'
<i>Kuwait</i>	(2001) Sect 5: '... laws and regulations discriminate in some cases against women and noncitizens, who face widespread social, economic, and legal discrimination.'

Table 1 — continued	
<i>Morocco</i>	(2001) Sect 5: 'The Constitution provides for the equality of all citizens; however, non-Muslims and women face discrimination in the law and in traditional practice.'
<i>Oman</i>	(2001) Sect 5: 'societal and cultural discrimination based on gender, race, [and] religion ... exists.'
<i>Qatar</i>	(2001) Sect 5: 'institutional, cultural, and legal discrimination based on gender, race, [and] religion ... exists.'
<i>United Arab Emirates</i>	(2001) Sect 5: 'there is institutional and cultural discrimination based on sex, nationality, and religion.'

Israel's classification is based on its conduct outside the occupied territories in order to provide the interpretation of its political practices most favorable to the justice-based view. If we consider its conduct in the occupied territories, Israel fails both the weak and the strong standards. See E/CN.4/RES/2002/1 of 5 April 2002 indicating that The United Nations High Commission for Human Rights, Commission on Human Rights is '*Gravely concerned* at reports of gross, widespread and flagrant violations of human rights in the occupied Palestinian territory, in particular regarding the violation of the right to life, the arrest and detention of civilians, the restrictions on freedom of movement, the disruption of the delivery of humanitarian and medical assistance, the destruction of infrastructure, the restriction on the freedom of the media, the detention of human rights defenders, as well as the disproportionate and indiscriminate use of Israeli military force against the people of Palestine and its leadership.'

Table 2. Middle East countries that fail the weak standard: supporting evidence.

Unless otherwise indicated, the excerpts below are from the State Department Country Reports issued March 1, 2002. Since occasional human rights abuses (committed by a few rogue cops, say) do not seem sufficient for declaring a country to be a human rights violator, some judgment inevitably had to be exercised. Evidence that human rights abuses were frequent, widespread, or systematic was taken as sufficient for declaring a country to be a human rights violator. So, for example, evidence that extrajudicial killings, torture, or harsh interrogation methods, arbitrary arrest, or prolonged detention were widespread or occurred within an environment of impunity was taken to indicate that a country systematically violates the basic human right to personal security. (Similar remarks apply to tables 3 and 4.)

Table 2	
<i>Iran</i>	(2001) A/RES/56/171 of 26 February 2002, Sect. 3a and 3f: 'Expresses its concern.... At the continuing violations of human rights in the Islamic Republic of Iran; At the use of torture and other forms of cruel, inhuman and degrading punishment, in particular the practice of amputation and the growing number of cases of public flogging.'
<i>Iraq</i>	(2001) A/RES/56/174 of 27 February 2002, Sect. 3a: 'Strongly condemns.... The systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror.'
<i>Israel</i>	E/CN.4/RES/2002/1 of 5 April 2002 indicates that The United Nations High Commission for Human Rights, Commission on Human Rights is 'Gravely concerned at reports of gross, widespread and flagrant violations of human rights in the occupied Palestinian territory, in particular regarding the violation of the right to life, the arrest and detention of civilians, the restrictions on freedom of movement, the disruption of the delivery of humanitarian and medical assistance, the destruction of infrastructure, the restriction on the freedom of the media, the detention of human rights defenders, as well as the disproportionate and indiscriminate use of Israeli military force against the people of Palestine and its leadership.'
<i>Lebanon</i>	(2001) Sect 1c: 'Torture is not banned specifically by the Constitution, and there continued to be credible reports that security forces abused detainees and, in some instances, used torture. Human rights groups report that torture is a common practice. Violent abuse usually occurs during the preliminary investigations that are conducted at police stations or military installations,

Table 2 — continued	
<i>Lebanon</i> continued	where suspects are interrogated in the absence of an attorney.' Sect 1d: 'Security forces continued the practice of arbitrary detention and arrest.... In August security forces arrested, interrogated, and searched the homes of more than 100 citizens, predominately Christian supporters of exiled General Michel 'Awn, and jailed commander of the disbanded Lebanese Forces, Samir Ja'Ja'. Most of the arrests and searches took place without warrants, and those arrested claimed that they were not given access to lawyers.'
<i>Libya</i>	(2001) Intro: 'The Government's human rights record remained poor, and it continued to commit numerous serious abuses....' Sect 1c: 'Security personnel reportedly routinely torture prisoners during interrogations or for punishment.'
<i>Saudi Arabia</i>	(2001) Intro: 'The Government's human rights record remained generally poor in a number of areas.... Security forces continued to abuse detainees and prisoners, arbitrarily arrest and detain persons, and hold them in incommunicado detention. In addition there were allegations that security forces committed torture ... Prolonged detention without charge is a problem. Security forces committed such abuses, in contradiction to the law, but with the acquiescence of the Government. The Mutawwa'in [religious police, who constitute the Committee to Promote Virtue and Prevent Vice] continued to intimidate, abuse, and detain citizens and foreigners.' Sect 1c: 'there were credible reports that the authorities abused detainees, both citizens and foreigners. Ministry of Interior officials are responsible for most incidents of abuse of prisoners, including beatings, whippings, sleep deprivation, and at least three cases of drugging of foreign prisoners. In addition there were allegations of torture, including allegations of beatings with sticks, suspension from bars by handcuffs, and threats against family members. Torture and abuse are used to obtain required confessions from prisoners...The Government's past failure to criticize human rights abuses has contributed to the public perception that security forces may commit abuses with impunity.'
<i>Syria</i>	(2001) Intro: 'The branches of the security services operate independently of each other and outside the legal system. Their members commit serious human rights abuses.... Continuing serious abuses include the use of torture in detention; poor prison conditions; arbitrary arrest and detention; prolonged detention without trial.' Sect 1b: 'Despite inquiries by international human rights organizations and foreign governments, the Government offered little new information regarding the welfare and whereabouts of persons who have been held incommunicado for years or about whom no more is known other than the approximate date of their detention.' Sect 1c: 'In September Amnesty International published a report claiming that authorities at Tadmur Prison regularly torture prisoners, or force prisoners to torture one another.'

Table 2 — continued	
<i>Tunisia</i>	(2001) Sect 1c: 'In its annual report for 2000, Human Rights Watch stated that despite the reduction of incommunicado detention from 10 to 6 days, torture continued to be a problem, due to a climate of impunity "fostered by a judiciary that ignored evidence of torture and routinely convicted defendants on the basis of coerced confessions." In its March 2000 report on torture, the CNLT [a human rights NGO] stated that "torture continues to be practiced on a large scale" and affects not only political prisoners but common criminals as well.'
<i>Yemen</i>	(2001) Intro: 'Members of the security forces ... committed numerous, serious human rights abuses.... The Government usually failed to hold members of the security forces accountable for abuses.'

Table 3. African countries that pass the weak standard: supporting evidence.

The following are excerpts from the State Department Country Reports issued March 1, 2002:

Table 3	
<i>Botswana</i>	(2001) Sect. 1: 'There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.... There were no reports of politically motivated disappearances.... [In] general beatings and other forms of extreme physical abuse were rare.'
<i>Cape Verde</i>	(2001) Sect. 1: 'There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.... There were no reports of politically motivated disappearances ... there were credible reports that police continued to beat persons in custody and in detention' but no indication that such abuse was widespread or systematic.
<i>Djibouti</i>	(2001) Sect. 1: 'Security forces committed several extrajudicial killings.... There were no reports of politically motivated disappearances ... there continued to be credible reports that police and gendarmes beat, physically abused, and at times tortured prisoners and detainees.' This is a borderline case. The use of 'several' and 'at times' suggests that the abuses are not widespread or systematic. Further evidence seems to suggest that, while no corrective action has been taken in some specific previous cases, there is not an overall climate of impunity. On the other hand, there is language (in this and previous DOS reports) tending to suggest that there were more frequent abuses prior to 2001 combined with a climate of impunity. Applying the principle of charity, Djibouti passes the weak standard.
<i>Lesotho</i>	(2001) Intro: 'The Government generally respected many of the human rights of its citizens.' Sect 1: 'There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.... There were no reports of politically motivated disappearances.... The Constitution expressly prohibits such practices, and the Government generally respects these provisions; however, there were credible reports that the police at times used excessive force against detainees.' The use of 'at times' suggests that the abuse is not widespread or systematic.
<i>Mauritania</i>	(2001) Intro: 'Police used excessive force, beat, or otherwise abused detainees, and used arbitrary arrest and detention and illegal searches; however, reports of police abuses continued to decrease during the year. The Government failed to bring to justice most officials who committed abuses.' Sect. 1: 'In 1999 the Director of Security traveled to each region of the country to meet with police forces to inform their members that the Government would not tolerate the use of torture or undue force and that violators would be

Table 3 — continued	
<i>Mauritania</i> continued	prosecuted. These visits reportedly were successful. The Government has continued its in-service training of police and other security personnel, which has shown some positive results. Reports of the use of excessive force, requests for payoffs, or other abusive behavior decreased during the year, and some violators were sanctioned.' (While the quotation from the Intro tends to suggest that an environment of impunity exists, the quotation from Sect. 1 does not. Under the principle of charity, therefore, Mauritania passes the weak standard.)
<i>Mauritius</i>	(2001) Intro: 'The Government generally respected the human rights of its citizens.... There was at least one alleged extrajudicial killing by a government agent, and during the year judicial inquiries were ongoing in at least seven cases of deaths in police custody. There continued to be reports that police abused suspects and detainees and delayed suspects' access to defense counsel.' However, the government regularly investigates these (Sect. 1). (The ongoing judicial inquiries into deaths in police custody, and the small number of extrajudicial killings do not suggest that violations are systematic or that an environment of impunity exists.)
<i>Namibia</i>	(2001) Sect. 1: 'Members of the security forces committed several extrajudicial killings in the Kavango and Caprivi regions along the northern border, where fighting between FAA and UNITA forces spilled over into the country. At times security forces used excessive violence against citizens and Angolan civilians along the northern border of the country, and security forces involved in anti-UNITA operations killed a number of civilians during the year.... At times the Government took action against security forces responsible for deaths; however, in many other cases, the Government failed to take action against security force members responsible for killings.... Security forces and police beat and reportedly tortured several persons they held in custody.... At times security force members who committed abuses were arrested and tried in military courts or the civilian criminal justice system; however, in many other cases, the Government did not take any action against those responsible for abuses.' (This is a borderline case that could go either way. On the one hand, the use of 'several' to describe the extent of extrajudicial killings and torture suggests that such abuses are not widespread or systematic. On the other hand, the fact that the Government does not take action against the perpetrators in many cases may suggest that an environment of impunity exists and that therefore the abuses are more extensive. Applying the principle of charity, therefore, Namibia passes the weak standard.)

Table 3 — continued	
<i>Niger</i>	(2001) Sect. 1: 'There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.... There were no reports of politically motivated disappearances during the year ... police occasionally beat and otherwise abused persons. Unlike in the previous year, there reportedly were no incidents of torture by the military.' Sect. 5: 'In July the National Assembly outlawed FGM.' (The use of 'occasionally' suggests the abuses are not widespread or systematic.)
<i>Sao Tome and Principe</i>	(2001) Sect. 1: 'There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.... There were no reports of politically motivated disappearances.... The Constitution prohibits [torture and cruel punishment]', and there were no reports that government officials employed them ... Prison conditions were harsh but not life threatening.... The Constitution prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions.'
<i>Seychelles</i>	(2001) Sect. 1: 'There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.... There were no reports of politically motivated disappearances ... there were no reported instances of the use of torture by the security forces.'
<i>South Africa</i>	(2001) Sect. 1: 'Police use of lethal force during apprehensions resulted in numerous deaths, and deaths in police custody also remained a problem. The Government took action to investigate and punish some of those involved and to prevent future abuses.... There were no reports of politically motivated disappearances ... some members of the police beat, raped, tortured, and otherwise abused suspects and detainees. Some incidents of torture and ill-treatment by the police ... occurred during interrogation, arrest, detention, and searches of persons' homes. The ICD [Independent Complaints Directorate] reported 27 cases of torture and 18 cases of rape perpetrated by security forces between April 2000 and March; the Government investigated these allegations and prosecuted some offenders.' (This is a borderline case, depending on whether we think that an environment of impunity exists. Applying the principle of charity, South Africa passes the weak standard.)
<i>Swaziland</i>	(2001) Sect. 1: 'There were credible reports by criminal defendants that the security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties. Police sometimes beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate suspects through the use of a rubbery tube around the face and mouth. According to unofficial reports, police also still used the Kentucky method of interrogation in which the arms and legs of suspects are bent and tied together with rope or chain, then the person is beaten. The Government generally failed to prosecute or otherwise discipline police officers for such abuses. An internal complaints and discipline unit investigates reports of human rights abuses by the police, but

Table 3 — continued

<p><i>Swaziland</i> continued</p>	<p>no independent body has the authority to investigate police abuses. The Government prohibited the public release of findings from a Commissioner of Police investigation into allegations of police brutality during a November 2000 demonstration. Courts have invalidated confessions induced through physical abuse and have ruled in favor of citizens assaulted by police.⁷ (Although the general failure of the government to prosecute such abuses tends to suggest that an environment of impunity exists, the fact that investigations have occurred and that the courts have invalidated confessions tends in the other direction. Applying the principle of charity, therefore, Swaziland passes the weak standard.)</p>
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Table 4. African countries that fail the weak standard: supporting evidence.

Unless otherwise indicated, the following are excerpts from the State Department Country Reports issued March 1, 2002:

Table 4	
<i>Angola</i>	(2001) Intro: 'Members of the security forces committed extrajudicial killings, were responsible for disappearances, and tortured, beat, raped, and otherwise abused persons.... The Government routinely used arbitrary arrest and detention ... Although the Government made some efforts to discipline members of the security forces for abuses, the Government often did not prosecute nor punish those in the security forces who were responsible for abuses. Impunity was a serious problem.'
<i>Benin</i>	(2001) Intro: 'The most serious human rights problems continued to be the failure of police forces to curtail acts of vigilantism and mob justice.' Sect. 1a: 'As in the previous year, incidents of mob justice were reported by the media and other sources. Most often these were cases of mobs killing or severely injuring suspected criminals ... the Government apparently made no concerted attempt to investigate or prosecute anyone involved. In 1999 a vigilante leader, the self-styled "Colonel Devi," incited mobs to lynch more than 100 suspected criminals.... Although the number of such killings decreased during the year, reliable reports indicate that incidents of mob justice by Devi's followers persisted.... Individual incidents of mob justice continued to occur nationwide, and police most often ignored vigilante attacks.' Sect. 5: 'FGM ... is not illegal.'
<i>Burkina Faso</i>	(2001) Intro: 'The security forces were responsible for numerous extrajudicial killings and continued to abuse detainees ... a general climate of impunity for members of the security forces and members of the President's family, along with slow progress in identifying or punishing those responsible for abuses committed, continued to tarnish its record.'
<i>Burundi</i>	(2001) Intro: 'Security forces continued to commit numerous extrajudicial killings with impunity.'
<i>Cameroon</i>	(2001) Intro: 'Security forces committed numerous extrajudicial killings and were responsible for disappearances, some of which may have been motivated politically. They also tortured, beat, and otherwise abused detainees and prisoners, generally with impunity.'
<i>Central African Republic</i>	(2001) Sect. 1a: 'During and following the May 28 coup attempt, security forces committed with impunity numerous extrajudicial killings. Members of the security forces particularly targeted members of the Yakoma ethnic group.'

Table 4 — continued	
<i>Chad</i>	(2001) Intro: 'State security forces committed extrajudicial killings and disappearances, and they continued to torture, beat, and abuse persons.... Security forces continued to use arbitrary arrest and detention.... Although the Government detained and convicted some members of the its security forces implicated or accused of criminal acts, it rarely prosecuted or punished members of the security forces who committed human rights abuses.' Sect. 1: 'Impunity for those who commit human rights abuses remained widespread.'
<i>Comoros</i>	(2001) Sect. 2: 'Authorities restricted the right of Christians to practice their faith, and police regularly threatened and sometimes detained practicing Christians.'
<i>Democratic Republic of Congo</i>	(2001) S/RES/1355 (2001) Sect. A15: 'Condemns the massacres and atrocities committed in the territory of the Democratic Republic of the Congo, <i>demands</i> once again that all the parties to the conflict put an immediate end to violations of human rights and international humanitarian law, and <i>stresses</i> that those responsible will be held accountable.'
<i>Republic of Congo</i>	(2001) Sect. 1: 'Detainees held at police stations often were subjected to beatings, overcrowding, extortion, and other cruel, inhuman, or degrading treatment.... The Fundamental Act prohibits arbitrary arrest and detention; however, security forces frequently commit such acts.'
<i>Cote D'Ivoire</i>	(2001) Intro: 'Security forces committed numerous human rights abuses.... Members of the security forces committed more than 150 extrajudicial killings during the year, which was a significant decrease from in the previous year.... Security forces regularly beat detainees and prisoners to punish them or to extract confessions. Police routinely harassed and abused noncitizen Africans.'
<i>Equatorial Guinea</i>	(2001) Intro: 'The security forces committed numerous abuses, including torture, beating, and other physical abuse of prisoners and suspects.... Members of the security forces generally commit abuses with impunity.'
<i>Eritrea</i>	(2001) Sect. 2: 'the Government continued to harass, detain, and discriminate against members of the small community of Jehovah's Witnesses.' Sect. 5: 'Female genital mutilation (FGM) ... is widespread, with estimates placing the number of women and girls who have been subjected to FGM at 95 percent.... There is no law prohibiting FGM.'

Table 4 — continued	
<i>Ethiopia</i>	(2001) Sect. 1: 'The security forces committed a number of extrajudicial killings, including some alleged political killings during the year.' Sect. 5: 'The National Committee on Traditional Practices of Ethiopia (NCTPE) conducted a survey that was published in 1998, which indicated that 72.7 percent of the female population had undergone FGM.... The law does not specifically prohibit FGM.'
<i>Gabon</i>	(2001) Sect. 1: 'persons often were detained arbitrarily for long periods.... Members of the security forces frequently detained individuals at roadblocks. Although sometimes designed to locate illegal immigrants or criminals, the security forces generally used such operations to extort money.'
<i>Gambia</i>	(2001) Sect. 5: 'Reports placed the number of women who have undergone FGM at between 60 and 90 percent.... [FGM] is not considered a criminal act. In 1999 President Jammeh publicly stated that the Government would not ban FGM, and that FGM is a part of the country's culture.'
<i>Ghana</i>	(2001) DOS Intro: '[Although] there were significant improvements in several areas, serious problems remained in others.... There continued to be credible reports that members of the police beat suspects in custody and other citizens.... Police corruption was a problem. Although members of the security forces often are not punished for abuses, the commanding officer and other members of the 64th Infantry Unity, which is believed to commit many abuses, was transferred during the year.' Sect. 1: 'Public confidence in the police remains low.... It generally is believed that severe beatings of suspects in police custody occur throughout the country but largely go unreported.... Many persons died in prisons due to extremely harsh conditions and lack of medical treatment.'
<i>Guinea</i>	(2001) Intro: 'Serious human rights abuses include: Extrajudicial killings; disappearances; use of torture, beatings, and rape by police and military personnel; and police abuse of prisoners and detainees. Soldiers, police, and civilian militia groups killed, beat, and raped citizens, as well as refugees from Sierra Leone and Liberia. Security forces used arbitrary arrest and detention. Members of the security forces committed abuses with impunity.'
<i>Guinea-Bissau</i>	(2001) DOS Intro: 'Members of the security forces continued to use beatings, physical mistreatment, and other means to abuse persons.... The Government did not punish any members of the security forces for such abuses.' Sect. 1: 'Human rights observers noted repeated instances of police and members of the armed forces beating and abusing civilians for minor social or legal infractions.... Security and police authorities historically have employed abusive interrogation methods, usually in the form of severe beatings or deprivation. The Government rarely enforced provisions for punishment of abuses committed by security forces.' Sect. 5: 'Female genital

Table 4 — continued	
<i>Guinea-Bissau</i> continued	mutilation (FGM) ... is practiced widely within certain ethnic groups, especially the Fulas and the Mandinkas.... The Government has not outlawed the practice.'
<i>Kenya</i>	(2001) Intro: 'The Government's human rights record remained poor, and it continued to commit numerous, serious abuses.... Security forces, particularly the police, continued to commit extrajudicial killings, torture and beat detainees, use excessive force, rape, and otherwise abuse persons.... The Government arrested and prosecuted a number of police officers for abuses; however, most police who committed abuses were neither investigated nor punished.'
<i>Liberia</i>	(2001) Intro: 'The Government's human rights record remained poor, and there were numerous, serious abuses in many areas. The security forces committed many extrajudicial killings, and they were accused of disappearances of numerous persons. Security forces tortured, beat, and otherwise abused or humiliated citizens. The Government investigated some of the alleged abuses by the security forces; however, offenders rarely were charged or disciplined.'
<i>Madagascar</i>	(2001) Sect. 1: 'Prison conditions remain harsh and life threatening. Prisoners' diets are inadequate, and family members must augment daily rations. Prisoners without relatives nearby sometimes go for days without food. Prison cells average less than 1 square yard of space per inmate. The authorities do not provide adequate medical care. The prison population, which numbered 19,962 at year's end, suffers from medical problems that are treated rarely or inadequately. Malnutrition, infections, malaria, and tuberculosis are common among prisoners. These conditions have caused an unknown number of deaths.... Approximately two-thirds of 19,962 persons held in custody were in pretrial detention. Despite existing legal safeguards, investigative detention often exceeds 1 year, and 3 or 4 years' detention is common, even for crimes for which the maximum penalty may be 2 years or less. Approximately 2,000 detainees have been in custody for 5 or more years, and another 1,491 have been detained for between 2 and 5 years. Poor record keeping, a lack of resources, and poor to nonexistent access to parts of the country make it difficult to identify long-term pretrial detainees.' (Although minimally decent treatment of prisoners may not clearly be a component of the right to life, a 'gulag' style death camp would seem to violate it.)
<i>Malawi</i>	(2001) Sect. 1: 'Police often resort to beatings to obtain information deemed necessary to their cases.'

Table 4 — continued	
<i>Mali</i>	(2001) Sect. 5: 'According to domestic NGO's, approximately 95 percent of adult women have undergone FGM.... There are no laws against FGM, and the Government has not proposed legislation prohibiting FGM.'
<i>Mozambique</i>	(2001) Intro: 'Police continued to commit numerous abuses, including extrajudicial killings, excessive use of force, torture, and other abuses.'
<i>Nigeria</i>	(2001) Intro: 'The national police, army, and security forces committed extrajudicial killings and often used excessive force to quell several incidents of ethno-religious violence. In the year's most egregious case, army soldiers reportedly killed approximately 200 unarmed civilians and destroyed much of the town of Zaki Biam in Benue State in apparent retaliation for the killing of 19 soldiers. Army, police, and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners.'
<i>Rwanda</i>	(2001) Intro: 'The Government's poor human rights record worsened, and the Government continued to commit numerous, serious abuses.... The security forces committed extrajudicial killings within the country; there also were numerous, credible reports that RPA [Govt. army] units operating in the DRC [Democratic Republic of the Congo] committed deliberate extrajudicial killings and other serious abuses, and impunity remains a problem.'
<i>Senegal</i>	(2001) Intro: 'Government forces reportedly were responsible for extrajudicial killings, including some civilian deaths. Police tortured and beat suspects during questioning and arbitrarily arrested and detained persons. Prison conditions were poor. The Government infrequently tried or punished members of the military, gendarmerie, or police for human rights abuses.' Sect. 1: 'There are credible reports that police and gendarmes often beat suspects during questioning and pretrial detention, in spite of constitutional prohibitions against such treatment, and the problem remained a serious public concern.'
<i>Sierra Leone</i>	(2001) Sect. 1: 'There were numerous deaths in custody and prison during the year ... there were credible reports that [civil defense] forces operating on behalf of the Government beat and otherwise abused persons and the Government has not acted to curb these abuses or punish those responsible ... there were reports that [army] and [civil defense] forces manned roadblocks and bridges and routinely extorted large sums of money from travelers. Drivers often were subjected to abuse, including beatings, when they were unable to pay.' Sect. 5: 'Female genital mutilation (FGM) ... is practiced widely among all levels of society ... No law prohibits FGM.'

Table 4 — continued	
<i>Somalia</i>	(2001) Intro: 'The country's human rights situation is poor, and serious human rights abuses continued throughout the year.... Many civilian citizens were killed in factional fighting ... the nearly universal practice of female genital mutilation (FGM), continued ... Abuse and discrimination against ethnic and religious minorities in the various clan regions persists.' Sect. 5: 'In Somaliland FGM remains illegal under the Penal Code; however, the law is not enforced.'
<i>Sudan</i>	(2001) A/RES/56/175, Sect. 2: 'Expresses its deep concern.... At the impact of the ongoing armed conflict on the situation of human rights and its adverse effects on the civilian population.... The occurrence of cases of extrajudicial summary or arbitrary execution resulting from armed conflicts between members of the armed forces and their allies and armed insurgent groups within the country.... The occurrence, within the framework of the conflict in southern Sudan, of the use of children as soldiers and combatants, forced conscription, forced displacement, arbitrary detention, torture and ill-treatment of civilians as well as the still-unresolved cases of enforced or involuntary disappearances.'
<i>Tanzania</i>	(2001) Sect. 1: 'Members of the police killed several persons during the year and used excessive force to disperse demonstrations, which resulted in the deaths of numerous demonstrators and bystanders ... there were reports that police officers in Zanzibar tortured, and members of the police regularly threatened, mistreated, or occasionally beat suspected criminals during and after their apprehension and interrogation. Police also used the same means to obtain information about suspects from family members not in custody.... Police and security forces used beatings, tear gas, and other forms of physical abuse regularly to disperse large gatherings and as a form of public punishment. Although government officials usually criticize these practices, the Government seldom prosecutes police for these abuses ... credible reports indicated that police brutality, including beatings and rape, was widespread when the police used force to disperse political demonstrators.'
<i>Togo</i>	(2001) Intro: 'The Government's poor human rights record worsened during the year, and the Government committed numerous abuses.... The Government did not, in general, investigate or punish effectively those who committed abuses, nor did it prosecute those persons responsible for extrajudicial killings and disappearances in previous years.' Sect. 1: 'security forces often beat detainees after arresting them.... Impunity remains a problem, and the Government did not prosecute publicly any officials for these abuses.'
<i>Uganda</i>	(2001) Intro: 'The Government's human rights record was poor, and there continued to be numerous, serious problems.... Police ... regularly beat suspects and other persons, often to force confessions.'

Table 4 — continued	
<i>Zambia</i>	(2001) DOS Intro: 'Police officers ... frequently beat and otherwise abused criminal suspects and detainees. Police officers who commit such abuses often do so with impunity.... The lack of professionalism, investigatory skill, and discipline in the police force remained serious problems.'
<i>Zimbabwe</i>	(2001) Intro: 'The Government's very poor human rights record continued to worsen during the year, and it committed numerous, serious abuses. Security forces committed extrajudicial killings. A government-sanctioned, systematic campaign of violence targeting supporters and potential supporters of the opposition began in the run-up to parliamentary elections in 2000 and continued to intensify during the year. Ruling party supporters and war veterans, with material support from the Government, expanded their occupation of commercial farms, and in some cases killed, abducted, tortured, beat, abused, raped, and threatened farm owners, their workers, opposition party members, and other persons believed to be sympathetic to the opposition.'