

# Economics and Human Rights: A Pleasant Handshake

Tapan Choure<sup>1</sup> & Mysir Jeelani Kaloo<sup>2</sup>

## Abstract

*Human rights theorists and economists have tended to talk past, rather than to, each other, especially in the field of development. On one level this is to be expected. Human rights theory adopts a normative, deontological approach, while economists see their discipline as a positive science and are comfortable with its consequentialism. But a closer look at the relationship suggests more complementarities. Human rights theory can help provide a normative framework that avoids some of the pitfalls of welfare theory, and can help economists deal with issues of exploitation and power relations. These complementarities have increased in importance as the development discourse incorporates legal and political issues previously considered beyond the scope of economists and development practitioners.*

## Key words:

Human rights, economics, rights-based development

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<sup>1</sup> **Professor and Head, School of studies in Economics, Vikram University, Ujjain, Madhya Pradesh, India**

<sup>2</sup> **M.Phil. Research Scholar School of studies in Economics, Vikram University, Ujjain, Madhya Pradesh, India**

## Introduction

The relationship between the disciplines of human rights theory and economics is often awkward and at times openly hostile. Departing from contrasting conceptions of 'the good', mainstream economists and rights theorists have tended to talk past, rather than to, each other. Language also gets in the way, as each discipline has its own highly specialized, technical vocabulary. Disagreement over terminology extends to the meaning of the word 'development'. The majority of UN bodies have stated a commitment to a rights-based approach to development that defines progress in terms of the full fitment of social, political, economic, cultural and civil rights. Societies that do not create the conditions for their citizens to realize these rights cannot be said to be 'developed'. This is not a definition that most economists are prepared to sign up to. For them, development is measured in terms of people's command over goods and services, usually expressed as preferred commodity bundles. Whether their rights are violated or not is a political question that is at best tangential to their understanding of Development progress and at worst – following Bentham's famous characterization of the Rights of Man – 'nonsense on stilts' For example, we raises questions over the practical relevance of rights-based approaches to health and education in developing countries: Do these criticisms mean that a human rights approach to health care and education in developing countries is vague, impractical or self-defeating?

If rights are understood as binding constraints on government action, it is hard to avoid those conclusions. Governments in developing

countries cannot provide or assure adequate levels of healthcare and education. Given that the legal systems in most developing countries are inequitable and underdeveloped and that enforcement mechanisms are weak, allowing citizens to make legal claims of inadequate service provision will further politicise courts, weaken their capacity to adjudicate existing rights, and possibly increase government spending even where it is inequitable or inefficient.

Thus, for many economists, any attempt to posit and enforce a human right to basic services is either fanciful or counterproductive, or both. Human rights theorists counter that economists are too quick to hide behind the impracticality of realizing rights, particularly economic and social rights, when in many cases violations are primarily the result of explicit political decisions rather than resource scarcity or other physical or institutional limitations.

Despite these deeply rooted disagreements, human rights theory and economics do share some important things in common. As twin branches from the trunk of enlightenment thought, they share a commitment to the autonomy of the individual and a methodology that approaches social questions through the aggregation of individual circumstances. Whether the focus is on rights or preferences, the individual reigns supreme, with all the methodological advantages and disadvantages that this implies for the study of society. Economists recognise that the rational agents who motivate their microeconomic models could not freely

express their preferences without the prior realisation of at least some rights. That set includes property rights, the realisation of which, as with rights more generally, assumes the prior existence of the required legal infrastructure to establish and protect them. For their part, rights advocates know that individuals cannot realise their rights without access to a minimum level of income.

This paper argues that human rights theory and economics are not as incompatible as is often imagined. Although differences in approach do divide the two disciplines, there is an increasing awareness, at least among some theorists, that disagreements have often been overstated while insufficient attention has been paid to potential complementarities. Moreover, the absence of a constructive dialogue between rights based and economic approaches to development has devalued both and represents an obstacle to a fuller understanding of the development process. We argue that economists should broaden the array of rights considered essential to individual choice beyond property rights to include other essential human rights. Moving beyond property rights to incorporate other rights in the minimum institutional set-up for social choice would enable economists to address questions of exploitation and power relations that are assumed away in most welfare models. We further argue that those working on human rights need to broaden the array of tools at their disposal to analyze and understand economic and social situations that impinge upon the realization of rights.

## Concept

The human rights theorists that we refer to in this article include writers who either subscribe to a collection of ideas that ascribe rights to all people on the basis of their individual humanity, or are concerned with the application of human rights law, whether international, regional or national. Neither human rights theorists so defined nor welfare economists have arrived at a consensus on the proper scope, methods and analytical core of their respective disciplines. We need therefore to begin with a few key definitions. Human rights theory consists of two related branches. The **first is ethical or philosophical**, the **second legal**. While both have historical antecedents at least reaching back to the nineteenth century, and arguably considerably further back, the modern understanding of human rights is largely a construct of the twentieth century. The adoption of the language of human rights as the *lingua franca* of ethical consideration in international relations, and to an increasing extent in national policy-making and sociopolitical dialogue, is a relatively recent phenomenon. The decision of the founders of the United Nations to adopt a human rights framework to express the new organisation's economic, social and political agenda was an important milestone in the application of rights language to international affairs.

The ethical or philosophical branch of human rights theory is essentially a deontological moral theory which holds that actions and choices should be judged on the basis of their adherence to particular rules or norms, rather than their outcomes. Thus *Michael Sandel* notes that: In its moral sense, deontology opposes consequentialism; it describes a first order ethic containing certain categorical duties and prohibitions which take unqualified precedence over moral and practical

concerns. In its foundational sense, deontology opposes teleology of rights is so widespread and, some would say, so shrill that it sometimes seems to be all, in the popular mind, that ethics is about ... Rights talk ... is also a popular activity in international relations, where ... human rights have become part of the everyday language of diplomacy.’ which first principles are derived in a way that does not presuppose any final human purposes or ends, nor any determinate conception of the human good.

This presents an immediate contrast with the usual perspective of welfare economics, under which, according to one of its leading practitioners, ‘the violation or fulfilment of basic liberties or rights tends to be ignored ... not just because of its consequentialist focus, but particularly because of its “welfarism” whereby consequent states of affairs are judged exclusively by the utilities generated in the respective states’.

The ethical branch of human rights theory thus maintains that all human beings are endowed, as a result of their humanity, with a set of rights that imply obligations and duties in other people. This characteristic of focusing on obligations and duties is a core feature of a human rights perspective, sometimes viewed by critics as an over-eagerness to assign blame even when responsibility for a given state of affairs is collective or when for institutional or structural reasons responsibility cannot be apportioned to specific people or groups. Economists are quick to question attempts to hold individuals or even institutions accountable for the outcomes produced by the decentralized economic decisions of the market.

The second, **legal approach** to human rights forms a branch of public international law, including the standards of international human rights instruments such as unsponsored human rights law, or regional human rights law, as well as human rights related provisions of customary international law. These sit alongside the provisions of national legislation, much of which addresses human rights considerations laid out in international and regional human rights instruments through either direct incorporation or other expressions. Legal positivists contend that ‘human rights’ can only be understood as the rights prescribed by law, therefore rejecting the idea of the so-called ‘natural’ or ‘pre-legal’ rights. Ethical human rights theorists respond that the laws themselves are derived from each society’s ethical norms. At the very least, the two approaches do not appear to be entirely separate from one another conceptually, since the provisions of international human rights law are generally aligned with the ethical prescriptions of human rights theory.

Within the economics discipline, neoclassical welfare economics represents the dominant approach to the assessment of alternative public policies. The following propositions constitute the basic premises of welfare theory:

□□ **Welfarism:** Alternative policies should be assessed in relation to their impact on individual and aggregate utility, normally defined as the satisfaction of this view must be contrasted with two other positions. The first is the legal positivist position described below that sees those with duties arising from people’s rights to be exclusively states (governments) that have become liable for such duties as a consequence either of entering into treaties with other states or of

their obligations under customary international law. The second is the position held in some operational versions of the human rights-based approach to development in which those with duties (duty bearers) are identified as people who have the greatest potential to help others realise their rights. For example, the duty to ensure that a child's right to education is realised might be shared by the government, local education authorities, teachers and the child's parents' preferences. Welfarism is a narrower form of utilitarian consequentialism, in which utility is measured solely in terms of access to things of economic value.

□□ **Ordinal utility:** To avoid the methodological problem of measuring utility in an objective manner, welfare economists rely on rank orderings of personal preferences, generally consisting of alternative bundles of commodities. This implies that we cannot make interpersonal comparisons of utility.

□□ **Pareto criterion:** The basic choice rule in welfare economics is Pareto optimality, under which a policy change is to be preferred if it leaves at least one person better-off (more utility) and no one worse-off (less utility) than other possibilities.

□□ **Compensation:** Since most real world decisions involve losers as well as winners, welfare economists weaken the Pareto criterion to admit solutions under which winners could *hypothetically* compensate losers, leaving everyone at least as well-off as before the policy change.

□□ **Social welfare functions:** The compensation principle does not provide a choice procedure to differentiate among the many possible solutions that pass the weak Pareto test. Social welfare functions produce these rank orderings of possible outcomes, but only through the introduction of externally generated ethical criteria. For

example, the social welfare function could treat all individuals the same, or it could assign larger weights to the utility of the least well-off or some other group. Welfare economics is normative in the sense that it offers judgments as to which policies are best from society's perspective, but it can only do so when ethical principles are introduced exogenously – for example, the weights assigned to various groups in the social welfare function. Practitioners see the ethical agnosticism of welfare economics as a strength: whatever ultimate ends (and ethics) are chosen through the political process, society should still opt for policies that achieve these objectives as efficiently as possible. Yet the apparatus described above does implicitly favour certain ethical positions.

The Pareto criterion privileges the status quo, since it selects options that do not result in (uncompensated) losses. Economists' commitment to the principle that voluntary exchange will automatically generate socially optimal outcomes too often leads them to the unwarranted conclusion that existing arrangements must be optimal because they were arrived at voluntarily. Thus economists are poorly equipped theoretically to deal with issues of exploitation and domination. Like an example of the Factory Acts is instructive. Viewed from the Pareto perspective, limiting the working hours of children could be viewed as an inefficient institutional change, reducing national competitiveness and lowering the incomes of families with working children. Child workers who had not been compelled to work, except by economic necessity, could be said to be acting on their preferences, or perhaps the preferences of their parents.

A more radical change in ends would require a prior redistribution of assets, which would then lead to a different Pareto optimal solution. But welfare economics does not propose any ethical basis on which this redistribution should be carried out hours a day was uncivilised by some *a priori* standard, but clearly not one that had moved the public to action. A neoclassical welfare economist present at the time might have argued that the Factory Acts were just another instance of special interests manipulating the political system to reduce aggregate social welfare. Similarly, economists' reliance on revealed preferences as a measure of utility suggests a political libertarianism that sees no role for social norms and standards to condition individual behavior. Privileging preferences begs the question of how preferences are formed in the first place. Welfare economists operate from an atomistic and static view of preference formation, one that does not accord with our everyday experience of decision-making. Some people prefer not to wear seat-belts in automobiles, but society has good reason to regard this initial preference as illegitimate and over time, we can expect their habits and preferences to change, perhaps in response to peer pressure, new information or changing social norms. **Amartya Sen's** influential critique of welfarism is based on the potential for incompatibility between liberal rights and the Pareto criterion (*Sen, 1970*).

## Human rights, Economics and Development

Historically, development has been concerned primarily with economic growth. Social equity concerns came into the development discourse in the 1970s, and

human development in the 1990s. Yet development theory has largely remained the preserve of economists, and development economists have remained preoccupied with the problem of economic growth in poor countries.

Human rights as a discipline has concerned itself with the outcomes of development for some time. The 1948 Universal Declaration of Human Rights, which is not legally binding, sets out rights to food, shelter, education and the various other goods which are the agreed desirable outcomes of the development process. This is elaborated in the legally binding International Covenant on Economic, Social and Cultural Rights (1966) and further developed by the jurisprudence of the Committee on Economic, Social and Cultural Rights established under that treaty *inter alia*. More recently, particularly over the last decade, the links between human rights and development have become more prominent in the development discourse, with the emergence of a putative 'rights-based approach to development'<sup>8</sup> and at least the juxtaposition of human rights alongside development considerations in documents such as the Millennium Declaration. Conceptual approaches to the relationship between development and human rights vary, but two poles are discernible at the extremes of the debate. The first views human rights as an input into the development process.

This position, which is implicit in the approach adopted by the UN Development Assistance Committee of the Organisation for Economic Co-operation and Development, suggests that the protection of human rights has a positive economic impact. The second sees rights as an output, perhaps even an unintended output, of

development. From this perspective human rights can be seen as a luxury that citizens of better-off countries may enjoy as incomes rise, given appropriate, and largely contingent, political preconditions. The 'mutual reinforcement' view combines the two approaches, arguing that poverty generates conflict and human rights violations, but improvements in the human rights situation can pay off in the form of economic benefits. Both the input and output interpretations of the relationship between human rights and development are influenced by a narrow view of 'human rights' as consisting only of civil and political rights, such as the rights to freedom of speech and due process of law. Even where a broader set of rights, including those to health, education or food, is recognised, these are considered more as aspirational and less concrete or real than civil and political rights.

Who should be educated in which subjects for how long at what cost in taxpayers' money is a political question best settled at the ballot box ... no economic system known to man guarantees a proper job for everyone all the time: even the Soviet Union's much-boasted full employment was based on the principle 'they pretend to pay us and we pretend to work'. For example, the OECD recently published a report (OECD, 2006), reflecting the position that human rights is a contribution to development. Compare this with the World Bank's output approach: 'The World Bank believes that creating the conditions for the attainment of human rights is a central and irreducible goal of development'.

The view that the early stages of development are consistent with or even require authoritarian rule has a long pedigree

in political thought. See *Hirschman* (1977). This is one instance in which orthodox *Marxists* and mainstream economists share more similarities than differences. The pervasiveness of this partial understanding of human rights partly reflects the influence of the US government in shaping the international rights discourse, and the comparatively greater success of civil society movements and organisations concerned with these rights in comparison with advocates of economic, social and cultural rights. In a world accustomed to vast differences in wealth and life chances, political and civil rights have achieved an aura of universality – even as they remain unfulfilled for most of the earth's inhabitants – while social and cultural rights are seen as impractical at best and at worst a harking back to the failed project of state socialism. There is some truth in the perception that a human rights perspective, understood in terms of the entirety of human rights described in international human rights law, does indeed sit more comfortably with the views of the political and economic left than the political and economic right.

We recognise this, arguing that: Free markets are an economic analog to a political system of majority rule without minority rights. Like pure democracy, free markets sacrifice individuals and their rights to a 'higher' collective good. The welfare state, from this perspective, is a device to ensure that a minority that is disadvantaged in or deprived by markets is treated with minimum economic concern and respect. But even as these polar positions on the role of human rights in development have gained currency, the idea of development itself has begun to change. The persistence of poverty and exploitation and the increase in social inequality evident in some rapidly growing developing countries – and in high-income

countries like the United States – demonstrated that treating economic growth and development as synonymous risks. Similarly, the poor economic performance of some highly unequal societies and the rapid growth of the relatively equal East Asian countries suggested to some development specialists that the line of causality ran from social progress to growth, another version of the ‘input’ approach to rights that would conveniently obviate the need for a more fundamental rethinking of traditional approaches to economic development.

This view ultimately proved no more convincing than the conventional and converse assertion that the early stages of development required more rather than less inequality. More careful analysis has revealed the fragility of statistical relationships between equality and economic growth. Meanwhile, the East Asian financial crisis has taken some of the gloss off the only recently proclaimed ‘East Asian Miracle’, and rapid notes the early antipathy of the US government to economic and social rights in her account of the US delegation’s position at the San Francisco Conference of 1945 at which the Charter of the United Nations was signed: ‘The record of the United States at San Francisco was mixed. Although it eventually supported the effort to include human rights language in the charter, the United States delegation resisted attempts to include references to economic human rights and expressed concern over possible UN intrusion into domestic jurisdiction’. Economic growth in China has generated social inequality on the scale of Brazil or India. From the perspective of rights theory, to regard the social, economic and cultural rights of the International Covenant on Economic, Social and Cultural Rights as an input into or an

output of the growth process is to confuse the instrumental with the fundamental, and thereby trivialize rights. The human rights perspective on development requires more than a reordering of inputs and outputs or the substitution of a new growth model. The replacement of a commodities-based with a rights-based definition of development denotes a shift in values from the satisfaction of needs (or preferences) to the realisation of rights. In contrast to the consequentialist utilitarianism of welfare economics, rights theorists reject certain outcomes even if they make most people better-off. From the rights perspective, certain classes of rights deprivation are inadmissible under any circumstances. In effect, the rights-based approach delegitimizes social choices that deny rights to a minority in the hopes of generating growth for the majority.

Human rights theorists argue that responsibility towards growth does not release one from responsibility towards human rights. This proposed shift from needs satisfaction to rights realisation immediately raises a number of objections from neoclassical welfare economists. The fulfillment of economic, social and cultural rights is hard to imagine without the prior achievement of development outcomes such as poverty reduction. But unlike the growth-oriented approach, recognition of these rights does not specify the means through which the rights can be realised.

It merely states that responsible actors – in the ethical understanding all people and in the legal understanding States Parties to the relevant treaties – must do the best they can with the resources available to them. Hence the principle in human rights law of ‘progressive realisation’, which acknowledges that in the context of resource



constraints certain rights primarily from the sphere of economic, social or cultural rights cannot be realised immediately and must be realized. On rising inequality in China see General Comment 3 of the Committee on Economic, Social and Cultural Rights makes clear that the obligations under that Convention are more concrete than is sometimes supposed: ‘... the undertaking in article 2(1) ‘to take steps’... is not qualified or limited by other considerations. The full meaning of the phrase can also be gauged by noting some of the different language versions. In English the undertaking is ‘to take steps’, in French it is ‘to act’ and in Spanish it is ‘to adopt measures’.

Thus while the full realisation of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the states concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognised in the Covenant’. Committee on Economic, Social and Cultural Rights, General Comment No.3 (1990). Article 2 of the International Covenant on Economic Social and Cultural Rights (1966) states that ‘Each State’ to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to *achieving progressively the full realisation of the rights* recognised in the present Covenant by all appropriate means’ (emphasis added) progressively. Similarly, the obligations arising from these rights are for their progressive rather than immediate realisation: rights theory and law understands that there is little value in demanding that people or governments achieve the impossible.

Thus a State Party to the Convention on the Rights of the Child is not necessarily in breach of its treaty obligations because some children under its jurisdiction are not in school. The issue is rather whether or not the government is doing the most that it can, given the circumstances and resources at its disposal. Since extremely poor societies cannot realise every citizen’s human rights simply through redistribution, this approach implicitly suggests that growth is a prerequisite for the realisation of rights: states must promote economic growth to fulfill their duties to their people. Economists argue that rights advocates in this way smuggle the growth-oriented view back into the development discourse through the back door. Similarly, welfare economists ask if the shift from consequentialism to rights implies a shift from market to state. Neoclassical welfare economists insist on the separation of equity and efficiency concerns: competitive markets produce unique, efficient outcomes, but equity can only be achieved through the prior redistribution of assets, presumably by an all-powerful state. To the extent that the rights-based approach entails a redistribution of resources to the least well-off members of society, are human rights theorists of necessity proponents of Big Government and strong states?

Do these disagreements mean that economics and rights theory are incompatible in practice? To address this question we must ask whether each side of the debate has a proper understanding of what the other discipline brings to the table. After all, economists and protagonists of human rights are concerned with similar things, such as access to food, clothing, housing, health and education. Economists start from the recognition of the ‘concerns of

all individuals to have these things’, while human rights protagonists start from ‘a concern that all individuals should have them’.

## Human Rights and the Economic Model

Human rights theory is deontological, meaning that it assesses choices with respect to rules and norms rather than results. In its simplest expression, a rights statement has the form ‘A has the right to B against C because of D’. The most common terminology used is that A is the rights holder, B the object of the right, C the duty-bearer and D the justification. There are various different justifications, or ‘Ds’, in different schools of human rights theory, but they tend to generate fairly similar lists of ‘Bs’ or objects.

These justifications share the premise that rights are inherent to the human person, that we are born ‘free and equal in dignity and in rights’. From the perspective of human rights law, ‘D’ is reduced to ‘because it is prescribed in human rights law’, making the Two of the more common are choice theory and benefit theory, which John Simmons describes as follows: ‘Choice theories claim that the point of rights is to protect the control or autonomy of the individual within an area of life; rightholders are those who may choose how they and others are to act. By contrast, the “benefit theory” of rights (or “interest theory”) claims that the purpose of rights is to confer on individuals certain benefits (or to promote their interests); rightholders are the beneficiaries (or direct, intended beneficiaries; or justifiable beneficiaries) of

others duties’. From the 1948 **Universal Declaration of Human Rights** list of ‘Bs’ identical to the rights laid out in human rights instruments, and the ‘As’ the individuals covered by those instruments. For example, in UN-sponsored human rights law rights holders are individuals under the jurisdiction of States Parties to that law. ‘Cs’ are generally government authorities or institutions in the case of UN-sponsored human rights law. In standard models of a rights-based approach to development, the list of ‘Cs’ (duty-bearers) goes beyond the state, identifying key actors with a duty arising from particular individuals’ rights. In standard human rights theories the list of ‘Cs’ is necessarily all other human beings with relevant agency.

In contrast to the consequentialism of welfare economics, the rights of human rights theory and law are not contingent on the outcomes arrived at by their application. On the contrary, rights cannot be overridden on the basis of an argument about their consequences. That human rights advocates would like to see children in school, the sick provided with medical care and everyone enjoying adequate shelter does not mean that all who share those concerns are, conversely, automatically human rights advocates between State and people, to do so not only violates the idea that people are equal in rights, but also allows a ‘calculus’ of human. This is slightly complicated in that the instruments of human rights law are technically multilateral treaties whereby parties to that treaty make promises to one another, not to people under their jurisdiction. None the less, the common understanding is that by ratifying an instrument of human rights law a state recognises the duties it has to all or a subset of human beings under its jurisdiction. Rights, whereby the rights of a minority can

be sacrificed to achieve enjoyment of the rights of a majority. Thus ranking by its nature undermines the rights framework by making rights either contingent on logically prior principles or subject to a calculus that allows them to be overridden by 'greater good' arguments.

If one considers recent historical experience of the Great Depression of the 1930s when the UN Charter was framed infused with the language of human rights, the attraction of a human rights framework with its central characteristic of 'non-ranking' is clear. Constructs such as John Rawls' second principle of justice suggest ways in which inequality of outcomes between people could be incorporated into a rights-compatible normative model, but this is not the same as endorsing inequalities with respect to rights. Economists, by way of contrast, reject prior reference to rules and norms in favour of rank orderings of market or social outcomes. The value attached to any situation can only be measured relative to the existing situation, and then only in terms of marginal improvements in the ability of individuals to satisfy their preferences. In the extreme, an economist would have no basis on which to differentiate between an additional 500 calories of energy obtained by a starving child or an overweight adult. Reference to an objective 'social welfare function' (for example, a *Rawlsian* maximum rule) can steer us away from such obvious absurdities, but such solutions must be introduced as an overrides individuals' preferences (or is not 'Pareto optimal' in the language of welfare economics). It is legitimate to propose that all good things should be available to everyone at all times, but given that they are not, and are unlikely to be soon, economists justifiably ask for rules that establish priorities for action. Economists' social-

welfare functions rank outcomes according to their relative success in satisfying individual preferences. The human rights objection to the consequentialism of welfare economics is that some actions are inherently wrong even if they result in a desirable outcome. A consequentialist would struggle to explain why use of rape as a weapon of war is ethically wrong if it ultimately speeds the conclusion of the war itself and thus a reduction in the overall amount of human suffering.

The human rights advocate accepts the inconvenience of a theory which fails to resolve all or even the majority of possible dilemmas in exchange for not being forced into conclusions that are intuitively morally abhorrent. Yet this leaves human rights theorists open to the criticism levied by economists that they do not have a methodological vehicle to resolve trade-offs. Some economists and human rights theorists conclude on the basis of these differences that the two perspectives are simply incompatible. Yet this conclusion may be premature. The above comparison of the strengths and weaknesses of the two approaches suggests that, when confronted with real life choices, we intuitively seek to reconcile these perspectives. Although we seek the reassurance of conformity with *a priori* moral principles, we also appreciate the necessity of a metric that allows us to make choices between competing options. *Harvey* describes this struggle with regard to employment, noting that.

*Rawls'* second principle of justice states that inequalities should 'work out to everyone's advantage. Affirmation of an individual right to work is an uncomfortable principle for either economists or the public to embrace if the real goal of public policy is the maintenance of unemployment at a high

enough level to keep inflation in check. At the same time, it is not easy to deny the right to work outright. The harms suffered by the unemployed are too great to countenance an express denial of the right. The result is a certain evasiveness in public policy discussions concerning the ultimate goal of employment policy ... Efforts to reduce unemployment are universally applauded, but securing the right to work is rarely mentioned as a policy goal ... this conflict between majoritarian public preferences for policies that use unemployment to combat inflation and government obligations to strive to secure the right to work constitutes a real-world example of a ... problem [that] arises from the possibility that utility-maximisation and human rights protection may conflict with one another as public policy goals . One important characteristic of this qualitative difference, as has been stated above, is that economics portrays itself as a positive science, whereas the human rights perspective is fundamentally normative. Even welfare economics, as the more normative branch of the discipline, does not claim more than an intention to choose the most efficient option, given an ethical framework imported from the political system. Pareto optimality is a weak choice criterion that is irrelevant to most real world cases, even with the introduction of the principle of hypothetical compensation. Economics may see itself as the science of social choice, but it voluntarily limits itself to the mechanics of choice rather than its normative content.

Thus, neoclassical welfare economists are most comfortable advocating policies on efficiency grounds, for example policies intended to bring the economy closer to a competitive equilibrium and hence Pareto optimality.

The only normative justification for these policies to be found within welfare economics is of the input kind: that is, universal access to healthcare and education is efficient because healthy, better educated workers are more productive. But this is surely to trivialize rights that we consider central to our conception of a civilised society. Welfare economics says nothing about whether people being unhappy, having limited capacities or having their rights denied are good or bad things, or whether good or bad things are best defined in terms of unhappiness, capabilities or rights. Thus, the only rights that fit easily into the framework of welfare economics are property rights, which are considered essential to the achievement of a competitive equilibrium and Pareto optimality. The absence of well-specified property rights – for example, to clean air and water – is considered a market imperfection, to be contrasted with the mythical perfect market (alas, found only in economics textbooks). Property The First Theorem of Welfare Economics states that by assuming perfect markets any competitive equilibrium solution is Pareto optimal. Rights are therefore an essential input into the economic decision-making process. As we have already seen, economists who adopt an input view of rights may also see restrictions on the freedom of speech or the right to education as conducive to growth and development. But these rights are not as fundamental to the theory as property rights, which are its *sine qua non* of utility maximisation.

The emphasis of economic theory on property rights to the exclusion of other rights is logically consistent, but does not accord with the historical experience of the development of capitalism. This is not to say that the development of the market economy

always requires civil and political – let alone social – rights, a proposition that anyone vaguely familiar with conditions in the developing and post-communist world would reject on empirical grounds. But the theoretical proposition that slavery, arbitrary arrest, restrictions on mobility, starvation and illiteracy do not undermine the social, political and legal bases of the market economy departs from a particularly blinkered understanding of the development of capitalism.

This leads to an important conclusion about the nature of the two disciplines. Human rights is concerned with the principles by which different choices are assessed, while economics is concerned with assessing choices according to specified principles. Just as measuring how tall someone is requires a standard (such as a centimetre) and a measuring tool (like a tape measure), does the business of choice-making require both a normative framework like human rights and an analytical framework such as economics? If so, are the human rights and economics perspectives actually complementary rather than incompatible?

## **The pursuit of Human Rights and the practice of Economics**

One consequence of the insertion of human rights considerations into the development space is the entry of human rights specialists into national development planning, a domain that has traditionally been dominated by economists. This was a departure from the previous division of labour whereby human rights practitioners occupied themselves with laws and the legislative processes and structures, while

economists worked on national development plans and their associated expenditure frameworks. It also reflected, in some quarters, a general unease among human rights proponents and activists about the whole construct of development and its association with governments of which they were at best mistrustful and institutions with which they were frequently disappointed.

Russia's mortality crisis during the transition to capitalism is a brutal example of the erosion of social results accompanying the development of a market economy (see Chen et al., 1996). Joseph Stiglitz refers to this emphasis on property rights as the 'property myth': 'Perhaps no myth in economics has held such sway as that which I will refer to as the property myth. This myth holds that all that one has to do is correctly assign property rights, and economic efficiency is assured. How property rights are assigned makes no difference, except for the distribution of welfare, and if one is dissatisfied with that, one can easily remedy the matter, by lump-sum transfers. The myth is a dangerous one because it has misled many of the countries engaged in transition to focus on property rights issues, on privatisation, rather than a broader set of issues'.

Consider Slim's conclusion on the implications of the proper realisation of a rights-based approach: 'Then, finally perhaps, we could also do away with the very word "development". The common struggle for human rights and social justice would at last bring the end of the era of development. We could begin to in many countries, the national development plan is the principal policy framework for development, usually understood narrowly as economic development. But plans have increasingly encompassed legislative

changes, as recognition has grown of the importance of the rule of law to institution-building and economic progress. Legislation is no longer just a tool for addressing 'new' problems identified by the rights approach, such as corporal punishment in schools, but also an important prerequisite to the realisation of economic development plans.

In some areas, economists must yield to rights advocates because they lack a suitable framework of their own. For example, exploitative child labour might be growth-promoting, but most people consider it wrong, regardless of its economic consequences. In the pursuit of economic growth, the existence of corporal punishment in schools might be simply irrelevant. A human rights perspective offers different insights or an additional, missing element. Many of these missing elements come from the realisation that welfare economics has devised ever more elaborate methods to address the single and at times not particularly relevant issue of the efficiency of resource allocation.

The occasional complaint by human rights activists, protesting against the privations or consequences of a particular economic policy, that economists are somehow immoral misses the mark. Instead, economics is inherently amoral, equally applicable to the most progressive or exploitative policies. Since morality is a necessary component of public policy (electorates, national constituencies and, one hopes, policy-makers are never ethically neutral), the juxtaposition of a human rights perspective with an economic perspective provides an essential additional dimension. There are a number of examples that demonstrate both these complementarily and the paucity of economic concepts, as contributions to policy lack an

accompanying normative framework of the type provided by human rights theory and law.

## Conclusion

The human rights and economics perspectives are similar in many ways. Both adopt the individual as the unit of analysis. Both human rights advocates and economists want to see children in school and people healthy and well-fed and free to choose how to live their lives to the greatest extent possible. At the same time, there are fundamental differences. A human rights perspective is normative, while economics is a positive science. The economics perspective is inherently consequentialist and concerned with outcomes, while the human rights perspective is deontological and concerned with principles that remain important regardless of their consequences, and that cannot be discarded because of calculations suggesting that they may lead to sub-optimal or inefficient outcomes.

It is rare for practitioners of either discipline to take much interest in the other, and as a result misconceptions abound. Some human rights practitioners presume that economists have no care for the ethical consequences of their policies; they bemoan the lack of concern for the negative consequences of growth or for those left behind in the pursuit of growth. Some economists see the human rights perspective as little more than a wish-list, with no practical benefit and certainly no relevance to the important business of choice-making. This lack of shared understanding and common conceptual framework is particularly unfortunate in the field of

development. Neither economists nor human rights practitioners can honestly claim to have arrived at a thorough understanding of the complex interactions between the moral and material aspects of development. Economists, having struggled to explain development failures solely in economic terms, increasingly refer to the political and legal preconditions for growth. Yet, in the absence of a normative framework, the tendency to treat politics instrumentally can generate perverse outcomes. Meanwhile, rights theorists should not be tempted to use the principle of progressive realisation as a 'get-out-of-jail card' that excuses them from difficult choices between consumption today and investment for tomorrow, or between equally plausible rights claims.

We have suggested that human rights cannot function on its own as a policy tool because it is by its nature not good at dealing with choices and outcomes. We have also suggested that economics cannot serve as a framework for policy choices because it lacks a means by which to apply

our values and beliefs about how human beings should be treated. Economists' faith that socially optimal outcomes will arise spontaneously from voluntary exchange too often leads to the unwarranted conclusion that existing situations are both optimal and a product of people's voluntary choices. Thus, each discipline inherently addresses and responds to the shortcomings of the other. Each makes the other useful: a human rights perspective directs the tools of economics in a direction that aligns them with the principles we share and which are articulated in international law; economic understanding and tools empower those who believe in human rights to pursue their realisation more effectively. The eighth Millennium Development Goal calls upon the world to 'develop a global partnership for development'. The relationship between the economics and human rights perspectives is surely not just a contribution to, but even a prerequisite for, exactly that. So, we look forward for a pleasant handshake between Economic Theory and Human Rights.

## References:

1. Atkinson, A. B. and Brandolini, A. (2006) 'On Data: A Case Study of the Evolution of Income Inequality Across Time and Across Countries', *Cambridge Journal of Economics*, advanced access, <http://cje.oxfordjournals.org/cgi/reprint/bel013v1>.
2. Bentham, J. (2001) *The Works of Jeremy Bentham*. Vol. 2. Boston, MA: Adamant Media.
3. Cohen, G. A. (1981) 'Freedom, Justice and Capitalism', *New Left Review* 126 (March- April): 3-16.
4. Donnelly, Jack (2007) 'The Relative Universality of Human Rights', *Human Rights Quarterly* 29 (2)
5. Donnelly, Jack (2003) *Universal Human Rights in Theory and Practice*. Ithaca, NY: Cornell University Press.
6. Harvey, Philip (2002) 'Human Rights and Economic Policy Discourse: Taking Economic and Social Rights Seriously', *Columbia Human Rights Law Review* 33:
7. Hirschman, Albert (1977) *The Passions and the Interests*. Princeton, NJ: Princeton University Press.
8. Rawls, John (1971) *A Theory of Justice*. Cambridge, MA: Harvard University Press.

9. Sandel, Michael J. (1998) *Liberalism and The Limits of Justice*. Second edn. Cambridge: Cambridge University Press.
10. Sen, Amartya (1985) 'Rationality and Social Choice', *American Economic Review* 85 (1): 1-24.
11. Sen, Amartya (1970) 'The Impossibility of a Paretian Liberal', *Journal of Political Economy* 78 (1)
12. World Bank (1993) *The East Asian Miracle: Economic Growth and Public Policy*. Washington, DC: World Bank Occasional Paper series.

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