

Global Poverty, Human Rights and Development

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PhD in Philosophy

I, Douglas Edward Reeve confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

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Abstract

This thesis examines how effectively political philosophy contributes to solving the world's biggest problems. It does this by considering one such problem – global poverty – and exploring the two major initiatives of the last seventy years - the Human Rights Approach and the Human Development Approach. It finds that both approaches have merit thanks in part to important philosophical input. However, it also concludes that progress has been disappointing and considers apparent gaps in both disciplines and possibilities for closure. It concludes that philosophers may have missed an important factor in overlooking the work of social scientists on cultural values. These values might explain why many developed countries fail to meet their transnational duties to developing countries. Put simply, we might make more progress on global poverty by focussing on the values of rich countries. The thesis concludes with proposals to reclaim and extend the scope of political philosophy to better equip it for the challenge of addressing society's biggest issues.

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Introduction

How well does political philosophy deal with the big issues? Is our contemporary approach able to withstand Marx' challenge¹, "The philosophers have only interpreted the world, in various ways; the point is to change it"? This thesis attempts to answer these questions by examining philosophical responses to one of the biggest problems facing the world today, that of global poverty. This blight on society has been widely recognised, for longer than many similar problems such as climate change and the threat of global pandemics. Consequently there exists a substantial body of philosophical work to consider. The focus is threefold: to evaluate how political philosophy has responded to global poverty, to identify opportunities for further progress, and to suggest how the role of political philosophers in general might evolve in the light of recent developments. This investigation concentrates on the two major approaches of recent years aimed at, amongst other objectives, reducing global poverty - the Human Rights Approach and the Human Development Approach.

Both approaches will be examined, with criticisms and justifications explored in some detail. The commonality and differences will become apparent. What emerges in both cases is a picture of hard-fought but ultimately disappointing progress shaped by considerable collaboration, often at arms-length, involving philosophers, lawyers, economists and others. Many of the crucial steps in that progress are apparent only in relatively obscure historical details. It is as if both approaches have developed as games for 'insiders'. The practical details are not fully displayed for the wider public to whom they apply. Fortunately, others have done valuable groundwork in researching these details and this investigation recognises and makes grateful use of their efforts.

The contribution of philosophers to both selected approaches since the 1940s is fascinating. From direct involvement in the drafting of the Universal Declaration of Human Rights, through staunch criticism of its key elements, to breakthrough concepts triggered by such criticisms. And, from constructive reaction to over-emphasis on

¹ Karl Marx "Theses on Feuerbach." Written in 1845 and published as an appendix to Ludwig Feuerbach and the End of Classical German Philosophy in 1888

economic development, through the promotion of basic needs and capabilities, to Human Development Reports and the Millennium Development Goals, the Human Rights Approach and Human Development Approach have both benefitted from substantial philosophical input. Sections 1 and 2 of this study present and assess the key milestones.

And yet, the problem of poverty seems undiminished. Progress has been made on many fronts, including dramatic reductions of poverty in some countries, and the measurement of many key factors, but the scale of the problem is still unacceptable. Section 3, overviews the available measurements and diagnoses the apparent gaps that might explain the continuing problem, with particular emphasis on cultural values that might explain disappointing country level behaviour.

The final Section turns to the work of leading social scientists to consider their potential contribution to the challenge of poverty. It seems that the major philosophical initiatives have overlooked the social science views on human development, cultural values and societal evolution. Evidence from that discipline throws light on seemingly important constraints to practical progress, insights without which philosophers may be severely handicapped in their efforts. Closer collaboration with social scientists is suggested as one key to accelerating progress on global poverty.

The thesis closes with recommendations for re-examining the role of political philosophy. Just as a multi-disciplined collaboration was key to early progress on the human rights and human development approaches, so it would seem invaluable to ongoing philosophical efforts to reduce poverty, respond to the biggest global issues, and change the world for the better. These proposals might at first seem to constitute a drift away from philosophy into sociology, but they are better understood as a reclaiming, or rebalancing of the role of political philosophy, returning its scope to that recognised in earlier periods.

Thesis Outline

Section 1 Human Rights Approach to Poverty

This section explores the Human Rights Approach to Poverty (HRA). Chapter 1 covers the background and drafting of the Universal Declaration of Human Rights and identifies the role played by philosophy and philosophers, together with that of politicians, diplomats and lawyers. It reveals the significance of Roosevelt's 'four freedoms', with its strong influence on both the institutional structure and human rights content. A critical aspect, viewed as essential by the drafters, and frequently overlooked, is the interdependence of the various rights.

Chapter 2 traces the development of Economic, Social and Cultural Rights (ESCRs) through four phases. Phase 1 covers the difficulties faced in drafting the ICESCR (International Covenant on ESCRs), including the separation of ESCRs from the Civil and Political Rights (CPRs) contained in the ICCPR. Phase 2 deals with leading criticisms of ESCRs and the response of Henry Shue based on the correlative duties of basic rights. Phase 3 addresses the tripartite typologies built on Shue's initiative and the Limburg Principles that seek the effective closure of loopholes, in line with the drafters' intentions. It also includes the work of the relatively recently formed Committee on Economic, Social and Cultural Rights, before the final phase wraps up the latest developments. It emerges that the HRA is a multi-discipline effort - philosophers, lawyers and politicians all playing crucial roles, that culminates in the General Comments published over the last 10 years, albeit to a specialist audience.

Chapter 3 explores the most frequently voiced criticisms of the rights approach. Details revealed in earlier chapters prove crucial in the response to many of these criticisms, and a justification of the whole approach is offered based on views presented by Charles Beitz. The section concludes that the standard criticisms can be adequately addressed, but that some of the responses depend upon the small print in obscure UN documentation, as well as the building blocks already mentioned. It also notes that the developed form of some ESCR duties have gelled only in the last decade suggesting it may be too soon to expect significant effects.

Section 2 Human Development Approach to Poverty

The Human Development Approach (HDA) is the second major initiative aimed at reducing the problem of global poverty. Chapter 4 illustrates the complex and sometimes-difficult evolution of human development, highlighting the ‘Western’ focus on economic growth, and reactive forces calling for broader measures. The record suggests the contribution of political philosophy has been important, but perhaps less significant during the early years, than might be presumed. The development approach seems driven by economists, and only latterly philosophers, in contrast with the HRA, driven as it was from the outset by lawyers and political philosophers. This apparent separation of the technical silos dealing with rights and development has itself attracted criticism.

Chapter 5 examines the role of the Capability Approach (CA) within the HDA. It explores the capability theories of Amartya Sen and Martha Nussbaum, and highlights some distinguishing features and criticisms. Both Sen and Nussbaum justify their separate approaches through extended reflection and public debate over more than twenty years. The overlap between both versions of CA and the HRA is explored with the extent somewhat disputed. The contribution of the CA to the Millennium Development Goals is noted along with the arguably disappointing progress.

Chapter 6 explores various initiatives to extend and apply the CA to the problem of global poverty. It starts by examining efforts to better understand and address poverty in practice. It suggests that effective techniques exist, based on Jonathan Wolff and Avner De-Shalit’s ‘fertile functionings’ and ‘corrosive disadvantage’, subject to adequate government commitment. The second part takes up the issue of values and their influence on the application of the CA, particularly their influence on government commitment. The final part examines various proposals regarding the role of institutions, including recommendations from Séverine Deneulin to ‘thicken’ Sen’s CA, suggestions from Nussbaum to strengthen national constitutions, and a pitch from Des Gasper to overcome gaps in duties by backing the CA into the HRA. What seems missing is a clear assignment and acceptance of duties, with associated mechanisms for ensuring accountability.

Section 3 Progress and Diagnosis

The first part of this section deals with measurements of development, poverty and inequality. It is taken as given that global poverty is a problem of serious scale. Few statistics are offered emphasising how bad the world is. Instead Chapter 7 explores who is measuring, what is being measured, and how the measurements have evolved. It notes, again, that the timeframes for improvement may be greater than we would ideally wish, partly because of the recent origins of some initiatives. Nevertheless, given the HRA and HDA's seventy years of gestation, the results are sufficiently disappointing to suggest that neither approach is working satisfactorily.

Chapter 8 explores the reasons for the poor progress. Contributing factors frequently cited include Official Development Assistance (ODA) shortfalls, dysfunctional aid, globalisation, trade barriers, wars, global financial crisis, exceptionalism, US imperialism, and corruption. It is emphasised that both the HRA and the HDA suffer from shortfalls in the performance of duties by developed countries, particularly with regard to ODA and maintenance of the global basic structure. Poor accountability of developed countries' governments is suggested as a major cause. That accountability being due in part to the low *awareness* of voting publics regarding the obligations and commitments of their governments. However, it also suggests that developed countries' *cultural values* may explain the failure of citizens to hold their governments to account over their international responsibilities. Questions are raised about the role of political philosophers in addressing the shortfalls in public awareness and cultural values.

Section 4 Reframing the Approach to Global Poverty

The final section turns to the subject of cultural values, as surveyed and analysed by social scientists, to better understand its relevance to global poverty initiatives. Chapter 9 examines the findings of Shalom Schwartz, Geert Hofstede and Ronald Inglehart, and suggests political philosophers working on human rights and development, despite its apparent relevance, have overlooked this body of work. Evidence suggests that cultural values are stable, nationally distinct and result from complex evolutionary paths. Emancipative values (prioritisation for agency, political action and effective

democracy) emerge in a post-industrial phase of social development and, contra Sen, cannot be presumed before that stage.

Chapter 10 considers the implications of social scientists' values theories for poverty in both poor and rich countries. The problems of poverty reduction are not limited to:

- The fact that clarification of some ESCR duties is still ongoing, as reported in Ch4
- The absence of clearly assigned and accepted of HDA duties, with associated mechanisms for ensuring accountability, as suggested in Ch6,
- Poor government accountability due to the low *awareness* of voting publics regarding the commitments and obligations (HRA and HDA) of their governments, as suggested in Ch8.

It confirms that cultural values also play a crucial role, particularly in developed countries, as suggested in Chapters 6 and 8, and expanded upon in Ch9. The results from values surveys prompt a switching of focus from (a) public awareness to value development, and (b) from developing countries to developed countries - particularly the US. The failure of both the HRA and the HDA with respect to global poverty seems due not so much to theoretical shortcomings within either approach as presented, nor to their practical implementation, but to a shortfall in scope - both approaches overlook a crucial element of the problem, the factors that motivate governmental behaviour. A major problem appears to be the values currently held in rich countries, and the challenge is to find ways of accelerating cultural value development.

Chapter 11 concludes with proposals to *reclaim* and *extend* the role of political philosophy in response to the gaps identified in existing approaches to global poverty. The *reclaiming* can be viewed as a return to an earlier view of philosophy's (arguably multi-disciplined) scope, but now equipped with the resources of more recently established academic disciplines. The *extension* of the role signifies a move from normative prescriptions towards full and effective solutions. Together these recommendations represent the basis for a comprehensive response to Marx' challenge. The implication of these proposals for the problem of global poverty is briefly explored. The chapter closes with the proposals for a re-balanced political philosophy being defended against charges of paternalism and duty dumping.

Progress on global poverty owes much to cross-discipline collaboration, but the future requires even greater networking with disciplines such as political science. For political philosophy to be effective in addressing society's big issues it needs to look beyond the contribution of institutions to the factors that motivate individual and collective behaviour. It needs a return to a broader scope of enquiry.

Section 1 Human Rights Approach to Poverty

The Human Rights Approach is, I maintain, one of the two major initiatives of recent years aimed at reducing the enormous problem of global poverty, the other being Human Development which is addressed in Section 2. The continuing fact of global poverty, which is defined and quantified later, is apparent to all and implies that neither initiative has been completely successful to-date. Understanding the reasons for that apparent failure is crucial to improving future efforts.

The HRA appears to suffer from three problems:

1. It faces numerous criticisms concerning the nature, content and applicability of the rights proposed;
2. Philosophers dispute whether or not the overall approach can be justified;
3. The efficacy of the approach is in serious doubt.

This Section will eventually argue that the standard criticisms of human rights can be addressed and that whilst most forms of justification fall short, an adequate justification is available. Later chapters will confirm that the approach to-date has been insufficiently effective and offer reasons that differ from the standard criticisms together with possible remedies. However, in order to fully consider the standard criticisms and justifications in this Section, and the incremental criticisms proposed in later chapters, it will be helpful to establish some groundwork covering the nature of rights and human rights, and in particular, the origins of our contemporary conception of human rights. Chapter 1 deals with the origins, Chapter 2 explores the subsequent developments in contemporary human rights, and Chapter 3 addresses standard criticisms and justifications.

Chapter 1 Understanding Human Right

The origins of human rights are explored here to identify the contribution of philosophy and philosophers amongst the many influences that shaped our current interpretation. It will become apparent that human rights derive from considerable reflection and a determined effort to avoid undue influence from any particular philosophy. The detailed drafting process is included not because of its historical interest, fascinating though it is, but to facilitate responses to criticism considered later.

1.1 Where do human rights come from?

One can imagine many answers to this question, but Cass Sunstein provides a helpful starting point, “in practice, rights are a product of concrete historical experiences with wrongs.”¹ This suggests that by studying the historical background we might gain an insight into the nature of rights. However, it might also be read to imply that rights have existed all along, and that historical wrongs merely catalyse their formalisation. This deeper question of the possible foundations of rights is considered in Chapter 3. The aim of this chapter is to provide important background for such later enquiries by summarising the historical ‘wrongs’ and the process that led to the emergence of broadly recognised human rights.² Important elements of that process and the repeated themes of universalism and global basic structure are included here, some of which are overlooked or underestimated by critics.

¹ Sunstein (2004) pp35-36

² When I talk of human rights I will generally mean human rights derived from the Universal Declaration of Human Rights (UDHR) or its related covenants and conventions. Broader conceptions of the term will usually be apparent from the context.

1.1.1 The Corner Stone

Two key events of the twentieth century stand out as major drivers in the move towards the Universal Declaration of Human Rights: the Great Depression of the 1930s and World War II.

The Great Depression was not just another financial downturn or even the bursting of the latest bubble. It brought financial disaster to millions:

- US unemployment soared from 3% in 1929 to 25% in 1932. The figure reached 20% in the UK (The UK had endured a continuous depression since the end of the Great War), 30% in Germany, and 33% in some countries.
- Industrial production fell worldwide, farm prices dropped dramatically and international trade shrunk by more than half.
- Family incomes in the US declined from \$50.8 billion in 1929 to \$29.3 billion in 1933.
- Thousands of banks went out of business, and many depositors lost all their savings.
- The US social security system was unable to provide benefits to 75% of those eligible for assistance.
- US suicide rates rose 24% between 1929 and 1932.³

The causes of the Depression are still debated by economists, as are the factors responsible for the eventual recovery. However, the actions taken Franklin D. Roosevelt, collectively known as the New Deal, were presented at the time as the positive response to these hardships.

The New Deal was in fact a number of separate programs introduced somewhat experimentally. The common theme was of greater government regulation, something approaching a planned economy. Whatever the assessment of Roosevelt's economic experiments it is clear that he was responding to what he saw as great wrongs. Wrongs of deprivation and hunger, as implied by the Depression statistics quoted above, but also wrongs of inequality and discrimination, and wrongs against women.

³ U.S. Great Depression data from Sunstein (2004) pp36-40, other countries' data from Wikipedia, http://en.wikipedia.org/wiki/Great_Depression, accessed 22/3/12.

However, it is not the New Deal that plays the key role in the emergence of human rights but Roosevelt's 'Four Freedoms' introduced in his State of the Union Address to the Congress in January 1941. It is possible to see this as a response to the economic problems of the world, but also as a reflection on the causes of the War, which America had not yet entered.

Roosevelt's 1941 speech called for further actions building on the New Deal to meet the public's expectations on employment and security. He also argued against isolationism recognizing that domestic progress and security is inevitably tied to events overseas. He closed with his famous invocation of four essential freedoms that everyone in the world should enjoy:

The first is freedom of speech and expression -- everywhere in the world.

The second is freedom of every person to worship God in his own way -- everywhere in the world.

The third is freedom from want, which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants -- everywhere in the world.

The fourth is freedom from fear, which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor -- anywhere in the world.⁴

This complete excerpt from his speech gives a better understanding than the summary view often presented – freedom of speech and religion, and freedom from want and fear, and more clearly points to its subsequent application in the development of human rights. The *universalism* of Roosevelt's view is expressed by his repeated use of the term 'everywhere (anywhere) in the world'. The importance of the *global basic structure* is conveyed in his statement that 'economic understandings will secure to every nation ...'. These influences remain important throughout the development of the HRA.

⁴ <http://americanrhetoric.com/speeches/fdrthefourfreedoms.htm>, accessed 22/3/12.

The inclusion of incremental social rights might have arisen from a suggestion by Roosevelt's uncle Franklin Delano in August 1939. Delano was in charge of the National Public Resources Board, one of Roosevelt's New Deal 'experiments', which submitted a draft second bill of rights to Roosevelt in June 1941. The draft containing the following rights was eventually presented to a sceptical Congress in March 1943, and although never approved its contents provide substance on Roosevelt's thinking about freedoms from fear and want:

- The right to work, usefully and creatively through the productive years;
- The right to fair play, adequate to command the necessities and amenities of life in exchange for work, ideas, thrift, and other socially valuable service;
- The right to adequate food, clothing, shelter, and medical care;
- The right to security, with freedom from fear of old age, want, dependency, sickness, unemployment, and accident;
- The right to live in a system of free enterprise, free from compulsory labor, irresponsible state power, arbitrary public authority, and unregulated monopolies;
- The right to come and go, to speak or to be silent, free from the spyings of secret political police;
- The right to equality before the law, with equal access to justice in fact;
- The right to education, for work, for citizenship, and for personal growth and happiness; and
- The right to rest, recreation, and adventure, the opportunity to enjoy life and to take part in advancing civilization.⁵

1.1.2. Charting the Future

If the Great Depression was the trigger for Roosevelt's four freedoms then the Second World War was the catalyst for taking those ideas global. Although not yet at war (Japan attacked in December 1941) the US was already providing considerable support to the UK and allies when Roosevelt met Winston Churchill in August 1941.

The agreements reached, later titled the Atlantic Charter, added to the freedoms from want and fear the intention to lower trade barriers and to establish global economic

⁵ This extract and the historical references to the second Bill of Rights from Sunstein (2004) pp84-87

cooperation and the advancement of social welfare. Roosevelt was clearly building on both the four freedoms and his draft second bill of rights. Churchill, was perhaps less interested in applying these values to all citizens globally, given his continuing belief in colonial empire. Churchill was, however, aware of the importance of drawing the US into the conflict on the Allies side, and might have been expected to go along with any reasonable request from Roosevelt. Their agreement, however sincerely felt, initiated a stream of events that would have great bearing on the rights and welfare of the peoples of the world for generations to come.

In January 1942, leaders of twenty-six countries met in Washington (the Arcadia Conference) and agreed the United Nations Declaration, pledging to uphold the contents of the Atlantic Charter. This would form the basis of the modern United Nations.

In July 1944, forty-four nations met at Bretton Woods and, responding to the Atlantic Charter, agreed to establish the IMF (International Monetary Fund), the IBRD (International Bank for Reconstruction and Development - part of the World Bank), and GATT (General Agreement on Tariffs and Trade, a treaty, now absorbed within the World Trade Organization, WTO).

In August-October 1944, representatives from China, the Soviet Union and the UK joined those from the US at the Dumbarton Oaks Conference (Washington) to discuss and agree on the formation of the United Nations, including an Economic and Social Council (ECOSOC) alongside a General Assembly, Security Council, and International Court of Justice. Disagreements arose on the proposal to include references to 'human rights' in the agreement. The British representative was against on the grounds that there was no agreement on what constituted human rights. The Soviet representative was against on the grounds that human rights were not germane to the main task of an international security organization. So right from this early stage there were evident disputes about the nature and content of human rights and about their position relative to other important values. However, it was eventually agreed to include a limited reference to human rights in a section detailing the responsibilities of the ECOSOC.⁶

In June 1945, the Charter of the United Nations was signed in San Francisco by 50 of

⁶ Robert C. Hilderbrand (1990) *Dumbarton Oaks: The Origins of the United Nations and the Search for Postwar Security*, p92

the 51 original members (Poland was not present at the conference but signed the Charter later), including a chapter on economic and social cooperation. Chapter X provides for the formation of the Economic and Social Council and Article 55 (Chapter IX), specifically mentions the necessity of the principles of equal rights and self-determination of peoples in promoting:

- higher standards of living, full employment, and conditions of economic and social progress and development;
- solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.⁷

Once again the controversial reference to human rights appears under the ECOSOC responsibilities, but also in the Preamble, indicating its greater acceptance and growing importance, and significantly, the continuing support of President Truman, who had succeeded the recently deceased Roosevelt:

We the peoples of the United Nations determined ...

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,⁸

But perhaps most significant of all was the requirement in Article 68 to establish a human rights commission:

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

⁷ Charter of the United Nations, accessed 22/3/12 at <http://www.un.org/en/documents/charter/chapter9.shtml>

⁸ Ibid

1.1.3. From UN Charter to Universal Declaration.

The Commission on Human Rights was formed in December 1946 during the first meeting of the Economic and Social Council. Eighteen countries were appointed to participate in drafting the Declaration on Human Rights, those being:

Australia, Belgium, Byelorussian Soviet Socialist Republic, Chile, China, Egypt, France, India, Iran, Lebanon, Panama, Philippine Republic, Ukraine, United Kingdom, United States of America, Union of Soviet Socialist Republics, Uruguay, and Yugoslavia.⁹

The timeframe for introducing broad international undertakings was to prove very short. The initial, somewhat guarded, collective goodwill/tolerance of the post war period was quickly dissolving in the face of alarming events. The start of the Cold War with the Berlin blockade and the Iron Curtain, the British withdrawal from Palestine, the partition of India, the Maoist revolution in China, the Korea problem, all contributed to steadily worsening relations between the major powers. The window of opportunity for any meaningful agreements would soon close for an extended period.

Drafting Stage 1 – First Session of the Commission¹⁰

The Commission gathered in January 1947, at Lake Success, NY and elected Eleanor Roosevelt as its chairman. Peng-chun Chang, the Chinese delegate was elected Vice-Chairman, and Charles Malik, the Lebanese delegate was elected Rapporteur (secretary).

Eleanor Roosevelt, the wife of the now deceased President Roosevelt, and a formidable public figure in her own right highly regarded as an advocate of racial equality, women's rights and humanitarian causes in general, had been chosen by President Truman as a US representative largely due to the respect that would come attached with the Roosevelt name. Following her performance on the UN's Third Committee on Social, Humanitarian, and Cultural Affairs¹¹, she had been invited to join the newly

⁹ Morsink overlooks Ukraine from his list, (1999) p4

¹⁰ I adopt Morsink's categorization to avoid any confusion in cross-referencing.

¹¹ One of seven main UN committees formed to address specific matters, as reported by Glendon (2002) p28

ECOSOC's "nuclear" commission charged with recommending the structure and functions of the mandated Commission on Human Rights. She was subsequently to chair the group before representing the US on the full Commission. Her leadership skills were to prove crucial to the successful launching of the Universal Declaration of Human Rights, not least in maintaining a forum for the philosophical debate to develop.

Peng-chun Chang was a philosopher, educator, playwright, musician and literary critic before becoming a full-time diplomat. His philosophical training covered Western, Islamic and Eastern thought, and he earned his doctorate under John Dewey at Columbia University.

Charles Habib Malik, the second philosopher in this core group, had a Greek Orthodox background and grew up learning French, English and Arabic. He studied mathematics and physics at Beirut University before studying philosophy of science under Alfred North Whitehead, at Harvard, and Martin Heidegger at Freiburg University.

Issues of political philosophy dominated the initial discussions, in particular whether the state was for the benefit of the human person or vice versa. It quickly became apparent that eighteen was too many to draft a discussion document and it was delegated to the three officers of the Commission and the Secretariat (Roosevelt, Chang, Malik and Humphrey).

John P. Humphrey, a Canadian fluent in French and English, was a law professor from McGill University well grounded in both civil and common law before being recruited to lead the Human Rights Division of the UN's Secretariat in 1946.

The first meeting of this sub-group proved difficult with Chang and Malik unable to agree on principles. Malik seemed determined to invoke the philosophy of Thomas Aquinas and Chang was determined to avoid an excessively western orientation.¹² By-passing the impasse, it was decided that Humphrey should prepare a first draft.

Humphrey had already started gathering constitutions and rights instruments from all corners of the globe. His approach was to include practically all the relevant ideas contained in this comprehensive survey. The economic and social rights thereby

¹² Glendon (2002) p47, quoting from Humphrey *Human Rights* p29

included would need convincing arguments to be removed. This process added to the universalism of the early draft bill of rights, as it was then termed.¹³ Key contributions to Humphrey's draft include so-called first generation political and civil rights contained in British, French and American documents from the seventeenth and eighteenth centuries, such as protections for life, liberty, and property, and freedoms of speech, religion and assembly. Also included were second generation economic and social rights derived from the nineteenth and twentieth century constitutions of Sweden, Norway, the Soviet Union, and several Latin American countries, such as the rights to work, education and basic subsistence,¹⁴ Humphrey drew heavily on two contemporary declarations, lifting many sections almost verbatim. The first was the draft of a Pan American declaration which itself drew extensively on elements from European and Anglo-American traditions, and included lists of both rights and duties. The other was a draft prepared by a group sponsored by the American Law Institute that had consulted with experts from "Arabic, British, Canadian, Chinese, French, pre-Nazi German, Italian, Indian, Latin American, Polish, Soviet Russian and Spanish" countries and cultures.¹⁵ In total Humphrey's compendium of rights contained 46 articles.

Meanwhile various parties were agitating for inclusion in the drafting group and Roosevelt invited additional representatives from Australia, Chile, France, the United Kingdom, and the Soviet Union. Of these, René Cassin, the French delegate, was to play the most significant role.

Cassin enjoyed an Orthodox Jewish upbringing and served in the French army during the First World War, before becoming a professor of civil law. At the outbreak of the Second World War, Cassin fled to England and eventually becoming chief legal advisor to General Charles De Gaulle. In this capacity Cassin demonstrated an ability to craft legal documentation that provided much needed support to the Free French movement and, after the war, to re-establish French administrative and judicial systems.¹⁶

¹³ A point made by Morsink (1999), p6

¹⁴ Listing of sources provided by Glendon (2002) at p 57-58, and by Morsink (1999) at page 6.

¹⁵ Glendon (2002) p57, quoting "Statement of Essential Human Rights," in American Law Institute, *Seventy-Fifth Anniversary 1923-1998* (Philadelphia: American Law Institute, 1998), p269

¹⁶ Glendon (2002) pp61-63

Drafting Stage 2 – First Session of the Drafting Committee.

The group of eight met in June 1947 to discuss Humphrey's draft and other documents.

The Australian representative demanded to know what 'philosophy' lay behind Humphrey's document and was surprised to hear the draft was merely a collection of views from all corners and involved no underlying philosophy.¹⁷ The Russian participant identified several articles to do with civil freedoms that he saw as a threat to the principle of national sovereignty. The UK's delegate advocated a legally binding covenant and complained that the Humphrey draft was too comprehensive with many provisions, mainly those involving social welfare, that do not lend themselves to legal enforcement. Roosevelt's response was to favour a two-step approach with a broad declaration followed by binding conventions on key topics. Her position was seemingly influenced by a concern that President Truman would struggle to get Senate approval for a legally binding convention. These issues surrounding underlying philosophy, the limits of sovereignty, and legal enforcement would remain of concern throughout the drafting process and beyond.

Responding to the sovereignty question Cassin pointed out that one of their principal objectives was to prevent a recurrence of the abuses of absolute sovereignty committed by Nazi Germany on its own citizens. Getting the balance right on this issue was obviously going to be extremely difficult.

After much haggling the group decided to follow a twin path working on both a declaration and a covenant, and split itself into two groups of four. The declaration group, consisting of Cassin, Malik, Roosevelt and Wilson, the UK representative, quickly decided that one person drafting would be more efficient than four and passed the buck to Cassin. This was perhaps fortunate, if not well conceived, for Cassin was the most qualified legislative draftsman of all the eighteen original delegates to the Commission.

Cassin's main contribution was to bring structure to the compendium of articles prepared by Humphrey. The idea was to provide a plan and a Preamble that would guide a reader through the detail. Cassin's Preamble included statements about the equal

¹⁷ Ibid p58

rights of all persons and suggested concepts of man and society that were neither excessively individualist or collectivist.¹⁸ The following articles on individual rights were organized in groups that reflected the sequence of principles mentioned in the Preamble. The result was a draft that was more easily understood as a whole.

In parallel with the drafting committee's work UNESCO (United Nations Educational, Scientific and Cultural Organization) had formed a philosophers' committee to explore the issue of human rights from all conceivable cultural settings. They collected and reviewed numerous inputs and found considerable consensus on a number of rights. They also noted that most Asian and some European respondents had stressed the importance of duties alongside any statement of rights.¹⁹ However, whilst recording the consensus on rights they found no consensus on rationales, a situation captured by the French philosopher Jacques Maritain's famous quote, "Yes, we agree about the rights but on condition no one asks us why."²⁰ Nevertheless, there seems little evidence that the UNESCO report on the philosophers' findings played any substantive role in the drafting process.²¹

Drafting Stage 3 – Second Session of the Commission.

The second session of the Commission, December 1947, provided an opportunity to broaden the input to the draft declaration. The views of numerous NGO's and opinion groups were considered, alongside inputs from the eighteen countries not represented on the drafting countries and other countries within the UN. There was a clear intention to be inclusive during this formative stage. The output from this second session, known as the Geneva Draft, was agreed by 13 votes to 0 with the Soviet block abstaining. It lacked a Preamble at this stage, Cassin's first attempt having been withheld, and it had been consolidated into thirty-three articles.

¹⁸ A view expressed by Glendon, Glendon (2002) p64

¹⁹ Ibid p75

²⁰ Ibid p77

²¹ Morsink (2009) p108

Drafting Stage 4 – Second Session of the Drafting Committee.

Most of this meeting, during May 1948, was spent debating whether to concentrate solely on the declaration or on the combination of a declaration and a covenant as an international bill of rights.

Drafting Stage 5 – Third Session of the Commission.

Detailed work in June 1948, dealt with various inputs seeking to cut down the scope of the declaration. The Commission finally decided that it could only proceed with a declaration and postponed further work on covenants and implementation.

The discussion focused on how to detail the economic and social rights. The negative views concentrated on the problems of implementation. The UK was concerned about the relative priority of old (civil and political) and new (economic and social) rights, as were the Russians but with a different emphasis. Roosevelt explained that the US “favored the inclusion of economic and social rights in the Declaration, for no personal liberty could exist without economic security and independence. Men in need were not free men.”²² This view is interesting with hindsight, and seemingly contrary to much US policy in subsequent years. Malik sought to overcome the blockage by proposing a new article to position the new rights relative to the old. In what became Article 28, he suggested a provision for the right to a social and political order in which all the Declaration’s rights and freedoms could be realized. Although this was generally accepted it failed to remove the impasse. A remaining concern of the smaller countries was their ability to fund the social rights. Responding to this Roosevelt, Malik and Cassin made clear that the state was not the only institution through which the rights might be delivered, and that the implementation would take account of the resources and organisation of each State. This allowed the group to move forward with other issues.

The final piece of the jigsaw was the rewriting of the Preamble. Roosevelt had asked Malik to prepare a new draft which he did based on Cassin’s earlier version together with his own ideas and inputs drawn from a US proposal. A period of fine tuning saw

²² Glendon (2002) p115, quoting from Human Rights Commission, Third Session (E/CN.4/SR.64, pp5-6)

the acceptance of the revised Preamble and the number of articles consolidated to twenty-eight (although the final count was to be thirty).

Drafting Stage 6 – Third Committee of the General Assembly.

September to December 1948, provided yet another opportunity for all-comers to comment on the draft declaration. A total of eighty-five meetings plus numerous sub-group meetings were held to discuss each article in detail. It seems nobody was denied his or her chance to contribute. Chang took the opportunity to re-surface the issue of rights versus duties. He favoured more emphasis on duties as the way to increase man's moral stature. Cassin calmed the situation with the reminder that a general reference to duties covered the entire Declaration.²³ The question of parity between old rights and new was once again aired and eventually settled with some rephrasing of Article 22 which incorporated the view that the new rights were indispensable for the dignity and free development of the individual.

The final acts of the Committee included some adjustments of style, under the direction of Cassin, and the alteration of the title to 'Universal Declaration of Human Rights',²⁴ to reflect that intention that the Declaration was morally binding on everyone, not only on the governments that voted for its adoption. The meetings culminated in a vote of 29 to 0, with 7 abstentions, in favour of the amended draft.

Drafting Stage 7 – The Plenary Session of the same 1948 Assembly.

A final chance for changes was taken with many proposals being reviewed. Each Article was polled individually with twenty-three of the thirty being unanimously approved. The remainder received just a few abstentions, with the articles covering nondiscrimination, the family, and freedom of expression receiving between one and seven nay votes. However, none of these objections carried through to the overall vote,²⁵ and the General Assembly adopted the Declaration on December 10, 1948, by 48 to 0, with 8 abstentions. Now the task was to "put its principles into effect – through

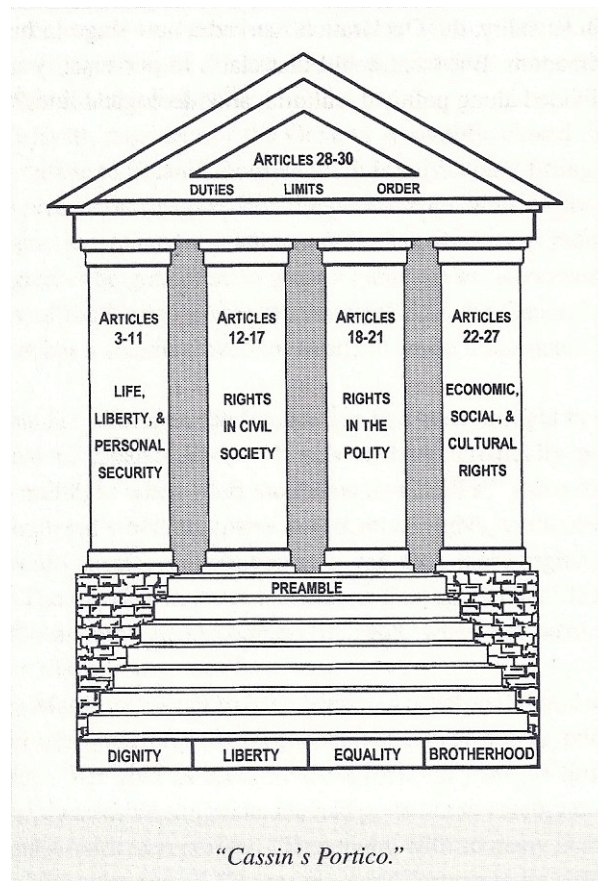
²³ Glendon (2002) p141

²⁴ Originally titled "International Declaration of Human Rights," Glendon (2002) p161

²⁵ Glendon (2002) p169

education, national legislation, and forms of government,” as was stated by the Syrian delegate, Abdul Rahman Kayaly.²⁶

1.2 Cassin’s Portico



The Universal Declaration is not an easy read. The repetitive phrasing deliberately used across many of the thirty articles makes it hard to grasp at a single sitting. But there is some structure to the piece and once understood it becomes much easier to absorb. Cassin, the leading draftsman, later adopted the above representation to assist all parties to come to terms with interdependence of all the parts. His Portico consists of six major elements, the courtyard steps, four columns and a pediment.

The courtyard steps consist of the Preamble, the Proclamation and the first two articles. Columns one to three divide the civil and political rights into related groups, whereas

²⁶ Ibid p168, quoting Plenary Meetings of the General Assembly, 183rd Plenary Meeting, December 10, 1948 at 622.

²⁷ Glendon (2002) p172

column four contains the 'new' social and economic rights. The Pediment completes the structure with articles on duties, limits and the international order, or basic structure.

Given the focus on global poverty in this thesis it is perhaps obvious that the contents of column four needs close attention, and this will be explored in Chapter 2. However, of equal importance are the contents of the Preamble and the so-called Pediment. The contents of these are provided here for easy reference but their full significance will be discussed in later sections.

1.2.1 The Courtyard Steps.

This section of the UDHR sets out the premises, purposes, and principles of the overall document.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Whereas it is essential to promote the development of friendly relations between nations.

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

Whereas the Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

Now, Therefore, THE GENERAL ASSEMBLY proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and of all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of the Member States themselves and among the peoples of the territories under their jurisdiction.

It is easy to skip over this preliminary section in a rush to get to the meat of the articles but careful attention to its contents will assist the response to many of the criticisms often leveled. Of particular note is Franklin D. Roosevelt's four freedoms contained in the second '*Whereas*'.

The courtyard is completed with the first two articles:

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation or sovereignty.

Article 2 is notable in its stance against discrimination when one remembers that the 1940s was a period in which widespread discrimination was tolerated, and not only by

the Axis powers. It is also noteworthy, and decidedly un-western, to remove any possible acceptance of a colonial two-tier basis for rights.

1.2.2 The Pediment

Coming at the tail of the Declaration these three articles are sometimes overlooked. However, Cassin described them as the pediment of the portico because they help to hold it all together and address the responsibilities and overarching rights of individuals, nations and civil society. Article twenty-eight, prepared by Malik, was intended to be an introduction to this last group of rights and duties.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group, or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

1.3 The Modern Human Rights Era is launched

The adoption of the Universal Declaration, with Cassin's guide to its structure, represents the end of the first phase in the modern human rights era. At this point it is tempting to raise a number of issues that have become standard criticisms over the last sixty plus years, including:

- Positive versus negative rights dichotomy
- Over-demandingness of Human Rights
- Human Rights are not universal
- Lack of determinateness of Human Rights
- Human Rights inflation and mutual conflict
- Cultural bias/imperialism
- Lack of philosophical justification

However, although we have a lot of material with which to consider these criticisms, it will be beneficial to wait until the subsequent phases of human rights development are introduced in Chapter 2. The criticisms will then be addressed in Chapter 3.

1.4 Conclusion

Human Rights emerged in response to the twin problems of the Great Depression and the Second World War. It was heavily influenced by the strongest post-war states but included the voice of most non-colonised countries, and to a lesser extent specialised agencies and NGOs. Freedom from want - the third of Roosevelt's four freedoms - was a strong influence on both the institutional structure and human rights content. The UN structure including ECOSOC, and the Bretton Woods institutions, and the rights enshrined in the 'pediment' form a new global basic structure.

Career politicians and diplomats performed much of the drafting, but with significant contributions from philosophers (Chang and Malik) and lawyers (Humphrey and Cassin). The resulting Human Rights were drawn from a collective set of national instruments from all corners of the globe reflecting different cultures, philosophies and needs, and claim to depend on no single philosophy. Cassin's Portico helpfully conveys the interdependence of the various rights, frequently overlooked or ignored.

Chapter 2 Development of Economic, Social and Cultural Rights

This chapter traces the development of Economic, Social and Cultural Rights (ESCRs), from the adoption of the UDHR through the implementation of legally binding Covenants to the ongoing implementation via UN Councils and Committees. It becomes apparent that ‘human rights’ is a dynamic subject, continuing to evolve to this day. This development is important in clarifying issues of concern and enabling proper consideration in the next chapter of criticisms already raised. The answers often lie in details normally apparent only to human rights specialists. It also emerges that some of the earliest criticisms act as a catalyst for one of the most important developments in the content of ESCRs.

The development of ESCRs will be described in four phases. The first covers the drafting and adoption of the two initial Covenants. The second looks at the philosophical response to ESCRs in the period immediately before and after their entry into force, the third summarises the subsequent developments under the direction of ECOSOC, and the final phase outlines the recent efforts by the Committee on Economic, Social and Cultural Rights.

2.1 Phase 1 - Opening the Divide

The original idea had been to develop a Covenant in parallel with the UDHR, and both tasks were assigned during the first Drafting Committee session in June 1947. However, in June 1948 it was eventually decided that the Declaration should be completed before finalising the Covenant.

The meetings that followed the adoption of the UDHR took place against a backdrop of heightening international tension, including the Berlin blockade and the start of the Cold War. The US position shifted first towards a weak covenant that would hold no threat from communist manipulation, and later, in early 1950, towards a covenant that

only included political and civil rights. Eleanor Roosevelt was particularly sensitive to the fact that any treaty agreed would need to be passed by an increasingly isolationist US Senate. Indeed, the poor outlook for ratification probably contributed to Roosevelt's resignation from the Chairmanship of the Human Rights Commission in April 1951.¹

The General Assembly eventually resolved to produce two covenants (treaties), one for civil and political rights (ICCPR - International Covenant on Civil and Political Rights), and another for economic, social and cultural rights (ICESCR - International Covenant on Economic, Social and Cultural Rights). In an attempt to indicate equivalence of the two treaties it was agreed that they would be adopted at the same time. This maneuver proved insufficient to protect the view, in all quarters, that the rights of both treaties were interdependent and of equal importance. However, it would be an oversimplification to attribute the division of the Covenant into two, and the 'relegation' of ESCRs, to a shift in the official US position, as becomes evident from a closer look at the events.

2.1.1 The Drafting Process

Key milestones include:²

- In 1948, following the adoption of the UDHR, the General Assembly (GA) gave the UN Commission on Human Rights (UNCHR) the instruction to prioritise a single Covenant incorporating measures for implementation.
- The following year (1949), during its 5th Session, the UNCHR considered various forms of implementation including an International Court of Human Rights and the possibility of inter-state petitions.
- During its 6th Session, in 1950, the UNCHR needed more time to consult with the relevant specialised agencies before drafting ESCRs. Consequently it planned to commence a separate covenant for ESCRs during its next session in 1951. Regarding implementation, the UNCHR decided to establish a Human

¹ Glendon (2002) pp198-9

² Drawn from Craven (1995) pp17-22, and Glendon (2002)

Rights Committee to deal with complaints but limited its scope to civil and political rights (CPRs).

- Also in 1950, and in recognition of the time required for the preparation of ESCRs, ECOSOC sought a policy decision from GA on the issue of including ESCRs in the draft covenant, and the adequacy of the articles relating to implementation, amongst others.
- The GA responded after lengthy debate confirming the interdependence of CPRs and ESCRs and instructing that ESCRs be included in the covenant. Regarding implementation it requested the Commission "to proceed with the consideration of provisions, to be inserted in the draft covenant or in separate protocols, for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the covenant."³
- In early 1951, Eleanor Roosevelt, probably concerned with the shift in US position towards dropping ESCRs from the covenant, resigned as chair of UNCHR and was replaced by Charles Malik. Around the same time the UK attempted to slow down all progress on the covenant in reaction to cold war developments, the decomposition of its empire, and general dissatisfaction with the hypocrisy it perceived amongst UN participants.⁴ However, neither the US nor the UK was to have their wishes fully realised.
- Later in 1951, during its 7th Session, UNCHR continued to draft ESCRs and developed a separate reporting and supervision system for those rights. The newer ESCRs were at this stage perhaps too general and aspirational for the type of supervision foreseen for the CPRs.⁵

Conscious of the difficulties which might result from embodying in one covenant two different categories of rights, and at the same time aware of the importance of both, the Council, in resolution 384 (XIII), invited "the General Assembly to reconsider its decision in resolution 421(V), section E, to include in one covenant articles on economic, social and cultural rights, together with articles on civil and political rights".⁶

³ UN Doc. A/2929 (1955) Ch1, para 22

⁴ Glendon (2002) pp200-1

⁵ UN Doc. A/2929 para 29

⁶ Ibid para 30

- After much debate, the GA agreed in 1952 to accept two covenants but insisted they be adopted at the same time in order to reinforce the equality of their importance.
- The 8th session in 1953 was devoted to drafting the two covenants. The 9th session that same year saw little further progress on ESCRs.
- In 1954, following the 10th session, two draft Covenants were referred by the UNCHR to the GA, who sought feedback from States, specialised agencies and other parties (NGOs), noting the two covenants “represented a broad compromise between differing political, economic, and cultural opinions and, while not ideal, should be regarded as fairly satisfactory”.⁷ The GA assigned detailed review of the drafts to the Third Committee (on Social, Humanitarian, and Cultural Affairs).
- In 1955 The Secretary General, responding to a GA resolution, prepared a concise annotation of the draft Covenants – Document A/2929, *Annotations on the text of the draft International Covenants on Human Rights*. In addition to providing detailed comment on every article in both covenants, this document summarized the drafting history and the main problems recognized and addressed by all parties, which are discussed below.
- For several years the focus of the Third Committee was firmly fixed on the correlative provisions (articles 6-26) of the draft ICCPR before attention finally turned to ESCRs.
- The substance of the draft ICESCR was completed by 1962 and the details of the implementation eventually resolved such that both covenants were presented and adopted in 1966. The ICESCR entered into force in January 1976 after the receipt of the 35th ratification. The ICCPR entered into force in March of the same year.

⁷ Craven (1995) p20, referencing UN doc A/2808 and Corr. 1.9 UN GAOR, C.3 Annexes (Ag. Item 28), at 10, para 30 (1954)

- As of 1st July 2012, there are 160 parties to the ICESCR.⁸ They include all the major powers except the US.

2.1.2 Drafting Problems

It would be possible to attribute the splitting of the Covenant to the shift in position within US foreign policy, from Franklin Roosevelt's 'four freedoms' to later cold war fueled isolationism. However, as the Secretary General's paper from 1955 (Annotations) shows the picture was much more complex and turned around three main problems:

- One covenant or two
- Brief clauses or elaborate provisions
- Measures of implementation

The Annotations show that behind these three problems a number of other concerns were apparent, concerns that would re-appear as criticisms of ESCRs, in particular, in the years that followed. However, the Annotations also explain the solutions selected for these problems and concerns, factors often overlooked in subsequent criticisms.

One covenant or two

The following is from the Annotations, A/2929, Ch. II.

7. It was clear that the opinion of United Nations Members was divided as to whether there should be one or two covenants. It should be noted, however, that those in favour of having two covenants as well as those in favour of a single covenant were generally agreed that "the enjoyment of civil and political freedoms and of economic, social and cultural rights are interconnected and interdependent" and that "when deprived of economic, social and cultural rights, man does not represent the human person whom the Universal Declaration regards as the ideal of the free man "... The divergence of opinion appeared to arise from a difference of approach rather than of purpose.

⁸ Status accessed 1st July 2012 at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en

8. Those who were in favour of drafting a single covenant maintained that human rights could not be clearly divided into different categories, nor could they be so classified as to represent a hierarchy of values...

9. Those in favour of drafting two separate covenants argued that civil and political rights were enforceable, or justiciable, or of an "absolute" character, while economic, social and cultural rights were not or might not be; that the former were immediately applicable, while the latter were to be progressively implemented; and that, generally speaking, the former were rights of the individual "against" the State, that is, against unlawful and unjust action of the State, while the latter were rights which the State would have to take positive action to promote. Since the nature of civil and political rights and that of economic, social and cultural rights, and the obligations of the State in respect thereof, were different, it was desirable that two separate instruments should be prepared.

10. The question of drafting *one* or two covenants was intimately related to the question of implementation. If no measures of implementation were to be formulated, it would make little difference whether one or two covenants were to be drafted.

We can see in these reflections various dichotomies in the nature of rights that would regularly reappear as criticisms:

Rights as positive or negative

Rights immediate or progressive, (related to over-demandingness)

Rights as justiciable or not, having perfect (clearly defined and assigned) duties or imperfect duties

The criticisms will be explored in Chapter 3, but we can note now that drafters and approvers of the covenants knew of their existence. The majority did not consider the problems to be of a fatal nature for ESCRs. Rather they decided on balance that the problems could be best managed by producing two covenants.

Brief clauses or elaborate provisions

Again, from the Annotations, Ch. II

13. There were two schools of thought regarding the manner in which articles on substantive rights should be drafted. One school held that each article should be a brief clause of a general character; another school was of the opinion that each right, its scope and substance, its limitations, as well as the obligations of the State in respect thereof, should be drafted with the greatest possible precision.

14... While there were concepts of rights which might be generally acceptable, there were also concepts which varied a great deal from one legal system to another and might not be universally applicable.

15. The limitations to the exercise of each right were even more difficult to specify...

16... To enumerate the specific acts that States might perform in respect of civil or political rights, or to determine in advance the particular measures they should take in respect of economic, social or cultural rights, would be going far beyond the scope of the covenants.

18. The other school held the view that the covenants on human rights should not be a second edition of the Universal Declaration of Human Rights, where general principles regarding human rights and fundamental freedoms had already been set forth.

23. It was clear that each of the two schools had exerted its influence on the drafting of the substantive articles. Some articles were formulated in a very general manner, while others were drawn up in elaborate terms.

These paragraphs indicate that on balance the covenants were not regarded as the final word regarding the duties correlating to human rights because the elaboration of some duties would be too extensive to include in a workable treaty. Detailed duties would need to follow. A second, but important, observation is that all parties recognized that human rights were, at least in some cases, contextual and not strictly universal given the differences in legal systems between participating states.

Measures of implementation

Same source

25. With regard to civil and political rights, broadly speaking, three views were advanced. One was that violations of civil and political rights were basically legal matters which should be settled by a judicial body. Accordingly, it was proposed that an international court of human rights should be established, which would settle disputes arising out of the interpretation and application of the covenant and before which States, individuals, groups of individuals and non-governmental organizations might be parties. Another view was that violations of the covenant should be settled by diplomatic negotiations between States concerned, and in the event of a failure of such negotiations, they should be submitted to *ad hoc* fact-finding committees. A third view was in favour of the establishment of a permanent, independent body, with fact-finding and conciliation powers, to consider complaints from States only, or from individuals and non-governmental organizations as well as States.

26. It was decided that for the implementation of the Covenant on Civil and Political Rights a Human Rights Committee—a permanent body—should be established, which would receive any complaint by a State party that another State party was not giving effect to a provision of the covenant, and which would make available its good offices to the States concerned with a view to a friendly solution of the matter. The Committee, however, could not consider any petitions submitted by individuals, groups or non-governmental organizations.

27. As to the implementation of the Covenant on Economic, Social and Cultural Rights, it was decided to establish a system of periodic reports, to be submitted to the Economic and Social Council by States parties, on the progress made in achieving the observance of the rights recognized therein.

28. It was generally agreed that the procedure of the Human Rights Committee should be applicable only to civil and political rights, and not to economic, social and cultural rights, as the provisions on civil and political rights were to be put into effect immediately, whereas the provisions on economic, social and cultural rights were to be realized progressively.

37. It was emphasized that implementation was the heart of the covenants, and without measures of implementation the covenants would have little practical value.

The issue of ‘immediate’ versus ‘progressive’ was clearly the key behind the decision to install two different approaches to implementation, which in turn drove the decision to proceed with two covenants. The view that CPRs might have correlative duties of a progressive nature, and that ESCRs may have correlative duties of an immediate nature had not yet become widespread.

To suggest the split of the covenant into two was attributable to the US, or an increasingly recalcitrant UK, is then to overstate their influence. Had the US and UK controlled the outcome the ICESCR would probably have been scrapped altogether. Instead, the outcome reflected a balanced view, a ‘fairly satisfactory compromise’⁹, between various schools of opinion divided on a number of core issues.

2.1.3 The ICESCR in outline.

The Covenant consists of thirty-one articles in five parts together with a preamble that makes the appropriate connections to the UN Charter, and the UDHR. The Preamble

⁹ See note 7

also recognises the dignity of the human person, the aim of freedom, justice and peace in the world, and that the ideal of freedom from fear and want depends upon both economic, social and cultural rights in addition to civil and political rights.

Preamble

Part I (Article 1): The right of self-determination

Part II (Articles 2-5): General provisions

Part III (Articles 6-16): Economic, social and cultural rights

Part IV (Articles 17-25): Measures of implementation (periodic reports)

Part V (Articles 26-29): Final clauses

The main substance of the covenant, contained in Part III, falls under the following headings:

Article 6 - Right to work

Article 7 - Just and favourable conditions of work

Article 8 - Trade union rights

Article 9 - Social security

Article 10 - Rights relating to motherhood and childhood and to marriage and the family

Article 11 - Right to adequate food, clothing and housing

Article 12 - Right to an adequate standard of living

Article 13 - Right to health

Article 14 - Right to education

Article 15 - Plan for implementing compulsory primary education

Article 16 - Rights relating to culture and science

Depending on one's definition of poverty, more or less of the above rights may seem central to that issue. However, on the broadest of definitions perhaps all of the above together with the CPRs may be relevant.

Concluding this section we note that the divide in human rights, between CPRs, and ESCRs is traceable to the early fifties when all parties, faced with incomplete definitions of correlative duties, decided that the rights were separable on the issue of implementation – being in the main either progressive or immediate.

2.2 Phase 2 – The Philosophical Response

The drafting and introduction of the ICESCR marked a clear expansion of human rights content relative to the earlier UDHR, and before that, the UN Charter. It is instructive to examine the contemporary philosophical response to these significant developments.

2.2.1 The Critics

The leading critics of the day, particularly with regards to ESCRs, were Maurice Cranston and Charles Frankel. Cranston was a Professor of Political Science at LSE, and later, Professor of Political Theory at the European University Institute in Florence. Frankel was an Assistant Secretary of State in the US from 1965 to 1967, in charge of education and culture, before becoming a Professor of Philosophy and Public Affairs at Columbia University.

Cranston's critique

Cranston's first essay on this topic appeared in 1962 titled *Human Rights To-day*. By his own account this essay was revised and extended, and published in 1973 as *What are Human Rights?* Another version of the same material was published in 1967 as "Human Rights, Real and Supposed." His writing on this subject therefore overlapped with the latter stages of the drafting of the ICESCR and its later adoption.

Cranston equates human rights with natural rights¹⁰, claiming with Maritain, that "they belong to man simply because he is man."¹¹ He contrasts natural rights, being those demanded by justice, with positive rights, being those with the authority of legal regulation, those enforced by positive law.¹²

Cranston introduces a positive/negative dichotomy with regard to human rights observing that CPRs can be transformed into positive rights through the introduction of appropriate legal institutions largely aimed at restraining government's actions against

¹⁰ Cranston (1973) p1

¹¹ Ibid p7

¹² Ibid p14

the individual. On the contrary he maintains the ESCRs cannot be transformed into positive rights by a similar means, by the creation of laws. Rather these rights, such as the right to work or to social security, also require the allocation of wealth, which may not be readily available.¹³ The positive/negative dichotomy becomes a key issue in subsequent discussion of human rights, but contrary to Cranston many use the term ‘positive’ to indicate positive duties rather than the involvement of positive law.

Cranston argues that ESCRs, some of which may be moral rights of certain individuals or some classes of people, cannot be human rights, invoking three tests for true human rights:

1. Test of Practicality

“It is not my duty to do what it is physically impossible for me to do. If it is impossible for a thing to be done, it is absurd to claim it as a right.”¹⁴

He argues against ESCRs saying, for example, the Government of India lacks the resources to guarantee “a standard of living adequate for the health and well being of himself and his family,” as required by Article 12, or to guarantee holidays with pay, Cranston’s usual exemplar of economic rights, as contained in a sub-paragraph of Article 7 - Just and favourable conditions of work.

2. Test of Universality

Human Rights are those that belong to all persons at all times, in all situations.¹⁵

Cranston insists that the rights named in ICESCR are not universal rights at all.¹⁶ He cites holidays with pay as failing to be universal because not everyone belongs to “the *employé* class.”¹⁷ Cranston also insists that “to

¹³ Ibid p66. However, as already noted the drafters used this distinction as one factor for separating the two conventions, as recorded in UN Document A/2929 (1955)

¹⁴ Ibid p66. Similar at Cranston (1967) p126

¹⁵ Ibid p67, Similar at Cranston (1967) p126

¹⁶ As noted above, UN Document A/2929 (1955) established that the covenant drafters considered some rights not strictly universal given differences in legal systems.

¹⁷ Ibid p67, Similar at Cranston (1967) p126

“speak of a universal right is to speak of a universal duty”¹⁸ and maintains that “(t)he so-called economic and social rights, insofar as they are intelligible at all, impose no such universal duty”.¹⁹

3. Test of Paramount Importance

Human rights are of such fundamental importance that “no one may be deprived of them without a grave affront to justice.”²⁰

He uses this test to distinguish the duty of rescuing a drowning child from the duty to provide holidays with pay.²¹

Cranston’s concern is that by extending so-called human rights into broader areas of moral rights we are diluting the power available to support genuine human rights, as he sees them.

“Thus the effect of a Universal Declaration which is overloaded with affirmations of so-called human rights which are not human rights at all is to push *all* talk of human rights out of the clear realm of the morally compelling into the twilight world of utopian aspiration.”²²

We will return to consider Cranston’s views later.

Frankel’s critique

Frankel’s writing, as a former member of the State Department, reflects the dominant concerns of the day over super-power rivalry and the threat of nuclear war. The lack of trust in other nations, particularly Russia, is clearly apparent. However, his target in *Human Rights and Foreign Policy*²³ is the inclusion within foreign policy by President Carter of a balanced view on human rights. Carter had signed the two covenants in

¹⁸ Ibid p68 – not mentioned in Cranston (1967)

¹⁹ Ibid p69, Similar at Cranston (1967) p127

²⁰ Ibid p68,

²¹ Ibid p67, Similar at Cranston (1967) p127

²² Ibid p68, Cranston (1967) p127

²³ Frankel (1978)

1977, thereby recognizing both CPRs, and ESCRs, but did not initiate the process for ratification (hence not becoming a party).²⁴

Frankel goes on to ask

Is it prudent, is it morally legitimate, is it philosophically defensible, for the United States to conduct itself as though it were a monitor of the world's behaviour.²⁵

Frankel is worried that Carter's initiative, supported by Secretary of State, Cyrus Vance, risks confusing aspirations for a better world order with true human rights, a risk he considers carries dangerous utopian overtones.²⁶ He seeks to clarify the confusion by introducing two tests of any rights that can be said to be moral claims on every government on earth (his notion of human rights):

1. Test of Universality – “do people everywhere think of it as a right, not simply an important value...?”²⁷

2. Test of Practicality – is it realistically achievable?

The similarity with Cranston's tests is clear. However, Frankel's test of universality is different to Cranston's. People everywhere might *think*, using Frankel's criteria, 'just and favourable conditions of work' is a right, even when not everyone stands to benefit directly from that right - contra Cranston. Similarly, the criteria of 'physical possibility' (Cranston) might be a different standard from 'realistic achievability' (Frankel). A further distinction is that purported rights passing Frankel's tests do not generate strictly universal duties, as required by Cranston, but rather duties on every *government* on earth.

In any event Frankel concludes that his tests produce a very short list of genuine human rights.²⁸

²⁴ The US became a party to ICCPR in June 1992

²⁵ Ibid p11

²⁶ Ibid p40

²⁷ Ibid p45

²⁸ Ibid pp45-47

- (1) Right to bodily security and integrity and to freedom from the psychic as well as physical threat of government terrorism.
- (2) Rights of accused persons in criminal proceedings.
- (3) Religious and intellectual freedom.
- (4) Individual privacy for familial relations.

Frankel also states that Articles 55 and 56 of the UN Charter do not invoke duties on the States parties because they are too vaguely formulated to be legally enforceable.²⁹ This implies either that his test of practicality involves a criterion of enforceability or that a further test along those lines is also required. He concludes,

the human rights policy of the Carter Administration says more than it can reasonably mean, and implicitly promises more than it can sensibly undertake.³⁰

Although his tests seem marginally less severe, Frankel seemingly outdoes Cranston in his resistance to the spread of human rights by virtue of his limited list of qualifying rights.

2.2.2 The Defender of Rights

In *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, Henry Shue provided the philosophical catalyst for the next phase in the development of human rights, and in particular ESCRs. His target was the “intellectual bankruptcy of the presuppositions of (the) position” taken by the State Department in 1979, contra the position proposed by Cyrus Vance in 1977, in which *all* ESCRs are declared to be less genuine with less binding duties.³¹ On the surface then, his critique is against emerging US Foreign Policy, but on closer inspection, and as more clearly emphasized in the Afterword to the 2nd edition, his target is also the positions taken by Cranston and Frankel.³² Shue’s approach was not so much to dismantle the critics’ positions but to use them as the basis

²⁹ Ibid p52

³⁰ Ibid p50

³¹ Shue (1980) p6

³² Shue (1996) pp153-4, 222n

for a more compelling insight into the duties associated with basic rights. Consequently, it is possible to see the contributions of Cranston and Frankel being *not* the derailment of ESCRs, as they perhaps intended, but the stimulation of a breakthrough to the next level of understanding and application of such rights.

Shue described his approach as being about the “moral minimum,” the threshold above which decent life starts. It was also a response against the hollow “promises of liberty in the absence of the essentials for people’s actually exercising the promised liberty.”³³ His stated aim, albeit a faint hope, was to provide a positive influence for US foreign policy regarding economic rights.

Shue opens his argument with the statement

A moral right provides (1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats.

It is this latter aspect, of guarantees against standard threats, that necessitates the correlative duties that Shue goes on to elaborate. Having defined moral rights he next defines basic rights as those essential to the enjoyment of all other rights. They represent the lower threshold below which no one should be allowed to sink.³⁴ He eventually defines subsistence rights as one category of basic rights along with security rights, and possibly others, in that both are necessary for the enjoyment of other rights.³⁵

Shue’s argument that a specific right may be basic is as follows:

1. Everyone has a right to something.
2. Some other things are necessary for enjoying the first thing as a right, whatever the first thing is.
3. Therefore, everyone has rights to the other things that are necessary for enjoying the first right.³⁶

³³ Ibid pxi

³⁴ Ibid p18

³⁵ Ibid p30

³⁶ Ibid p31

Shue explains that it makes no sense to trade-off basic rights for other rights since the other rights can only be enjoyed if the basic rights are in place. He dismisses the idea that other rights might be enjoyed providing the content of so-called basic rights happens to be in place albeit without any guarantee. The lack of reasonable security of the ‘basic’ right would mean that the recipient would not be enjoying the benefits of the other right as a ‘right’, but merely a fortunate and potentially temporary outcome.

This view is clearly at odds with the notion of economic rights falling outside human rights because of the positive/negative dichotomy. Shue is placing subsistence rights alongside security rights as being of the utmost importance. He goes on to refute this dichotomy in a very direct and effective manner. Shue, like many others, bases the dichotomy on positive/negative *duties* rather than positive law. Whereas Cranston proposed that civil and political rights be considered ‘positive’ rights because legal institutions might transform them into positive law, Shue (reversing Cranston’s polarity) considers Cranston’s claim to be that CPRs are ‘negative’ rights because they involve only negative duties. Shue then attacks his interpretation of Cranston’s view that the right to security be considered *negative* rights, because they involve restraining the action of others, and subsistence rights be considered *positive* rights because they appear to require more demanding, positive duties. Shue’s point is not that there is no positive/negative distinction, but that the distinction applies to the duties and not the rights, and that “there are no one-to-one pairings between kinds of duties and kinds of rights.”³⁷ And, it is at this point that he introduces what is to become the major enabling concept of the subsequently powerful tripartite typology.

... for every basic right – and many other rights as well – there are three types of duties, all of which must be performed if the basic right is to be fully honored but not all of which must necessarily be performed by the same individuals or institutions.³⁸

He defines the three types of duties correlating to basic rights as:

- I. Duties to *avoid* depriving.
- II. Duties to *protect* from deprivation.
- III. Duties to *aid* the deprived.

³⁷ Ibid p52

³⁸ Ibid p52

He illustrates the point, claiming:

... it may be possible to *avoid violating* someone's rights to physical security yourself by merely refraining from acting in any of the ways that would constitute violations. But it is impossible *to protect* anyone's rights to physical security without taking, or making payments toward the taking of, a wide range of positive actions. For example, at the very least the protection of rights to physical security necessitates police forces; criminal courts; penitentiaries; schools for training police, lawyers, and guards; and taxes to support an enormous system for the prevention, detection, and punishment of violations of personal security...³⁹

Shue points out the important implication of this view for the positive/negative dichotomy of rights.

... the common notion that *rights* can be divided into rights of forbearance (so-called negative rights), as if some rights have correlative duties only to avoid depriving, and rights to aid (so-called positive rights), as if some rights have correlative duties only to aid, is thoroughly misguided.⁴⁰

All rights, both 'positive' rights such as subsistence rights and 'negative' rights such as security rights, have some duties which appear negative (e.g. Duty I above) and other duties that appear positive (e.g. Duties II and III above), and no rights can be dismissed because they entail duties that are entirely positive.

In applying the typology to both security rights and subsistence rights he re-emphasises his rejection of 'North Atlantic theorists' and their over-simplified view of rights, observing that the widespread acceptance of their proposed dichotomy can only breed confusion.

If the first key element of the typology is that three types of duty are always involved, some seeming to be positive in nature and some negative, then the second key element is that the duties do not always "fall on everyone else or even that they fall equally upon everyone upon whom they do fall."⁴¹ This again is contrary to Cranston's strict universalism and even Frankel's more nuanced universalism.

³⁹ Ibid pp37-38

⁴⁰ Ibid p53

⁴¹ Ibid p53

Shue goes on to refine his tripartite typology to better explain what is meant by the duties to 'protect' and 'aid' and assist in the identification of the duty bearers:

- I. To *avoid* depriving
- II. To *protect* from deprivation.
 1. By enforcing duty (I) and
 2. By designing institutions that avoid the creation of strong incentives to violate (I).
- III. To *aid* the deprived.
 1. Who are one's special responsibility,
 2. Who are victims of social failures in the performance of duties (I), (II-1), (II-2) and
 3. Who are victims of natural disasters.⁴²

Ideally all basic rights would be guaranteed through the performance of duties (I), and (II). However, failure to fulfill these duties and or natural disasters mean that duty (III), the duty to aid, is a necessary backstop and therefore must be clearly assigned to some party.

Having detailed his definition of basic rights and elaborated the correlative duties Shue goes on to consider three basic challenges: that subsistence rights would be impractical; that subsistence rights would be too demanding; and, the existence of the 'local poor' negates any transnational duties to fulfill subsistence rights. His arguments in outline are as follows.

Subsistence rights impractical?

The concern is that subsistence rights may be impractical and lead to overpopulation. Helping impoverished people to survive and have more offspring is only creating a greater problem for the future. On this topic Shue claims to be responding directly to Cranston whose argument he takes to be akin to supporting population control in India through preventable starvation.⁴³ In fact, Cranston can also be read to be less inflammatory. Cranston suggests that India lacks the resources to fund the various

⁴² Ibid p60

⁴³ Ibid pp98-99, referencing Cranston (1973) Ch. VIII (pp66-67)

economic rights proposed under the ICESCR and that such rights therefore fail the practicality test, and are not human rights, although they may be moral rights. Cranston does not advocate any policy for population control but overlooks the possibilities that rights may exist even if not delivered, and that resources to fulfill such rights may come from outside the state. Nevertheless, Shue draws attention to the weakness in Cranston's practicality test in that passing the test seems simply to depend on how hard and creatively one tries to perform the duty irrespective of its merit. He goes on to suggest that the real problem is not the principle of the matter but the money.

Subsistence rights too demanding?

Shue argues that contrary to popular opinion meeting subsistence rights would not impoverish the affluent,⁴⁴ and goes on to explore how the various duties might be allocated. Starting with the 'negative' duty to *avoid* deprivation, he claims that allocation is straightforward in that the duty is universal. This may not be the same as being cost free in that the alternative to the existing behaviours that cause deprivation may require resources. A similar concern may apply to Duty II (to *protect*), which is usually allocated to national governments. However, the contentious issue is the allocation of the 'positive' Duty III, the duty to *aid*. Shue outlines a priority principle, based on considerations of deprivation, degradation and fairness, that implies the duty to aid should fall on the affluent, and that this allocation should be institutionalized to avoid the free-riding of some on others.⁴⁵ In his later paper, "Mediating Duties," Shue explains that mediating institutions, standing between individuals, corporations or governments as duty bearers and individuals as rights bearers, can offer efficiency and respite from over-demandingness.⁴⁶

Local poor first?

Shue provides various arguments to weaken the case in favour of local priorities but stops short of concluding that governments or individuals have transnational duties to aid.⁴⁷ However, he does hold that governments have a double duty to avoid depriving

⁴⁴ Ibid p111

⁴⁵ Ibid pp114-130

⁴⁶ Shue (1988) "Mediating Duties" p696

⁴⁷ Ibid p150

persons in other countries, first in its own right, and second as agents for its constituent individuals.⁴⁸ We will return to the question of transnational duties at a later point.

At this stage we can conclude that Shue's tripartite typology seems an effective response to philosophical criticisms based on ideas of a positive/negative dichotomy of rights, and questionable tests of human rights validity.

2.3 Phase 3 – ECOSOC's Response

The progress on ESCRs, during the ten years following the entry into force of ICESCR in January 1976, was very disappointing. The Covenant places responsibility for implementation with ECOSOC and unlike its sister covenant it did not install a separate monitoring committee. This difference in implementation, found in article 2 of each covenant, has been attributed to the supposed positive/negative dichotomy of rights (amongst other issues noted in A/2929) widely held by those participating in the covenant's working groups.⁴⁹

During these early years ECOSOC oversaw a series of poorly constructed working groups that made little progress. Various commentators noted the necessity of determining the scope and content of the Covenant obligations including Philip Alston, who proposed a method to address this problem in 1984, and again in 1987 in a paper written together with Gerard Quinn. However, several events in 1986 and 1987 were to open the way for major developments in ESCRs. The first was a meeting that produced 'The Limburg Principles', a second was the evolution and application of Shue's tripartite typology, and a third was the establishment of the Committee on Economic, Social and Cultural Rights (the Committee).

⁴⁸ Ibid pp151-2

⁴⁹ Magdalena Sepúlveda (2003) p3

2.3.1 The Limburg Principles

A group of experts in international law met in June 1986, at the University of Limburg, to consider the nature and scope of obligations entailed by the ICESCR. Alston and Quinn prepared background papers for this meeting.

The Participants unanimously agreed the published principles, which they reported reflect the then prevailing state of international law (with the exception of certain recommendations indicated by the use of the verb "should" instead of "shall")⁵⁰.

Perhaps the key conclusion of the group was the following:

Article 4 - The International Covenant on Economic, Social and Cultural Rights (hereafter the Covenant) should, in accordance with the Vienna Convention on the Law of Treaties (Vienna 1969), be interpreted in good faith, taking into account the object and purpose, the ordinary meaning, the preparatory work and the relevant practice.

At first glance this may seem somewhat bland but as the following details elaborate, it represents a crucial breakthrough in requiring the effective completion, and spelling out, of the necessary duties for all rights. Prior to this there was no mandate to ‘complete’ the duties that were left vague, or indeterminate by covenant drafters.

The principles of interpretation contained in the referenced Vienna Convention of the Law of Treaties (VCLT), were agreed in May 1969, and entered into force in Jan 1980. The key phrases are highlighted in the following extracted articles:

Article 31 –

1. A treaty shall be interpreted in **good faith** in accordance with the **ordinary meaning** to be given to the terms of the treaty in their **context** and in the light of its **object and purpose**.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;
 - (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
 - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

⁵⁰ Limburg Principles accessed 22/3/12 at <http://www.fao.org/righttofood/KC/downloads/vl/en/details/212296.htm>

- (b) any **subsequent practice** in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
 - (c) any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32 - Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the **preparatory work** of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) leaves the meaning ambiguous or obscure; or
- (b) leads to a result which is manifestly absurd or unreasonable.

Article 4 of the Limburg Principles, echoing articles 31 and 32 of the VCLT, thus provides clear guidance on the interpretation of ICESCR. Magdalena Sepúlveda has suggested article 4 requires all of the following:⁵¹

A literal interpretation – as reflected in the ordinary meaning of the words

A systematic interpretation – taking into account the context, and

A teleological interpretation – taking into account the object and purpose of the treaty.

The object and purpose in turn requires we take into account the following two principles:

The effectiveness rule⁵² – the interpretation must make the protection offered by the right effective, i.e. close any gaps

The evolutive interpretation⁵³ – Human Rights are not static, and their interpretation must take into account developments in society and law.

⁵¹ Sepúlveda (2003) pp75-84

⁵² Sepúlveda (2003) p79, referencing Brownlie (1998) p636, notes “the International Law Commission did not provide a separate formulation of this principle considering that it was reflected sufficiently in the doctrines of interpretation in good faith in accordance with the ordinary meaning (Art 31(1) VCLT)”.

⁵³ Sepúlveda (2003) p81, notes this principle, like the effectiveness rule, derives its power from the ‘object and purpose’ condition in article 31 VCLT, and that the International Court of Justice has held ‘... an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation ...’

The Limburg Principles therefore provided the about-to-be-constituted Committee with the means and justification to clarify and complete rights and duties (a mandate to close the gaps) contained in ICESCR until they are effective in the current context, based on the object and purpose conveyed in the agreed wording but also as supplemented by the records of the *travaux préparatoires*. It is no longer permissible to leave rights and duties incomplete or indeterminate. This ‘legal turn’ opened the way forward and also came as a major blow to any parties that may have thought that by agreeing to a vague set of requirements in ICESCR they were consigning economic rights to the back burner. It would be difficult to turn back after this.

2.3.2. The Tripartite Typologies

Following the publication of *Basic Rights* in 1980, several legal academics sought to fine tune and develop Shue’s starting position, which proposed three duties: to avoid depriving; to protect from deprivation, and; to aid the deprived.⁵⁴ G. J. H. van Hoof proposed a fourth category: the obligation to promote.⁵⁵ The idea being to incorporate long-term measures such as training programmes. This idea, and its author, was subsequently recognised by the Committee in its working papers regarding the “Day of General Discussion on article 6 of the Covenant (the right to work)” (2003). Following van Hoof, Asbjorn Eide⁵⁶ proposed a tripartite structure in 1984,⁵⁷ and again in 1987 (published 1989), with duties to *respect, protect* and *fulfil*,⁵⁸ to which he subsequently added *facilitate*, meaning to facilitate opportunities by which the rights may be enjoyed. The 1987 proposal was produced specifically for the Sub-Commission on the Promotion and Protection of Human Rights, of which Eide was a member, and was updated in 1999⁵⁹. Eide’s three-plus categories closely resemble in content Shue’s original categories.

⁵⁴ Sepúlveda (2003) Ch V provides an overview of the evolution of typologies that have guided this section.

⁵⁵ The Legal Nature of Economic, Social and Cultural Rights: a Rebuttal of Some Traditional Views. In: P. Alston and K. Tomasevski (ed.), *The Right to Food*, The Hague 1984, p. 133

⁵⁶ Asbjorn Eide was a member from 1981 to 2003 of the United Nations Sub-Commission on Promotion and Protection of Human Rights and from 1995 to 2004 the Chairman of the United Nations Working Group on the Rights of Minorities.

⁵⁷ Eide, A (1984) “The International Human Rights System,” in Eide et al (1984)

⁵⁸ Eide, A. (1989) Right to Adequate Food as a Human Right. Human Rights Study. Series No.

1
⁵⁹ (E/CN.4/Sub.2/1999/12),

Alston and Eide restated Eide's typology but added 'to assist' to the obligation to fulfil.⁶⁰

Henry Steiner and Alston have more recently gone one, or is it two, better in proposing a five-fold set of obligations, based on Shue and van Hoof, adding a duty to create institutional machinery essential to the realisation of rights,⁶¹ which might be compared with Eide's facilitation. Hence, their typology is:

- Duty to respect the rights of others
- Duty to create institutional machinery essential to realization of rights
- Duty to protect rights/prevent violations
- Duty to provide goods and services to satisfy rights
- Duty to promote rights

Whether one considers these various developments, produced by recognized experts in international law, to be improvements in the scope of Shue's work or merely clarification of his implicit content, they collectively present a thorough interpretation of his original idea.

Not surprisingly, and perhaps in order to avoid missing any possible nuance, the Committee eventually included all the above elements, with the possible exception of Steiner and Alston's 'institutional machinery' proposal, in their working process. A good example being General Comment 14 (GC14), where each element is included whilst at the same time the notion of a tripartite typology is retained:

33. The right to health, like all human rights, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil. In turn, the obligation to fulfil contains obligations to facilitate, provide and promote...

2.3.3. The Committee on Economic, Social and Cultural Rights

ECOSOC formed the Committee on Economic, Social and Cultural Rights in March 1987 in the wake of several ineffective working groups. The Committee consists of

⁶⁰ Alston and Eide (1984) "Advancing the Right to Food in International Law," in Eide et al (1984)

⁶¹ Steiner and Alston, (2007) pp 187-191, first published 1996

eighteen independent human rights experts elected, from nominees proposed by the States, on a staggered basis for 4-year renewable terms. The group is intended to be representative on geographic, legal and social distribution bases. However, the vast majority have legal backgrounds.⁶² Amongst the original members was Alston, one time critic, instigator of the Limburg Principles, and one of the writers on the tripartite typology mentioned earlier. Alston became the first Rapporteur for the Committee from 1987 to 1991, and subsequently Chairman of the Committee from 1991 to 1998.

The Committee works by consensus, which has some pluses and minuses, possibly limiting the reach of its findings but perhaps benefiting the outcomes in terms of legitimacy. However, armed with the Limburg Principles, and the on-going work on tripartite typologies, progress towards normative clarity under the Committee's direction began to gather pace.

The supervisory role of the Committee involves three basic functions.⁶³

- clarifying and developing the standards to be applied;
- assessing the degree of compliance;
- taking remedial or preventative action to ensure compliance.

The Committee uses a number of processes to achieve these functions, most notably:

- State Reports – submitted every five years by States Parties, with
 - Pre-sessional working groups that prepare lists of issues.
 - The Constructive Dialogue, a formal interaction between the Committee and the reporting State,
 - Concluding Observations, which increasingly over time have contained strong language indicating the degree of compliance.
- General Comments - published statements that provide clarification of the normative content of the Covenant, started in 1989 following Resolution 1987/5
- Days of General Discussion, that permit external experts to contribute to the dialogue on various topics.

⁶² Craven (1995) p46

⁶³ Ibid p31

- Special Rapporteurs on key topics, to produce detailed reports and conduct investigations.

2.4 Phase 4 - Closing the Divide

The opening of a divide between the CPRs and the ESCRs was described earlier. This divide was largely fuelled by a mistaken notion of a positive/negative dichotomy of rights, and the issue of ‘immediate’ versus ‘progressive’ implementation, but also by a perfect/imperfect dichotomy with a presumption the ESCRs were imperfect, that is having duties that are not clearly assigned. Such duties were presumed ‘not judiciable’, and not suitable for the direct supervision intended for CPRs. However, these assumptions have been challenged and the work of the Committee over the last twenty years has begun to narrow the divide.

2.4.1 The Committee’s output

The initial focus was on the nature of obligations in ICESCR, article 2(1):

Each State Party 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 resource, with a view to achieving progressively the full realization of the rights recognized in the Present Covenant by all appropriate means, including particularly the adoption of legislative measures.

This tightly structured sentence contains a great deal of guidance on the obligations of participating States. A full deconstruction would take considerable space and is not included here. However, some expansion of this article will be undertaken when reviewing some of the criticisms in the next Chapter.

Of all the outputs produced by the Committee the production of General Comments is perhaps the most striking regarding the logical extension and clarification of the normative content of ICESCR. The first General Comment was published in 1989, and addressed the reporting requirements of States. However it wasn’t until May 2000, when the Committee published its “Outline for Drafting General Comments” that States

party's obligations were spelled out, based on the fully developed tripartite typology.⁶⁴

The guidelines include:

III. Determination of State obligations and recommendations for action on the basis of the following methods of categorization:

Obligations of immediacy;

Obligations of progressive realization -

Obligations of conduct;

Obligations of result -

Obligations to respect, to protect and to fulfil, and obligation to promote.

The previous year, 1999, a near final version of the typology was used in GC12, *The Right to Adequate Food*, the topic that Eide had worked on. Section 15 of that Comment reflects Eide's typology:

The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to *respect*, to *protect* and to *fulfil*. In turn, the obligation to *fulfil* incorporates both an obligation to *facilitate* and an obligation to *provide*.¹⁷ The obligation to *respect* existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to *protect* requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to *fulfil* (*facilitate*) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfil* (*provide*) that right directly. This obligation also applies for persons who are victims of natural or other disasters.

However, it is only in GC14 (May 2000) *The right to the highest attainable standard of health*, that we see the application of the fully developed typology, as well as other key requirements derived in particular from ICESCR 2(1). The key section is 33

The right to health, like all human rights, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil. In turn, the obligation to fulfil contains obligations to facilitate, provide and promote. (23) The obligation to respect requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health. The obligation to protect requires States to take

⁶⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), *Report of the UN Committee on Economic, Social and Cultural Rights, Twentieth and Twenty-first Sessions (26 April - 14 May 1999, 15 November - 3 December 1999)*, 18 May 2000, E/2000/22; E/C.12/1999/11, Annex IX,

measures that prevent third parties from interfering with article 12 guarantees. Finally, the obligation to fulfil requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to health.

Notice that ‘promote’ has been added to the sub-requirements of ‘fulfil’. This same structure appears again in GC18, *The right to work* (Nov 2005), GC19, *The right to social security* (Nov 2007), and GC21, *The right of everyone to take part in cultural life* (Nov 2009).

It is worth emphasizing that although human rights were declared in 1948, it is only in the last decade that the normative content of ESCRs, i.e. the rights central to poverty eradication, has been clearly defined.

2.4.2 The Optional Protocol

An optional protocol for the ICCPR was signed in 1966, and entered into force in 1976, allowing individuals and their representatives to petition the Human Rights Council with complaints about violations of civil and political rights. At this time it was considered that the ESCRs were not sufficiently clear as to permit a similar petitioning process without the risk of spurious time-wasting complaints. ESCRs were thus clearly positioned as a second category of rights. The lack of a complaints procedure is considered a handicap for the full development of the normative content of ESCRs. Individual cases would permit even greater clarity and guidance for all States and their absence places a greater burden on States reports and General Comments.

With the gradual building and clarification of the normative content of ICESCR over recent years the possibility of a meaningful petitioning process re-surfaced. In December 2008, the General Assembly unanimously adopted an Optional Protocol to ICESCR that provides the Committee competence to receive and consider communications. The Optional Protocol was opened for signature in 2009. As of July 2012, there were 40 signatories and 8 parties to the protocol, 3 of which were added in 2012.⁶⁵ Ten parties are needed for it to come into force.

⁶⁵ Status accessed 1 July 2012, at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-3-a&chapter=4&lang=en

There remains a lot of ground to cover before ESCRs have the same support as civil and political rights but the gap between the two groups is slowly closing.

2.5 Conclusion

The key events in the ongoing development of ESCRs have been identified. Political actions and legal opinions have interacted constructively with philosophical developments. President Carter's foreign policy triggered Frankel's philosophical criticism, which with that of Cranston triggered Shue's tripartite view of duties. This tripartite typology was adopted by lawyers and refined to guide the workings of the Committee. Within that forum the obligation to close the gaps in duties was clarified by the Limburg principles, based on the Vienna Convention. The Committee via their General Comments over the last 10 years communicated albeit only to specialist audiences, the resulting obligations. Some key understandings that illuminate much criticised aspects of ESCRs lie buried in rarely seen UN documents such as A/2929. Philosophers have made a vital input to the development of ESCRs via critical analyses and the tripartite typology of duties. If lawyers had not constructed the Limburg Principles, then political philosophers should have produced something similar, since it would seem illogical and unreasonable to knowingly leave incomplete any theory prescribing the duties under human rights.

Chapter 3 Criticism and Justification of Economic, Social and Cultural Rights

Having explored the development of ESCRs, this Chapter examines whether such rights can withstand numerous criticisms, before considering possible justifications. It is important to re-affirm that the conception of human rights being considered is that which emerges from the UN process of rights development. This conception does not rely on (or deny) a grounding in natural law, or hold (or deny) that human rights are held by persons simply in virtue of their humanity.

3.1 The Standard Criticisms

Chapter 1 mentioned a list of standard criticisms that have often been leveled at the ESCRs:

- Positive versus negative rights dichotomy
- Over-demandingness of Human Rights
- Human Rights are not universal
- Lack of determinateness of Human Rights
- Human Rights inflation and mutual conflict
- Cultural bias/imperialism
- Lack of philosophical justification

This section considers the first six from this list, before the issue of justification is tackled in section 3.2. In exploring each criticism it will be worth keeping in mind key milestones in the evolution of ESCRs, including:

1948 UDHR is signed

1966 ICESCR and ICCPR both adopted

1969 Vienna Convention on the Law of Treaties agreed

1976 ICESCR and ICCPR both enter into force

1980 Henry Shue proposes a tripartite typology of duties
1986 Limburg Principles agreed
1987 Committee on Economic, Social and Cultural Rights formed
1989 First General Comment published
1999 GC12 on right to adequate food, first to reflect tripartite typology
2000 GC14 on the right to the highest standard of health, first GC fully compliant with the tripartite typology and other GC guidelines.

Some criticisms, seemingly valid at the outset, have been overtaken by events.

3.1.1 Positive versus negative rights dichotomy

Perhaps the most frequently voiced criticism appeals to an apparent distinction between positive and negative rights and argues against the inclusion of positive rights. This view was common during the early years and figured prominently in the much-publicised criticisms of Cranston, and others as late as the 1970s. However, Shue's response in *Basic Rights* demonstrated adequately that all rights involve a range of duties, some of which were duties of forbearance (negative) and others duties of action (positive). So, whether we are talking about the right to physical security or the right to subsistence the following three types of duties correlate:

- I Duties to *avoid* depriving (negative)
- II Duties to *protect* from deprivation (positive)
- III Duties to *aid* the deprived (positive)

This would suggest the possibility of symmetry in the duties of CPRs, on the one hand, and ESCRs on the other.

However, some have suggested that the notion of symmetry goes too far in that more seems achievable in the field of CPRs with negative-seeming duties than can be achieved by forbearance in the field of ESCRs.¹ Others might argue this possible shortfall in symmetry is insufficient to ground the distinction in rights, and their

¹ For example, David Beetham in Beetham (1995) p52

implementation, that was originally associated with the dichotomy (by the Human Rights Committee for ICCPR, ECOSOC for ICESCR). For many such commentators and human rights practitioners,² Shue's explication of correlative duties comfortably outweighs lingering concerns about a positive/negative dichotomy of rights, as evidenced by the adoption of a Shue based typology by consensus of the Committee (on Economic, Social and Cultural Rights).

However, Thomas Pogge holds at least two concerns regarding Shue's typology that might undermine its impact on the positive/negative debate. Both concerns draw on the interactional understanding of human rights, by which each right is matched with "certain directly corresponding duties."³ The first stems from the degree of interaction between rights and duties, and in particular the contrast between the minimalist interactional position of libertarians, who recognise only negative duties (to avoid depriving), and maximalist interactional positions, arguably including that of Shue, that require also positive duties (to protect and to aid).⁴ The apparent over-demandingness of the maximalist interactional view, a strong motivation behind the continuing positive/negative dichotomy, will be explored more fully in the next section.

Pogge attempts to transcend the debate by proposing an institutional understanding of human rights by which each society ought to be organised so that it ensures all of its members have secure access to their rights. Pogge positions this institutional view as midway between the minimalist interactional view, that denies responsibility for deprivations we do not directly bring about, and the maximalist interactional view that holds everyone individually responsible for all deprivations however caused. Human rights then are claims on one's society, not on the individual members of that society. Pogge recognises that ultimately, citizens share responsibility for the organisation and performance of their society but distinguishes this from the direct responsibility for all duties contained in the maximalist interactional view. Furthermore, under the proposed arrangement, it is possible to sidestep the positive/negative dichotomy by presenting an

² For example, Jack Donnelly in Donnelly (2003) pp30-33, Michael Freeman in Freeman (2002) p70.

³ Pogge (2002a) *World Poverty and Human Rights* p64

⁴ In (2002a) p 226, Pogge states that although he originally considered Shue to hold a maximalist interactional position, he has since noted Shue's rebuttal of this interpretation, in his Afterword in the 2nd Edition of *Basic Rights*, on the grounds that the duty to aid does not extend to the effects of natural causes. Pogge observes that Shue does not explain why he believes this distinction to be morally significant.

individual's (indirect) duty towards all others as purely negative - the duty *not to uphold* "coercive social institutions under which they do not have secure access to the objects of their human rights".⁵

Pogge addresses his first concern by involving two distinct elements. Firstly, by introducing 'society' as the direct duty bearer standing between the right holder and the underlying duty bearers. Secondly, by defining the underlying duty bearers' obligation as a negative duty.

Regarding the first element, Pogge seems correct in introducing societal institutions as intermediaries in the process of rights fulfillment. Positive duties, if required to fulfill particular rights, fall in the first instance on institutions and not individuals. However, he fails to mention that Shue advocates a similar role for societies in his "Mediating Duties" (about which, more later). Like Pogge, Shue recognises that persons considered individually, cannot shoulder all the obligations implied by everyone's human rights everywhere.

Regarding the second element, one can but admire Pogge for packaging his institutional view in a manner acceptable to the widest audience, including libertarians. By this reading individuals bear only negative duties. If successful, this move might finally neutralise the positive/negative dichotomy. However, it is not clear that the residual duty is as entirely negative as he suggests. Pogge states his institutional understanding "involves a duty on citizens to ensure that any social order they collectively impose upon each of themselves is one under which, insofar as reasonably possible, each has secure access to these necessities"⁶ (basic necessities). This 'duty to ensure' seems more like a positive duty of action, rather than a negative duty of forbearance. It would seem from this that Pogge's residual duty for individuals could be phrased in either positive or negative language - as positive or negative duties. But Shue goes further, he suggests that the existing institutions are not well organised and that "at least some of us sometimes have a duty to conceive, nurture, and support better institutions"⁷ - a positive duty on most interpretations that would be difficult to express in negative terms. Whatever language one adopts it seems reasonable to conclude that this duty might

⁵ Ibid p66

⁶ Ibid p67

⁷ Shue (1996) p168

involve acts of omission and acts of commission⁸, and thereby should not be labeled positive or negative unless those terms themselves are more restrictively defined.

The second of Pogge's concerns stems from the possibility that each right may not be matched with certain directly corresponding duties, as assumed on the interactional view. For example, the right to adequate nutrition may, in certain circumstances, require only "an effective criminal statute against speculative hoarding of foodstuffs"⁹ and, the right not to be subjected to cruel or degrading treatment may, in particular cases, "generate obligations to advocate and support programs to improve literacy and unemployment benefits."¹⁰ Pogge's point here is that linkage between rights and duties may not be so obvious, or directly correlated, as is often assumed (or stipulated under Shue's typology). For example, cruel treatment and education, in the example just given, seem to involve different rights and do not appear to be two aspects of a single right. However, under Pogge's institutional view it is not required to define in advance the nature of the duties falling on society relating to each individual right as it seeks to secure them for all its citizens. In practice, some such duties may seem directly correlated or linked with the human right concerned and others may seem unrelated or distant at first glance. Pogge's observation and approach suggests a potential weakness in Shue's tripartite typology that is avoided in his own institutional understanding. Nevertheless, Shue is supportive of Pogge's observation about the complex relationship or rights and duties and notes that James Nickel also talks of a 'web of interdependent rights and duties'.¹¹ Indeed, the interdependence of rights is a point readily accepted by Shue and emphasised repeatedly by the drafters of human rights. Shue states "the means to the fulfillment of one right will include the fulfillment of other rights, because rights may be of great instrumental value in the fulfillment of other rights regardless of whether they are of intrinsic value as well."¹² Shue distances himself from Pogge mainly on the grounds that Pogge concentrates on existing institutions in his analysis whereas Shue himself wants to consider the conception of new institutions, as mentioned above.¹³ However, Pogge's talk of institutional reform¹⁴ would seem to

⁸ A point noted by Shue in response to Pogge in a footnote to the Afterword in the 2nd edition of *Basic Rights*, Shue (1996).

⁹ Pogge (2002a) p70

¹⁰ *Ibid* p66

¹¹ Shue (1996) p163

¹² *Ibid* p164

¹³ *Ibid* p165

¹⁴ Pogge (2002a) p66

include the possibility of new institutions as well as institutional change, further reducing the gap between the two viewpoints.

My conclusion is that, notwithstanding Pogge's contribution, the positive/negative dichotomy has lost much of its philosophical traction with the publication of Shue's *Basic Rights*, and most of the remainder with the application of the tripartite typology by the Committee. However, it will no doubt retain its appeal with critics of ESCRs, and those who seek to avoid the constraints of legally or morally enforced positive duties.¹⁵

3.1.2 Over-demandingness of Human Rights

Two versions of this criticism will be considered, of which the first is closely related to the previous concern about a positive/negative dichotomy. For many commentators, over-demandingness, in the form of potential *impoverishment*, is the main undesirable consequence of the positive/negative dichotomy, and the motivation for States to slow pedal on ESCRs. Section 2.2.2 recorded how Shue responded to Cranston's criticisms along these lines. However, it is instructive to examine how Pogge restates the criticism in a direct riposte to Shue's position.¹⁶

Pogge's criticism has both destructive and constructive elements. The former consists of positioning Shue's Duty III.2, as being "extremely demanding" indeed impoverishing:

III.2. Duties to aid the deprived who are victims of social failures in the performance of duties (I), (II-1), (II-2).

Pogge says,

We are required to sacrifice all our preferences, all our opportunities for cultural enrichment, and all substances of our non-basic rights insofar as this is necessary and useful for helping others gain access to substances of their basic rights.¹⁷

¹⁵ Onora O'Neill, in "The dark side of human rights" (2005), is one such critic who contrasts welfare rights with liberty rights - a positive/negative contrast. I explore her criticism in Section 3.1.3.

¹⁶ Pogge "Shue on Rights and Duties," in Beitz and Goodin (2009) pp123-130

¹⁷ Ibid p125

And,

...it is quite clear, that in the world as it is, our III-2 duties require us to give up all but our own basic rights for the sake of fulfilling basic rights of others.¹⁸

In interpreting Shue's position Pogge is referring to pages 114-119 of *Basic Rights*. However, Pogge omits to mention that immediately after indicating the possibility of giving up "anything but one's basic rights," Shue states,

... I believe that in fact it is most unlikely that anyone would need to sacrifice anything other than preferences, to which one has no right of satisfaction and which, are of no cultural value, in order to honor everyone's basic rights, provided everyone with the duty to make some sacrifice of preferences does do.¹⁹

And,

No evidence suggests, however, that anything even approximating the sacrifice of all preferences is actually needed in order to aid all who are deprived of basic rights.²⁰

The worry, of course, is that not everyone with "the duty to make some sacrifice" will do so, leaving an excessive burden on others. Shue first addresses that concern by suggesting such duties should be institutionalised to avoid free-riding and later with his suggestion of mediating duties,²¹ such as tax collection and redistribution, that stand between individuals, corporations or governments as duty bearers and individuals as rights bearers. Such mediating institutions, can offer the necessary efficiency and respite from potential over-demandingness. Pogge may have been too selective in his presentation of Shue's position.

A common aspect of most instances of the over-demandingness criticism is that no quantification is involved. This clouds meaningful discussion about the distinction between reasonable and excessive demands. The question of poverty (and remedy) measurement will be re-visited in a later chapter. In the meantime it seems clear that what represents a reasonable demand for some is too demanding for others.

¹⁸ Ibid p127

¹⁹ Shue (1996) p114

²⁰ Ibid p114

²¹ As mentioned in section 2.2.2, referring to Shue (1988)

Pogge also questions Shue's attribution of Duty III-2 to *us*, where we are presumably remote (transnational) individuals,

Even when we are wholly disconnected from the wrongs that sustain the deprivations we are asked to mitigate ...²²

This seems surprising from Pogge given his view that because we all are linked by the defective basic structure of globalization we all have duties to correct that structure.²³ I conclude that Pogge fails to establish that Shue's duty III-2 threatens impoverishment for all, but accept that it will fuel those already anxious about over-demandingness.

Turning to Pogge's constructive criticism, he suggests that following Shue's lead, we disassemble human rights in the way Shue disassembles duties. He proposes six rights structured as follows:

- I. one general moral right not to be deprived of X
- II. two distinct general moral rights to be protected against being deprived of X, and
- III. three distinct general moral rights to be aided when one lacks access to X.

With this proposal Pogge "resurrects the moral significance of the distinction between negative and positive rights which Shue had sought to bury for good."²⁴ He divides a single right into one negative and five positive rights (corresponding to Shue's tripartite duties with subdivisions). Pogge claims that this disaggregation of rights makes it easier to consider the allocation of duties, and to perform cost benefit analysis. On the question of allocating duties, Pogge suggests we might end with "very weighty moral rights, against every other agent, not to be deprived of X and less weighty and less wide-ranging moral rights to be protected against, and aided in the event of, deprivation of X". Put another way, Pogge is proposing that the right not to be deprived is 'basic' in Shue's terms and that the right to be protected or to receive aid is not basic. However, there are two worries with this part of Pogge's position. Firstly, his reduced basic right seems inadequate to achieve Shue's aims (for basic rights), those including the actual enjoyment of the substance in question and the social guarantee of that enjoyment against standard threats. Pogge provides no reason why those aims should be

²² Pogge in Beitz and Goodin (2009) p127

²³ For example Pogge (2002) pp15-26

²⁴ Pogge in Beitz and Goodin (2009) p128

dismissed. The second worry is that Pogge appears to have overlooked his earlier objections to an ‘interactional’ stance,²⁵ like that adopted in Shue’s typology, in which each right is matched with certain directly corresponding duties. Of course it would be difficult to perform a cost benefit analysis of a particular right, as Pogge proposes, if the duties to be costed were not easily recognisable as being linked to the right concerned.

Pogge raises the cost benefit analysis issue presumably because of the possibility to dismiss for cost benefit reasons certain positive rights. This is not the only place where Pogge suggests that rights may dissolve if too costly, echoing the earlier criticisms of Cranston and Frankel (practicality tests). But the alternative view is that the right may be unfulfilled if resources are missing but remains a genuine right irrespective of the resource shortfall.

How are we to decide between these two seemingly different positions on rights, Shue’s somewhat demanding view of correlative duties and Pogge’s more restrictive focus on negative rights and duties? One test, in the spirit of the Limburg Principles, would be to consider the purpose of the human rights structure, and on this basis I suspect that a scenario that leaves victims unprotected against deprivations and unaided once deprived will fall short of the overriding aims of the UDHR. If, of course, the conception of human rights one is defending is not the UN based version but one drawn from say, natural law, then the choice is less obvious. Shue himself suggested that in evaluating the assignment of duties in practice we should consider both their institutional adequacy and the individual fairness to duty bearers concerned.

The second version of the criticism mentioned earlier is that ESCRs are over-demanding in being *utopian aspirations*.

There are perhaps two ways in which the charge of being utopian aspirations might be damaging to the human rights movement. The first is to read ‘utopian’ as implying that the aspirations are practically unachievable, essentially impossible goals, and therefore not to be taken seriously, nor resources wasted accordingly. This version of the challenge usually concludes (with Cranston and Frankel) that the utopian rights are not rights at all. We have seen how Shue and others have responded to such criticism but a

²⁵ As discussed in 3.1.1

final decision on the validity of ‘utopian rights’ perhaps lies in their justification. We may assume that an adequate justification would defuse this worry.

The second damaging reading is that utopian rights are not practical now but are something positive for the future, and as such do not carry much weight in current decision-making. One need not deny the existence of such rights, but merely assign them a low priority. John Rawls might be seen as one such commentator.²⁶ Rawls was distinguishing liberal aspirations from what he termed “the special class of human rights” that had three roles including their part in preventing or permitting “forceful intervention by other peoples, for example, by diplomatic and economic sanctions, or in grave cases by military force.” He singled out Article 1 of the UDHR as his example of such liberal aspirations:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

However, it is not clear that Rawls would have excluded all ESCRs from his special class of human rights, and included them in the category of aspirational rights, as this version of the criticism requires.

The criticism considered here seems more far-reaching and seizes upon the recognition in the ICESCR (Article 2.1) of the progressive nature of ESCRs as evidence of the purely long-term nature of such rights. Indeed, the wording of the Covenant and the background provided in the working papers (A/2929) both permit this interpretation. However, in the period since the Covenant’s adoption this view has become progressively less sustainable. For example:

1986, The Limburg Principles state

21. The obligation "to achieve progressively the full realization of the rights" requires States parties to move as expeditiously as possible towards the realization of the rights. Under no circumstances shall this be interpreted as implying for States the right to deter indefinitely efforts to ensure full realization. On the contrary all States parties have the obligation to **begin immediately** to take steps to fulfil their obligations under the Covenant. (Emphasis added),

²⁶ Rawls (1999) p80

And, most clearly, in 2000, GC14,

31. The progressive realization of the right to health over a period of time should not be interpreted as depriving States parties' obligations of all meaningful content. Rather, progressive realization means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 12. (21)

This General Comment on the right to health follows more completely than earlier comments the guidance provided in the “Outline for Drafting General Comments” that calls for recognition of obligations of immediacy as well as obligations of progressive realization.²⁷ GC14 goes on to define ‘core obligations’ (and obligations of comparable priority) including essential primary health care,²⁸ and lists non-compliance with core obligations, “under any circumstances whatsoever” as a violation of the Covenant.²⁹ The Committee therefore concludes that no practical reasons can justify a State failing to meet certain obligations even if the full satisfaction of the Covenant’s aim necessitates a programme of action over time. This focus on immediate practical goals as well as longer-term plans reduces the power of the second reading of the ‘utopian’ critique to limit the call of ESCRs on short-term priorities.

From all the above it seems the criticism of human rights’ over-demandingness seems to gather its power from natural concerns of self-interest but without more specificity its impact remains inconclusive.

3.1.3 Human Rights are not universal

The power of this criticism depends upon both the conception of human rights one is defending and the meaning one attaches to ‘universal’ in this context. Onora O’Neill’s version of this criticism has been highly influential and is considered below. To

²⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), *Report of the UN Committee on Economic, Social and Cultural Rights, Twentieth and Twenty-first Sessions (26 April - 14 May 1999, 15 November - 3 December 1999)*, 18 May 2000, E/2000/22; E/C.12/1999/11, Annex IX, Section III

²⁸ GC14, articles 43, 44

²⁹ *Ibid* article 48

facilitate that review, the range of meanings associated with the term universal in the context of human rights is sketched out.

In Chapter 2, Cranston's Universality Test holds universal human rights are those that belong to *all persons at all times, in all situations*,³⁰ and that "to speak of a universal right is to speak of a universal duty."³¹ Cranston concluded that ESCRs imposed no universal duties and consequently were not universal human rights. On the other hand, Frankel in his version of the Universality Test, does not insist that universal rights impose universal duties – duties on all persons, at all times, in all situations, but limits the scope of the duty to governments, and requires only an affirmation of the question,

“do people everywhere think of it as a right, not simply an important value but as creating a duty that governments have no valid excuse not to discharge?”³²

More recently, Jack Donnelly has provided a helpful overview that recognizes different conceptions of human rights, with different scopes for the term 'universal'. Donnelly suggests that for the conception that holds human rights to be rights one has simply because one is a human being (what might be termed the *natural* conception of rights), then such rights are held universally, meaning by all persons, against all other persons and institutions. He labels this view *moral universality*.

He distinguishes this first conception from that of human rights following from the UDHR (what might be the *international* conception of human rights). These latter rights are universal in a different sense: “they are almost universally accepted, at least in word, or as ideal standards.”³³ He calls this the *international normative universality* of human rights. This view seemingly allows that corresponding duties need not be strictly universal, attaching directly to every agent globally.

By this classification, Cranston would seem to be invoking *moral universality*, whereas Frankel's position is less clear and might be thought to imply *international normative universality* although his highly restrictive list of genuine human rights³⁴ seem at odds with international human rights.

³⁰ Cranston (1973) p67, Similar at Cranston (1967) p126

³¹ Ibid p68 – not mentioned in Cranston (1967)

³² Frankel (1978) p45

³³ Donnelly (2003) p1

³⁴ Frankel (1978) pp45-47

In her paper “The dark side of human rights,” O’Neill levels a number of challenges against ESCRs, which she terms welfare rights.

One argument is that welfare rights are *not* universal but special rights (resulting from some agreement), “universal rights will be rights against all comers; special rights will be rights against specifiable others.”³⁵ In this case O’Neill appears to be invoking *moral universality*, and by this classification her claim would appear to be correct: welfare rights do not generate primary duties of a universal nature since the duties to protect and aid (considered by O’Neill and others to be the primary duties) are assigned in the first instance to the state governments. Elsewhere,³⁶ O’Neill makes the point a second way claiming that for rights to be genuine and universal the primary duties they impose must be fully specified, and that welfare rights prior to their institutionalisation, unlike liberty rights, are indeterminate.³⁷ This overlaps somewhat with the earlier positive/negative dichotomy point and the concern about determinateness, addressed below. However, by both O’Neill’s arguments, welfare rights are not universal. She points out that a consequence of welfare rights being special rights rather than universal rights is that non-ratifiers of the ICESCR escape from obligations. This situation she compares unfavourably with the (moral) universality of liberty rights (civil and political). It places welfare rights in a secondary position at best.

One might challenge the view that the ‘natural conception’ of rights *requires* universal duties, or whether that conception should allow collective duties to replace those of some individuals in the universe. But for the moment let us accept that O’Neill has a means to distinguish liberty rights from welfare rights under *moral universality*.

However, under *international normative universality* we might argue that, with recent efforts to define and allocate duties through General Comments, welfare rights appear to meet the more limited requirements of universality, being nearly universally accepted and having corresponding (not necessarily universal) duties. Furthermore, under the international conception of human rights, so-called liberty rights involve duties to protect from deprivation and duties to aid in the case of deprivation that may not impose duties on ‘all persons, at all times, in all situations’, but merely those associated with the

³⁵ O’Neill (2005) p431

³⁶ O’Neill (1996) pp131-2

³⁷ An observation made by Elizabeth Ashford in Beitz and Goodin (2009) p103

less strict universality. It seems then that by *international normative universality* we lose the distinction between welfare rights and liberty rights and the notion that welfare rights are secondary. By this reading O'Neill's criticism seems misplaced, and the concern about universality is manageable.

3.1.4 Lack of determinateness of Human Rights

David Beetham claimed one of the most substantial objections to ESCRs is the impossibility of specifying the duties that correspond to the rights claimed.³⁸ One can read this criticism in at least three ways. First, that the nature or scope of the duty is impossible to specify. Second that the number of different duties is seemingly limitless, and third that the identified duties are impossible to quantify. An implication for any of these readings, if correct, is that the rights are consequently unenforceable and hence, on some views, not genuine rights at all.

The first variant is a direct challenge to the tripartite typologies of Shue and others. It denies there is such a direct correlation between right and duty, suggesting instead that rights to education, for instance, might involve duties to provide adequate food not just duties more obviously linked to education.³⁹ One might think of this criticism as identifying the importance of 'indirect' as well as the 'direct' duties specified by Shue. Whereas direct duties are readily identified via the typology, indirect duties may be less obvious. A further complication may be that the duty to secure adequate food may be critical to the right to education in some contexts but that it may fall behind other requirements, such as accessibility, or freedom of movement, in other contexts, making the determination of the list and prioritisation of relevant duties both contextual and generally unsolvable.

This leads into the second reading of the criticism, the limitless number of duties involved. However, a possible response to both these variants is that the indirect duties of a particular right, however many there are and however they might be ordered in importance within a given context, remain the direct duties correlated with some other right within the presumably complete list of human rights. By this view, if all direct

³⁸ Beetham (1995) p50

³⁹ Pogge raised this challenge with his criticism of the interactional view, discussed in previous section.

duties of all rights are addressed, then necessarily all indirect duties will have been addressed – the direct duties regarding the right to adequate food will have ensured the indirect duty to secure adequate food considered important to the right to education. This is consistent with the often-repeated statement that rights are indivisible and interdependent.⁴⁰ This in turn would allow for attention to remain fixed on so-called direct duties with little fear of missing indirect duties. Any gaps that might appear in this network of duties would point to the possible incompleteness of the list of all human rights, prompting a corrective addition (under Limburg Principles) to that set of rights.

The third reading is that the nature of a duty might be clear but it is nevertheless impossible to quantify or measure and/or highly contextual. Where to set and how to measure the relevant threshold? In such cases it may be easier to identify violations of rights than the precise nature of related duties. Such an approach was advocated by Audrey Chapman in 1996⁴¹ and formalized within ‘The Maastricht Guideline on Violations of Economic, Social and Cultural Rights’ agreed by a selected group of human rights experts.⁴² One might think at first that identification of a violation involves the exact same evaluation as identification of the associated obligations. However, GC3⁴³ (which preceded Chapman’s proposal) and the Maastricht Guidelines specify obligations of *result* and obligations of *conduct*. Consequently it is appropriate and indeed necessary to assess the ‘result’, the enjoyment of the right, even when the exact ‘conduct’ appropriate to the right, the nature of the duty, in a given context has not yet been determined. For example, “with respect to the right to health ... the obligation of result requires the reduction of maternal mortality to levels agreed at the 1994 Cairo International Conference on Population and Development and the 1995 Beijing Fourth World Conference on Women.”⁴⁴ This can be determined quite separately from the assessment of the obligation of performance. Hence violations of rights might be easier to spot than the quantification of obligations.

⁴⁰ According to ‘The Maastricht Guideline on Violations of Economic, Social and Cultural Rights’, “It is now undisputed that all human rights are indivisible, inter-dependent, interrelated and of equal importance for human dignity.”

⁴¹ Chapman, A. (1996), “A ‘violations approach’ for monitoring the International Covenant on Economic, Social and Cultural Rights,” *HRQ*, Vol. 18 No. 1, pp 23-66

⁴² A point made by Sepúlveda (2003) pp21-22, referencing Chapman, A. (1996)

⁴³ GC3 (1990) on ‘The nature of States parties obligations,’ following the work of the International Law Commission.

⁴⁴ Maastricht Guidelines, (1997) article 7

Returning to an earlier point we can ask if Human Rights must be enforceable to be genuine rights. Raymond Geuss observes that historically we have considered certain entitlements to be natural rights even when not enforced.⁴⁵ What seems key is that they might be enforceable. If there were no mechanism for enforcing rights, “it would seem that calling them ‘rights’ simply means that we think it would (morally) be a good idea if they were enforced, although, of course, they are not.”⁴⁶ This prompts recognition that Human Rights are a transformative force, a means for progressively transforming moral norms into enforceable rights and duties. By this view an un-enforced right is not disqualified as a genuine right (as per Frankel and Cranston) but positioned merely as a work in progress. The norm precedes the associated duties. Recognition of the norm as a Human Right necessitates the identification, allocation and pursuit of the enabling duties.⁴⁷ And, since the introduction of the guidelines for drafting general comments, which include the Limburg Principles, the potential for rights and duties to be determinate has increased dramatically.

3.1.5 Human Rights Inflation and mutual conflict

The underlying worry with the possibility of escalating rights and/or their corresponding duties (other than over-demandingness), and their possible incompatibility, is that some of the rights and duties might consequently lack legitimacy. It does not directly challenge the basic conception or justification of international human rights but merely its extension to particular rights and duties. Of course if all rights were found to lack legitimacy this would serve to undermine the justification of human rights in general however determined. The legitimacy worry will be considered first in the instance of *rights inflation* and later in the case of *rights conflict*.

⁴⁵ Geuss (2001) p143

⁴⁶ Ibid p144

⁴⁷ Sen (2008c), “Why and how is health a human right?” makes a similar point about the so-called feasibility condition, “If feasibility were a necessary condition for everyone to have any right, it would be nonsensical to say that everyone has the right to liberty, in view of the difficulty in ensuring the life and liberty of all against transgression,” and, “The acceptance of health as a right of all is a demand to take action to promote that goal”.

Three possible tests for legitimacy come to mind, of which the first two are prompted by the Outline for Drafting General Comments⁴⁸. First we might construct a test for *results*, a means of assessing the outcomes of the discourse on the scope and nature of human rights. Such a test would evaluate proposed human rights (the results) against certain established criteria. Second, we might consider the conduct or process by which the rights (or duties) were generated, a test of *conduct*. And third, we might apply a condition of *compatibility*, to which we will return when considering conflicting rights.

The first of these tests for rights legitimacy, the test for *results*, seems to have lost ground once the qualifying criteria proposed by Cranston and Frankel were made to seem inadequate by Shue. The inconsistency between their tests, the vagueness of evaluative criteria such as practicality, and the lack of justification of test elements add to the skepticism that genuine human rights might be identified via such a test of *result*.

A more promising test of legitimacy appears to be the test of *conduct*, an examination of the process by which new rights or duties are proposed and adopted. However, the US Government appears to have overlooked this source of legitimacy when criticising draft UN guidelines for pharmaceutical companies based on GC14.⁴⁹ Amongst various criticisms, it claimed (in italics, with possible responses below):

1. General Comment 14, like the Draft Guidelines, expresses the opinions of individuals acting in their personal capacities, and is not the result of deliberations among States; the U.S. Government does not consider these types of documents to have any legal standing in international fora.

However, ECOSOC is designated in the ICESCR with the responsibility of monitoring implementation by the States Parties. ECOSOC in turn formed the Committee by resolution 1985/17 to assist ECOSOC with its responsibility. The Committee's members are elected from nominees recognized for their

⁴⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), *Report of the UN Committee on Economic, Social and Cultural Rights, Twentieth and Twenty-first Sessions (26 April - 14 May 1999, 15 November - 3 December 1999)*, 18 May 2000, E/2000/22; E/C.12/1999/11, Annex IX

⁴⁹ U.S. Department of State, "Comments on Draft Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines," (2007) Accessed 2/2/11 at <http://www.globalgovernancewatch.org/resources/comments-on-draft-human-rights-guidelines-for-pharmaceutical-companies-in-realtion-to-access-to-medicines>

competence in the field of human rights and serve in their personal capacity as experts rather than as representatives of particular States. The opinions expressed are those of the consensus of the Committee, as so required, not particular individuals. This arrangement adds to the legitimacy of their opinions rather than detracts from them.

2. *Indeed, a number of statements and assertions in General Comment 14 go beyond the ICESCR, and purport to create a panoply of health-related rights that are not found in the ICESCR. The U.S. does not accept such references — some of which also pervade the Draft Guidelines — as they are not found in international human-rights instruments.*

The Committee realized from its inception that in order to monitor the implementation of the Covenant it would need to clarify its somewhat vague content. It responded to an invitation from ECOSOC, in Resolution 1987/5, to prepare general comments with a view to assisting States Parties to fulfil their reporting requirements.⁵⁰ The Committee adopted Eide's tripartite typology as a means to describe the different types of duties associated with each right. They also relied on the Limburg Principles to interpret the vague requirements of the Covenant in 'good faith' in accordance with the 'ordinary meaning' to be given to the terms of the treaty in their 'context' and in the light of its 'object and purpose'. GC14 (adopted by consensus, like all general comments) represents the application of these ideas to ICESCR article 12, which recognizes 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.' GC14 is thus in keeping with the Guidelines for drafting General Comments published by the Committee in 2000. It does not add to the rights contained in article 12 but provides the essential details missing in the original. Sepúlveda notes that to her knowledge, "States Parties have never formally objected to the General Comments of the Committee."⁵¹ The US is of course not a State Party to the Covenant.

These and the other criticisms contained in the US Department of State comments do

⁵⁰ Craven (1995) p89

⁵¹ Sepúlveda (2003) p42

not seem to pose an insurmountable challenge to legitimacy of GC14 or the work of the Committee in general. Reasonable answers to each point seem to be available. There is little evidence of rights inflation as opposed to rights clarification.⁵²

However we feel about the US position, the concern about the legitimacy of the Committee's *process* raised by the US statement is an important issue. Given the lack of direct legal underpinning for the Committee's interpretations, the compliance by States Parties will depend to a large extent on the perceived legitimacy of the Committee's requirements. To this end Sepúlveda has offered a non-exclusive list of criteria by which to assess the legitimacy of the Committee's interpretations:

(a) Independence and expertise; (b) diversity; (c) continuity and coherence; (d) predictability; (e) efficiency; (f) objectivity; (g) reasonableness and practicability; and (h) support in the work of other international bodies.⁵³

One might challenge the basis for this list in the same way one questions Cranston's test of genuine rights. However, one difference is that these proposed criteria are not binary pass/fail tests but questions of degree. And, it is for the assessor to determine the relative importance of each factor. The list merely serves to ensure the assessor has considered most of the relevant factors in arriving at a view on overall legitimacy. Sepúlveda's own analysis of the Committee's legitimacy is not repeated here but her conclusion is that "the Committee meets many of the factors that provide legitimacy ... but still needs to make improvements in relation to many of the factors analysed." For example, she mentions that the 'independence' factor is weakened by the fact that 8 of the 18 members (at the time of writing) hold government positions.⁵⁴ Sepúlveda draws support for the conclusion from the fact that

(T)here is a significant level of acceptance of the Covenant's interpretation among States, as is reflected in their practice before the Committee, as well as a plethora of resolutions and decisions adopted by States in international fora.⁵⁵

⁵² Other statements of Rights, such as The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), could similarly be presented as clarifications of earlier commitments.

⁵³ Sepúlveda (2003) p91

⁵⁴ Ibid p110

⁵⁵ Ibid p110, Sepúlveda suggests examples of international fora include the General Assembly and the Human Rights Commission.

We turn now from legitimacy worries based on *rights inflation* to the legitimacy worry raised by *rights conflict*. The concern here is that a human right may lack legitimacy, even if arrived at by legitimate process, if it is not compatible with all other human rights. The claim, frequently made, that human rights are inter-dependent and indivisible would seem to support this suggestion. However, there are many thought experiments that show that even the most basic of human rights are incompatible in particular circumstances. Examples include:

- 1) Detention without trial of a small number of suspected terrorists in order to avert a grave threat of a nuclear attack on a heavily-populated metropolis (a right to liberty vs. a right to life and personal security)⁵⁶
- 2) Right against child labour and the potential conflict with the right to food.⁵⁷
- 3) Restriction of certain individuals' liberty (enforced quarantine) to safeguard public health.

Arguably, such scenarios do not imply that one or more of the rights concerned lack legitimacy but merely that some circumstances, particularly those of resource scarcity, conspire to leave some rights unfulfilled. For a human right to be denied legitimacy by this route, I suggest, it would need to be incompatible with other human rights in most if not all contexts.

At first glance this may seem consistent with Hillel Steiner's compossibility test for rights, that maintains

the mutual consistency – or compossibility – of all the rights in a proposed set of rights is at least a necessary condition of that set being a possible one.⁵⁸

However, on closer examination Steiner's test is much more restrictive than my proposal:

⁵⁶ An example discussed by James Griffin in Griffin (2003) Ch3.

⁵⁷ An example discussed by Elizabeth Ashford in Beitz and Goodin (2009) p94

⁵⁸ Steiner (1994) p483, accessed 28/3/12, via Hillel Steiner on Rights, at <http://www.psa.ac.uk/journals/pdf/5/1994/stei.pdf>

A possible set of rights is such that it is logically impossible for one individual's exercise of his rights within that set to constitute an interference with another individual's exercise of his rights within that same set.⁵⁹

Steiner's argument is that rights must be compossible because there is nothing higher by which to judge a clash of rights. By this analysis, at least some of the rights involved in the above examples would be illegitimate by virtue of failing the compossibility test. However, this seems an extreme response to the possibility of a rights clash. One could argue that such clashes of 'rights' should be adjudicated within a given context, albeit with some rights unfulfilled for particular parties. This is probably not the place to explore in detail Steiner's extensive work on the compossibility of rights.⁶⁰ However, it would seem that the elimination of all rights not complying with the Steiner's strict compossibility test would seem counter to the intentions of the UDHR drafters and their subsequent interpreters.

Perhaps the most damaging concern with conflicting rights is not the threat to legitimacy but the lack of guidance on the issue of trade-offs. This in turn opens the possibility that States, or particularly their ruling elites, may 'justify' whatever policy they prefer by prioritizing the various human rights in a particular way. Freedom of speech, movement or employment may be sacrificed in a given State as a selected consequence of a planned economy focused on the duty to provide adequate food (the excuse). Alternatively, a prioritization of individual and collective freedoms may be chosen at the expense of duties to the impoverished in the same or other States. The possibility of conflict between rights, or at least the conflict for scarce resources, opens the prospect of the 'cherry picking' of rights, ultimately reducing the security of all human rights, since one cannot tell in advance how the prioritization may vary, and permitting almost any political agenda.

One might conclude from this that the international conception of human rights, with its lack of a ranking of rights, stands open to severe criticism as an inadequate system of justice. However, in defense, one might counter that the human rights approach is not intended to be a complete system or theory of justice, but merely a statement of the minimum thresholds of State behaviour towards its citizens, compatible with peace between nations. Such a view is intended to be acceptable to States holding different

⁵⁹ Steiner (1977) p769

⁶⁰ For a review of Steiner's *An Essay on Rights*, see Wolff (1987)

conceptions of the good. A pre-set ranking of all human rights would seem sub-optimal for many contexts and unacceptable for many States given the plurality of values. The fact of plurality seems to count against the pre-set, globalised prioritization of rights, and hence the simple resolution of all rights conflicts. Difficult decisions regarding rights conflict and resource allocation seem inevitable.

However, there is reason to believe that the negative consequences of rights conflicts might be reduced over time by the accumulation of cases in which unbiased experts, such as the Committee or Courts of Human Rights, adjudicate on particular conflicts. Such ‘case law’ would depend initially, at least in part, on the clarification of rights and duties contained in the various covenants. The application of the Limburg Principles seem key to completing that task, bearing in mind that the desired level of rights’ specificity has to remain sufficiently general to allow for differing approaches to their realisation.⁶¹

The apparent mutual conflict of human rights in specific contexts does seem to be a weakness in the human rights approach, in allowing for abusive prioritization, but it seems unlikely that one might find a generic remedy. Instead it appears more likely that contextual judgments will provide the best solution. The worry of the inappropriate prioritization of rights is not primarily a consequence of the human rights approach – it existed long before the contemporary process emerged – rather it is a matter of broader State governance. By this view, the international human rights doctrine is an important contributor to State policy decision making but not the only set of values to be incorporated.⁶²

3.1.6 Cultural bias/imperialism

It seems indisputable that the international human rights doctrine is culturally biased. The conception depends upon the recognition of peoples and nations organized within states, and therefore ignores, for example, the views of isolated Amazonian tribes who lack the concept of countries, let alone the awareness that they belong to Brazil, or

⁶¹ A point made by Beetham in Beetham (1995) p48

⁶² Freeman makes the point about the importance of balancing human rights with other values, such as the duty of benevolence, at Freeman (2002) p62.

possibly Peru, and all that entails. They could not recognize their own human rights and made no contribution to their formulation. However, the important question is not whether there is cultural bias (or cultural imperialism) but whether there is an unacceptable level of bias such as to undermine the legitimacy of the doctrine. The question is important because the answer could have a negative bearing on efforts that ultimately address the objective of lasting peace between nations.

The issue of cultural bias is not just a concern that has arisen after the event but was a major constraining factor at every stage of the development of international human rights. As documented in Chapters 1 and 2, there have been continuous efforts to incorporate the broadest viewpoints and limit the impact of cultural bias. The initial inclusion of multiple constitutions and rights instruments, the breadth of participation, and the absence of ‘votes against’ throughout the development sequence indicate the lengths taken to minimise cultural bias. If we take the criteria of assessment to be the *process* of rights derivation (conduct), then ESCRs may enjoy a positive rating. However, if we take the *results* of the rights process to be the criteria of assessment, then the picture is less clear. Critics claim that certain characteristics of international human rights are evidence of their Western origin:

- Individual freedom placed ahead of collective good,
- Rights seemingly above duties,
- Self-interest over social responsibility,
- Civil and political rights over economic, social and cultural rights.⁶³

However, one could propose an alternative reading of the same facts:

- That individual freedoms support the collective good of world peace.
- That the rights within UDHR arose because “society and the state trespassed upon man.”⁶⁴
- That rights imply equally important duties, but are easier to identify and simpler to summarise.
- That individual rights define the social responsibility of States.

⁶³ Beetham suggests these characteristics are apparent from the standpoint of comparative political analysis, Beetham (1995) p2

⁶⁴ Malik (1949) Talk on Human Rights <http://www.udhr.org/history/talkon.htm>

- That the international human rights approach is countering the traditional ranking of civil and political over economic, social and cultural rights.

One could also challenge the charge of ‘Western origin’. For example Craven suggests the results reflect a broader origin:

- Western States preferred a minimum list of strictly enforceable civil and political rights
- Eastern Bloc States championed economic, social and cultural rights
- Latin American States wished to incorporate a maximum catalogue of rights including the economic, social and culture components.⁶⁵

However, the first of these examples overlooks the role of President Roosevelt’s four freedoms and highlights instead the fact that the US position has changed over time.

If one insists the results are overly ‘Western’, yet accepts that the process was reasonable, one might conclude that the Western influence had already spread to all corners of the world before the rights discourse commenced. This might be termed historic cultural imperialism. Alternatively, one might argue that the process is less reasonable than it seems given the power differences between the participants. This would be a case of more current cultural imperialism. However, there is enough in the drafting history, as presented, to suggest that power differences were not the major determinants of the outcome on rights. If Western influence were as strong as might be feared then the ICESCR would have stalled at the concept stage.

Notwithstanding all of this, many Asian states felt sufficiently strongly about the perceived cultural bias in human rights practice that they issued their own statement in 1993, emphasising the principles of sovereignty, self-determination, and noninterference. The so-called Bangkok Declaration was based on “the aspirations and commitments of the Asian region,”⁶⁶ most vividly expressed in Article 8

Recognize that while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds;

⁶⁵ Craven (1995) p17

⁶⁶ The Bangkok Declaration (1993), accessed 5/4/12 at <http://law.hku.hk/lawgovtsociety/Bangkok%20Declaration.htm>

Rather than rejecting outright the concept of human rights, the Asian states insist on the legitimacy of a local understanding of those rights, in effect rejecting a ‘western’ understanding. The issue of ‘Asian values’, sometimes characterised as giving priority to discipline over liberty,⁶⁷ had been brought to the fore.

Three years later, Sen observes,⁶⁸

... neither the rapid invoking of "Asian values" in defense of suppressing human rights, nor the expression of Western anxiety and consternation about "Asian" ways, helps to advance critical scrutiny of the role of human rights and their consequences in Asian societies. The subject has a contingently regional dimension, but it is not a foundationally regional issue.

Sen supports this claim about the lack of foundational regional difference with various quotes from Ashoka, and others, challenging an east/west division in the history of ideas.⁶⁹ In particular, Sen rejects the notion that democracy and freedom are uniquely western concepts and provides ample historical evidence for eastern versions.

Unfortunately, Sen’s convincing rejection of an east/west divide in the origins of freedoms and rights may have diverted attention from the fact of currently prevailing cultural value differences. The Bangkok Declaration, after all, was not challenging the concept of universal human rights but merely advocating a regional understanding and practice. The argument is not about the origins of concepts but about their implementation.

The fact that Asian states have, according to Joseph Chan, been unable to provide "vigorous arguments for their claim to distinctiveness"⁷⁰ should not obscure the fact that countries differ widely in their cultural values, and that this might have a bearing on their collective behaviour, a subject to which I will return in later chapters.

Meanwhile, I conclude that although much of the debate has been about the origins of ideas, the real problem of cultural imperialism seems more evident in the application of human rights than in its conceptualisation.

⁶⁷ Sen (2009) p228

⁶⁸ Sen (1996) *Thinking About Human Rights and Asian Values*.

⁶⁹ e.g. Ibid, Sen (2005) pp135-6, and Sen (2009) p228

⁷⁰ Chan (1996) “The Task for Asians: To Discover their Own Political Morality for Human Rights”

3.2 A justification of international human rights

The first part of this chapter has examined six of the seven standard criticisms of human rights individually.⁷¹ However, it has been suggested that addressing these forms of skepticism in a piecemeal manner is not entirely effective as new variants of the criticisms are likely to emerge in response to specific refutations.⁷² A more promising line of defence may be to construct an overall justification (scalar not binary) of the contemporary international human rights practice, after which individual criticisms either melt away or can be addressed against an established and legitimate background. In this section the seventh standard criticism will be tackled by proposing a justification of international human rights based on the ‘practical’ approach of Charles Beitz as presented in *The Idea of Human Rights*.⁷³ I will suggest that Beitz’ approach sidesteps many of the weaknesses in *naturalistic* and *agreement* theories of human rights, both of which fall short as means for justifying or critically challenging international human rights, before examining how his approach deals with the issue of anti-poverty rights. A potential problem with Beitz’ approach is identified together with a possible solution that also strengthens the overall justification of international human rights. The conclusion reached is that the modified practical approach provides an adequate justification allowing the emphasis of future philosophical and social science efforts to be directed towards matters of implementation.

3.2.1 Naturalistic Theories

Perhaps the biggest distraction confronting efforts to justify international human rights is the idea that they are the contemporary form of *natural rights*. This doctrine has a long and influential history dating back to Locke and beyond. From an historical viewpoint it is correct that international human rights do incorporate some of the conclusions of earlier natural rights theories, but it is clear from the record that the drafters of the UDHR and subsequent Covenants did not base their work on a single

⁷¹ First mentioned in Chapter 1

⁷² E.g. Beitz (2009) p6

⁷³ Beitz (2009)

philosophical position such as a theory of natural rights. The question to consider is whether or not naturalistic theories of rights contribute to or help define the scope or justification of the international (UDHR) version.

There are many versions of natural rights theory but according to John Simmons most would hold that natural rights “are rights possessed by all human beings (at all times and in all places), simply in virtue of their humanity.”⁷⁴ Beitz has suggested that most conceptions of natural rights share four features that help to characterize such conceptions and provide a means for comparison with the international conception we wish to justify.

The first feature of natural rights is that they are “requirements whose force does not depend on the moral conventions and positive laws of their society.” This allows that they function as critical standards by which such conventions and laws might be assessed.⁷⁵ This feature is shared by the international conception that clearly sets out to change some of the laws and conventions prevalent in the period after the Second World War. However, this feature by itself contributes little to the justification of human rights.

The second feature holds that natural rights are “pre-institutional in a logical (rather than a historical) sense: their content is conceivable independently of any reference to the structural features of institutions.”⁷⁶ For example, under Locke’s theory everyone should benefit from the fundamental law of nature that holds, even in the state of nature before institutions are ‘contracted’ into effect, that people have rights to life, health, liberty and possessions. This idea may seem attractive as a means of justifying core elements of contemporary human rights. However, it is probably insufficient to provide much support for the detailed versions of such rights found in the international conception, including the property rights omitted in the covenants. At the same time, the absence of apparent support for other categories of rights such as the right to education might seem to undermine their legitimacy, despite the fact they are not claimed by the drafters to derive from natural rights.

⁷⁴ Simmons, (2000) p185

⁷⁵ Beitz (2009) p52

⁷⁶ Ibid p53

The third of Beitz' features of naturalistic conceptions is the 'universal' requirement that natural rights belong to all persons, at all times and in all places, irrespective of the state of societal development.⁷⁷ This is often used by critics to undermine certain contemporary human rights that appear to depend upon specific institutions associated with societies at a particular stage of their development, during certain periods of time. As we have already noted, Cranston cites holidays with pay as failing to be universal in the required sense because not everyone belongs to "the *employé* class."⁷⁸ Such rights seem to depend upon certain institutions, e.g. an institution to provide the holiday pay, as well as seeming to apply only to employed individuals, and therefore fails the universality test in at least two ways. Critics might be rebuffed by suggesting that the absence of an institution should not be seen to invalidate a right, but rather point to the need for the institution to be installed, and that employment rights belong to everyone, at all times, just in case they become employed. The question this criticism raises is, are rights lost or merely unfulfilled when the societal context is unsupportive? The international conception's response seems to hold that rights always apply but may be subject to progressive implementation towards contextually sensitive levels of attainment. A further response to critics might be to demand why pre-institutional universal rights, such as Locke's right to health⁷⁹, might not be extended to include a right to healthcare where institutions exist for its provision. Of course, other versions of natural rights theory are more flexible towards the contribution of institutions. For example, James Griffin's account allows for a right "to the health care necessary for our functioning effectively as normative agents."⁸⁰ However, Griffin stops short of endorsing the right to 'the highest attainable standard of physical and mental health'. Where the 'universalism' of natural rights theories can contribute to the justification of international human rights is in its inherent stance against discrimination of any form. However, the power of 'universalism' to support or undermine the contemporary conception is limited by the decision of the drafters and subsequent implementers to deny any direct links to the philosophy of natural rights.

The final feature of natural rights theories, according to Beitz, which some would say underpins the previous three, is that rights belong to persons "as such," or "simply in

⁷⁷ Ibid p53

⁷⁸ Cranston (1973) p67

⁷⁹ Laslett (1960) *Locke Two Treatises of Government*, Book 2, Ch2, Sec 6, (p271) "no one ought to harm another in his Life, Health, Liberty, or Possessions."

⁸⁰ Griffin (2008) p208

virtue of their humanity.” It seems reasonable to produce a list of interests shared by all persons “in virtue of their humanity” but it appears much harder to translate such interests into rights without the involvement of some external factor such as a social agreement, democratic legislation or sovereign dictat. However, Griffin has taken this starting point as the basis for an impressive conception of human rights. His human rights are presented “as protections of our human standing or ... our personhood.” The notion of personhood, he suggests, can be broken down into a number of components. First is *autonomy*, one must choose one’s own path through life. Second, one’s choice must be *real*, which implies both that one have the “minimum education and information” required. It also implies that one has the “minimum provision of resources and capabilities” necessary for the chosen path. And, finally one must have the *liberty* (no obstructions) to pursue the path. Griffin observes, “Because we attach such a high value to our individual personhood, we see its domain of exercise as privileged and protected.”⁸¹

Griffin claims that from a grounding of personhood one can generate most of the conventional list of human rights, including rights to education. However, as already noted his conception does not entirely match the international view particularly in the area of the highest attainable standards of health. Griffin provides substantial arguments to support his view, which are not repeated here. However, one argument raises doubt about the relevance of his project for our task of justifying international human rights. Griffin states

I choose those features (such as autonomy and liberty) precisely because they are especially important human interests. It is only because they are especially important interests that rights can be derived from them; rights are strong protections, and so require something especially valuable to attract protection. So my notions of ‘human nature’ and ‘human agent’ are already well within the normative circle, and there is no obvious fallacy involved in deriving rights from notions as evaluatively rich as they are.”⁸²

It seems reasonable to agree with Griffin that ‘especially important interests’ may be grounds for proposing or supporting rights. However such interests alone may be insufficient to establish such rights (particularly if the interests are not universally prioritised) assuming that the resultant rights are to be universally (or at least widely)

⁸¹ Ibid 33

⁸² Ibid p35

recognized and necessitate corresponding duties on some other parties. There may be other bases for rights than those proposed by Griffin and there may be reasons to deny or limit some rights based on his grounding. It is the step from interests to rights that seems too quick for some of those in doubt about naturalistic theories of rights.

Naturalistic theories of human rights seem able to propose various lists of rights, some more extensive than others, but never the same list as are to be found in the international conception. The question raised by Beitz is, why should we feel any compulsion for international human rights to conform to any such philosophical theories, “rather than interpret them ... as a distinct normative system constructed to play a certain special role in global political life?”⁸³

3.2.2 Agreement Theories

Agreement theories of human rights might be seen as the solution to this last problem, the concern that natural rights depend on just a single philosophical conception, thereby excluding alternate worldviews. They seek instead to define and derive authority from commonality of certain moral standards across the plurality of political and philosophical views of contemporary societies. However, as we will see they fall short of justifying international human rights. On the contrary they lead to skepticism about the extent and legitimacy of such rights.

Beitz helpfully distinguishes two forms of agreement theory that he labels “common core,” and “overlapping consensus.”⁸⁴ The first of these views holds that human rights are constituted by the moral requirements found in all moral and philosophical codes. But it is immediately obvious that such a view cannot support the range of rights found in the contemporary doctrine, including the equal rights of women, religious toleration, and certain political rights. It seems unacceptable to deny women’s rights simply because they do not figure within the standards of some or other patriarchal society. The common core idea might be useful for the purpose of justifying the *concept* of human rights, for example in demonstrating that there should be internationally supported standards governing the behaviour of states towards their members, but as a

⁸³ Ibid p68

⁸⁴ Beitz (2009) pp74-77

means for elaborating the *international conception* of human rights it appears too restrictive.

Recognition of this limitation leads to the idea of rights based on overlapping consensus. It draws on the Rawlsian distinction between political and comprehensive views and proposes that human rights be seen as standards for certain political purposes within an international order, as distinct from standards applying in all other contexts. The values to be reflected in human rights might then extend beyond the common core values to include those that might be ‘reachable from’, in limited circumstances, the various distinct worldviews. For example, a society might agree to the norm of free speech as a human right even if this is a stretch from its prevailing moral code that encourages certain groups to remain silent or certain topics to be off-limits. Overlapping consensus thereby promises to be less restrictive than common core theories. However, there are at least two worries.

Firstly, there may conceivably exist a small number of societies that view slavery as a positive good and could not concede, in any contexts, to its being prohibited in a scheme of human rights. How are empires to be built, they might argue, without slaves? On the surface it would seem that consensus is going to be impossible in this scenario. We might respond, as Rawls did, by excluding such ‘outlaw states’ from the forum that agrees on human rights since it seems wrong to be constrained by such unreasonable views.⁸⁵ But this leaves agreement theorists with a problem, how to determine which views, and which societies, are to be disqualified from the ‘consensus agreement’. How to set the threshold between ‘decency’ and ‘outlaw’ status? Liberal solutions such as that in Rawls’ *Law of Peoples* are open to the charge of cultural bias.

Secondly, the overlapping consensus approach may not support certain contemporary rights even when the loose requirement of ‘reachable from’ is applied to the views of societies satisfying the general standards of ‘decency’, whatever they are. For example, the equal rights of women might be reachable for political contexts by certain societies who nevertheless maintain that such equal rights are not identical rights. When pressed these societies might hold that women’s rights in the household are equal to men’s rights over property.

⁸⁵ Rawls (1999) pp80-81

Some have suggested that a way round this difficulty is to invoke the notion of progressive convergence.⁸⁶ Roughly speaking, this would allow agreement to be based on what an ideal or futuristic interpretation of a particular philosophical viewpoint might reveal. So for example, the earlier mentioned societies' views of the rights of women, traceable to traditional cultural structures, might be *reinterpreted* to permit fully equal rights in the modern world. The notion of 'reachability' is thereby extended to include the possibility of evolved (reinterpreted) starting points. However, such progressive views would seem to lack sufficient public support and legitimacy to make any resulting rights binding on existing societies. Furthermore, the extent of what falls within such a progressive overlapping consensus, including the possibility of highly illiberal views, seems limited only by our imagination of how existing doctrines might be reinterpreted.

Despite the appeal of dispensing with natural rights as a single founding principle for human rights, agreement theories fail in leaving a significant gap between rights arrived at by core or consensus agreements and rights found in the international doctrine.

3.2.3 Beitz' Practical Approach

Beitz eschews naturalistic and agreement theories in favour of what he calls a practical approach. In this respect he might be seen as following a similar path to others pursuing a political theory of human rights including Joseph Raz⁸⁷, Amartya Sen⁸⁸ and possibly Leif Wenar.⁸⁹ He starts from the observation that the international human rights enterprise is a global practice that attracts considerable attention and resources.

The practice exists within a global discursive community whose members recognize the practice's norms as reason-giving and use them in deliberating and arguing about how to act.⁹⁰

⁸⁶ Beitz (2009) pp88-89, suggests Charles Taylor, Abdullah An-Na'im and Joshua Cohen describe something like this form of agreement.

⁸⁷ Raz (2007)

⁸⁸ Sen (2004)

⁸⁹ Wenar (2005)

⁹⁰ Beitz (2009) p8

His practical approach can be summarized in three steps. Firstly, he draws out the concept of a human right by observing the role that concept plays in the global practice. He then distills the concept in what he terms a two-level model consisting of three elements. And, finally he uses the model to assess the justification of particular human rights claims. It seems, therefore, that Beitz is seeking to justify particular human rights claims rather than justifying the global practice of human rights, which he takes as basic.⁹¹ To better understand his approach we need to explore each of these steps in turn.

Beitz thinks it a mistake to suggest that international human rights derive their authority from some deeper set of values, either directly or via some agreement.⁹² Rather, his practical conception of international human rights flows from observations of the role this idea plays within the discursive practice.

We attend to the practical inferences that would be drawn by competent participants in the practice from what they regard as valid claims of human rights. An inventory of these inferences generates a view of the discursive functions of human rights and this informs an account of the meaning of the concept.⁹³

The discursive practice itself is a collective political enterprise with distinctive purposes and modes of action.

It consists of a set of rules for the regulation of the behavior of a class of agents, a more-or-less widespread belief that these rules ought to be complied with, and some institutions, quasi-institutions, and informal processes for their propagation and implementation.⁹⁴

One might say that Beitz is drawing theory from practice, rather than the reverse, and that this approach may make it difficult to evaluate any particular human right claim. However, Beitz addresses this concern by insisting that elements of the practice as it exists are evaluated against the recognized purposes of the human rights doctrine. Existing or proposed norms that are ill-suited to the aims of human rights are screened out so as not to contribute to the conceptual model, or fail the subsequent application of the model to test for justifiable claims.

⁹¹ Ibid p103

⁹² Ibid, p7-8

⁹³ Ibid p102

⁹⁴ Ibid p42

The second step in Beitz' approach is his presentation of a two-level model of the practical conception of human rights. He proposes two levels to distinguish firstly states, as principal bearers of responsibility to respect, protect and promote the human rights of their constituent members, and secondly the international community and its agents as guarantors of those obligations. Beitz recognizes the contribution of Shue, and others, to the three elements of his *model*, presented in full below.⁹⁵

1. Human rights are requirements whose object is to protect urgent individual interests against certain predictable dangers ("standard threats") to which they are vulnerable under typical circumstances of life in a modern world composed of states.

2. Human rights apply in the first instance to the political institutions of states, including their constitutions, laws, and public policies. These "first-level" requirements may be of three general types: (a) to respect the underlying interests; (b) to protect the underlying interests against threats from non-state agents subject to the state's jurisdiction and control; and (c) to aid those who are non-voluntarily victims of deprivation. Governments have limited discretion to choose the means by which they carry out these requirements, the scope of discretion varying with the nature of the underlying interest and the range of threats protected against. The government of a state may be said to "violate" human rights when it fails in any of these respects.

3. Human rights are matters of international concern. A government's failure to carry out its first-level responsibilities may be a reason for action for appropriately placed and capable "second-level" agents outside the state in three overlapping kinds of circumstances: (a) the international community may through its political institutions hold states accountable for carrying out the first-level responsibilities listed above; (b) states and non-state agents with the means to act effectively have *pro tanto* reasons to assist an individual state to satisfy human rights standards in case in which the state itself lacks the capacity to do so; and (c) states and non-state agents with the means to act effectively have *pro*

⁹⁵ Ibid p109, certain footnotes omitted.

tanto reasons to interfere in an individual state to protect human rights in cases in which the state fails through lack of will to do so.

The third step in Beitz' approach, which assesses the justification of any particular human right claim, is accomplished by comparing the claim against the requirements of the above model. A successful claim would consequently satisfy each of the following contentions (more detailed than Griffin's earlier 'important interests'), which Beitz describes as his *schema*:⁹⁶

1. That the interest that would be protected by the right is sufficiently important when reasonably regarded from the perspective of those protected that it would be reasonable to consider its protection to be a political priority.
2. That it would be advantageous to protect the underlying interest by means of legal or policy instruments available to the state.
3. That in the central range of cases in which a state might fail to provide the protections, the failure would be a suitable object of international concern.

Beitz supports his proposals with careful arguments, before testing the approach with three contemporary problems: the question of anti-poverty rights; issues involved with political rights; and the human rights of women. Only the first of these will be considered here before several problems within Beitz' approach are identified and a remedy suggested.

Beitz observes that international human rights include a number of specific measures to tackle the consequences of poverty including those aimed at malnutrition, lack of clothing and shelter, disease, and ignorance.⁹⁷ The first-level responsibilities seem relatively straightforward. The difficulty emerges when considering the second-level obligations that are somewhat loosely specified. It is not always clear who among cross-border states should bear the second-level duty, neither is it clear what reasons those agents would have for action, and whether or not they would be of sufficient weight to lead to action. This of course is where O'Neill's criticism bites. Unless the obligations are specifically defined and attributed O'Neill wishes to describe them as aspirational and not normative. Beitz rightly, in my view, argues that lack of specificity does not

⁹⁶ Ibid p137

⁹⁷ Ibid p161

entail a reduction of right, but merely the absence of an element important for its fulfillment. The underlying problem is that the causes of poverty are many and complex. For a second-level agent to have reason to act, under the current specification of rights, she might need to feel some responsibility for one of the main causes of the resulting poverty. Such causes might include past colonial connections, disadvantageous trade practices, resource exploitation etc. Nevertheless, the existing international doctrine provides no assistance in calibrating and apportioning responsibilities among states and others flowing from such various past and current practices, and, neither Beitz' model nor his schema point to a way forward. Beitz concludes that judgments about second-level responsibilities to act will have to be pragmatic, but that "this fact does nothing to reduce or cancel the force of the reasons to act."⁹⁸ However, the value of Beitz' model/schema might seem limited if it 'justifies' an arrangement in which urgent subsistence needs are left unaddressed by all parties including those with the capacity to assist.

Before attempting to correct for this impression it is worth considering two issues.

The first is the justification of rights during the formative years of the international doctrine. Beitz' approach seeks to justify particular claims by reference to a model based on Shue's tripartite typology. Before 1980 there was no such typology yet human rights had been agreed and signed into treaties for several decades by then, even though they only came into force in 1976. How might those early instantiations of human rights be justified?

The second issue is the more fundamental question as to how the human rights practice as a whole, at any given state of its evolution, is to be justified. This seems distinct from the challenge of justifying individual human rights claims that Beitz addresses. Beitz after all takes the discursive global practice as a starting point for abstracting his conception and dismisses deeper philosophical values. But what if the global practice was flawed. What if the practice was entirely controlled by a small number of elite and self-interested groups? Would we be happy with abstracting a conception of human rights from such a practice? Are there no criteria of legitimacy to apply to the starting condition?

⁹⁸ Ibid p174

3.2.4 An Expanded Beitzian approach

An answer to these questions may emerge from a particular reading of his term ‘discursive practice’. It appears in the text that Beitz intends the term ‘discursive’ to refer to the “agreements by means of reasoned arguments.”⁹⁹ His definition of the content of the practice, as was mentioned earlier, consists of rules for governments, belief that the rules should be complied with, and various institutions and processes for implementation, i.e. the results or outcome of the UN formation process. However, if we understand his term ‘discursive’ in a broader sense, then the process that produced those results might be included. Joshua Cohen proposes that the main features of discursive (deliberative) democracy include the fact that “citizens consider deliberative procedure as the source of legitimacy, and prefer the causal history of legitimation for each law to be transparent and easily traceable to the deliberative process.”¹⁰⁰ This supports the notion that the discursive process by which the form and structure of human rights were initially agreed provides its legitimacy. Discursive practice in this broader sense involves the use of public reason in the *development* of rights, as well as in the resolution of particular rights disputes.¹⁰¹

By this reading Beitz’ *model* would have an additional (prior) proviso stating:

0. Human Rights are requirements that emerge from the *discursive process* of public reasoning, authorized by the States parties to the UDHR and aimed at the effective achievement of the purposes of that declaration, itself discursively produced by states in response to agreed ‘wrongs’.

By such means Beitz’ model and schema become tests of ‘conduct’ as well as ‘result’ for the human rights doctrine as well as disputed human rights claims. Turning back to the issues raised earlier, we now have an additional resource with which to respond.

Firstly, regarding the justification of human rights prior to the emergence of Shue’s

⁹⁹ Ibid p97, he talks specifically about drawing on Rawls’ public reason for his approach.

¹⁰⁰ Cohen (1989)

¹⁰¹ Cohen (2004) “Minimalism About Human Rights: The Most We Can Hope For?” adopts a form of global public reason to argue for more than minimalism in human rights.

tripartite typology, we can claim justification of the rights based on the legitimacy of the *process* by which they were agreed (test of conduct). The extent of the legitimacy (scalar not binary) is determined by the nature of that process. As demonstrated in Chapters 1 and 2 the parties went to considerable lengths, during the early years before Shue, to ensure all views were considered and debated, no matter the political, cultural or philosophical background.¹⁰² The importance of an effective consensus in reaching binding agreements amongst states with equality of representation was also noted. Whilst not beyond criticism, the process of forming the United Nations, as a society of states, and its institutions including the UDHR and subsequent Covenants, carries at least a workable degree of legitimacy.

The second issue, the overall justification of the human rights enterprise, is of course addressed by the proposed expanded form of Beitz' model. It is the iterative discursive process that completes the justification.

Returning to the vexed issue of anti-poverty rights, and the difficult problem of assigning second-level responsibilities, it appears that the Committee bears the responsibility to ensure effective delivery of the UDHR's purposes according to the Limburg Principles - i.e. to close the gap. We might imagine a new 'mediating institution' standing between first-level states and the international community as a whole, or changes to the control of trade rules, but the purpose here is not to solve this difficult problem but merely to demonstrate that possible solutions are available to the discursive process.

However, the proposed expansion of Beitz' practical approach raises an important question of consistency. In expanding the reading of 'discursive practice' from the narrow view of applying public reason to the arguments over human rights issues, to the broader view encompassing the generation of the human rights doctrine, are we not offering an 'agreement theory' contrary to Beitz' stated position?

In proposing that rights and responsibilities flow from the process of public reasoning among states there is clearly some importance attached to the act of agreement. But this is distinct from the theories that Beitz rejects, that focus on agreements drawn from

¹⁰² By this reading the lengthy drafting details presented earlier are not simply historically interesting but form part of the justification of the human rights doctrine.

prevailing moral and political values. However, the question arises whether or not the proposed process-based proviso is vulnerable to the same kinds of objection that Beitz levels at agreement theories.

We can start to explore this concern by summarising the reasons why Beitz considers agreement theories inappropriate as (a) criterion for identifying human rights (international conception), or (b) the basis of an account of their normativity:

- A Common Core theory, based solely on shared values, would exclude a number of rights included in the UDHR and subsequent Covenants, many of which seem too important to omit, such as the legal equality of women and the freedom of religious practice.
- An Overlapping Consensus theory although probably more inclusive might still struggle to incorporate the more controversial rights found in the contemporary doctrine.¹⁰³

Although such agreement theories of rights, based as they are on existing widely held values, might seem to incorporate a basis for their normativity, they would appear to fail in identifying the broadly accepted range of contemporary human rights. Advocates of progressive convergence theories seek to overcome this problem by postulating evolved forms of cultural values from which the international human rights might be agreed. However, it is not clear which progressive interpretation one should select from the almost limitless range of possibilities. Such theories seem to work backwards from human rights to hypothesized cultural values and consequently provide little guidance in identifying genuine human rights. Furthermore, the hypothesized values lack sufficient support within existing cultures to generate the normative authority or stability often associated with agreement theories.¹⁰⁴

At one level the process-based proviso would seem to easily escape from these objections. The proposed deliberative discourse of the human rights drafting process is constrained not by any single set of moral or political values drawn from existing cultures but rather by the agreed purposes of the UN Charter and the UDHR. This view gains support from the fact that the list of contemporary human rights includes several

¹⁰³ Beitz (2009) p77 expresses this view.

¹⁰⁴ Ibid pp92-3

that could not be expected to emerge from core or overlapping consensus type agreements, such as the right to freedom of religious practice, and the right against discrimination on grounds of gender.¹⁰⁵

However, this response might overlook an important concern underlying the stated objections to agreement theories. That concern stems from the view that human rights are supposed to be critical standards for evaluating existing institutions and conventional beliefs.¹⁰⁶ By their very nature agreement theories lack the critical edge to propose moral and political values not already included within most, if not all, existing cultures. They tend to reinforce the status quo rather than initiate the cultural changes deemed necessary for the peaceful and developing existence of the society of states post WW II. The more pressing question arises; can the proposed process-based proviso meet the critical standards expected of human rights?

An opponent might suggest a number of weaknesses in the proviso's process, such as power imbalances and special interests, which seriously inhibit this critical function. Such weaknesses are reflected in the view that:

- Some rights seem inflationary versus the UDHR purpose
- Some rights are too vague to act as critical standards for implementation
- Rights exist for which first level (national) or second level (cross-border) duties are unspecified.

If indeed the proviso supports 'human rights' that fail as critical standards then it is open to the same underlying objection as agreement theories.

In defending his own practical approach Beitz notes that the international human rights doctrine is still emerging. He suggests how existing rights might be evaluated, using his schema, against the conception of human rights he extracts from the practice. This might be expected to lead to a clarification or completion of rights and or responsibilities, and this view of ongoing refinement is supported by the flow of clarifications contained in General Comments issued over the last decade.

¹⁰⁵ Ibid p88

¹⁰⁶ Ibid p78

However, the proviso is proposed to explain the identification and authority of rights in the period prior to the adoption of Shue's tripartite typology, upon which Beitz' practical approach is dependent.

On the one hand we have the view that prior to Shue, the rights specified in the UDHR and elaborated in the various Covenants were, in some cases, too vague to act as a critical standard, or lacked specificity in associated responsibilities. One might also suggest that the frequently cited 'right to holidays with pay' indicates a lack of critical evaluation. On the other hand it can be argued firstly, that the risks associated with power imbalances and special interests capture were clearly anticipated and addressed by the drafting committee. The broadly balanced representation, the iterative reviews, and the equal voting rights of countries rich and poor were deliberate measures to manage such risks. The contending viewpoints recorded in the UN Annotations of the drafting process demonstrate that no single country or bloc overly influenced the outcome. Secondly, the positive critical standing of the early drafting is evidenced by the fact that "probably every country in the world was, initially at least, in breach of some of the principles it was prepared to endorse."¹⁰⁷

Such principles could not be expected to arise from agreement theories, as already discussed, and the initial shortcoming in details and duties indicates merely that the task is incomplete rather than incorrect.

My conclusion is that the deliberative process of the proviso proved adequate to identify potential human rights through consideration of the agreed purposes of the UN Charter and UDHR, and that the process of public reasoning among states provided the selected rights with a sufficient degree of normative authority to maintain the human rights doctrine until the adoption of the tripartite typology and subsequent developments allowed for greater clarity and normative authority. On this view the proposed proviso can withstand the main kinds of objections leveled at agreement theories.

¹⁰⁷ A point made by Jonathan Wolff (2012) *The Human Right to Health*, p4

3.3 Conclusion

The standard criticisms of human rights have been explored at some length. Shue's attack on the positive /negative dichotomy prompted Pogge to challenge the interactional nature of his approach which in turn highlighted the interdependence of all human rights. Charges of over-demandingness seem unsubstantiated, in part by the possibility of mediating institutions, but also by the moderating influence of 'progressive realisation'. The meaning of universalism in this context has been explored and strict versions such as that of Cranston rejected. The initial lack of detailed duties produced criticisms of 'lack of determinateness', but those gaps have been steadily filled under the influence of the tripartite typologies and Limburg Principles. The resulting clarifications have in turn encouraged unjustified criticisms of rights inflation (and rights conflict). Concerns about cultural bias and imperialism are hard to refute but the evidence shows the great lengths taken to minimise such distortions. And, finally, the criticism that the whole human rights enterprise is unjustified has been rejected on the grounds of an adequate (scalar) justification based on Beitz' 'Practical Approach'. These criticisms, often originating from leading philosophers, have played an important part in the development of the human rights practice. Central to their rejection, and the proposed justification, has been Shue's work on the correlative duties of basic rights. However, as previously mentioned these important results critically depend also on a number of items that might be obscure to all but those with a specialist interest in human rights, including:

- UN Annotations on the text of the draft International Covenants on Human Rights A/2929 (1955)
- Vienna Convention on the Law of Treaties (1969)
- The Limburg Principles on the Implementation of the ICESCR (1986)
- The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997)
- The Outline for drafting General Comments (2000)
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008)

Clearly many of these critical elements have only emerged in recent decades, suggesting that their full impact has yet to be measured. Progress on the standard criticisms draws

on contributions from several disciplines: primarily from lawyers, such as Alston, Sepúlveda and members of the Committee; but also political scientists such as Chapman, as well as philosophers.

Despite this progress, the full enjoyment of human rights by many of the world's population, particularly anti-poverty rights, seems a long way off. This suggests that even if the existing doctrine is justifiable, there must be significant weaknesses or gaps that are preventing effective protection of such vital interests. Before exploring more fully what is missing in international human rights I turn first to the parallel initiative of Human Development.

Section 2 Human Development Approach to Poverty

The Human Development Approach is the second major initiative of the international community over last seventy years aimed at, amongst other objectives¹, reducing the problem of global poverty. As with Human Rights it is useful for a full understanding of the Human Development Approach to be aware of the evolutionary process by which the current conception emerged. The false starts and continuing divergent pressures provide important clues for evaluating current ‘best practices’ and their remaining weaknesses. The intention in this section is to identify and evaluate the contribution of philosophy to the development of ‘Development’. Subsequent sections will suggest this task remains incomplete.

Chapter 4 explores the history of Development from the events that triggered the emergence of the International Financial Institutions to the application of the Capabilities Approach in the Human Development Reports and the pursuit of the Millennium Development Goals. Chapter 5 examines the Capabilities Approach within Human Development and the following chapter explores current efforts to extend the capabilities approach in light of apparent shortcomings.

¹ “Human development includes employment creation, poverty reduction, human rights, inclusive democracy, cultural factors, and the role of the state.” Jolly et al (2009) p26.

Chapter 4 Evolution of Human Development

Key events are presented here to illustrate the difficult path of Development over the last seventy years and offer explanations for their impact. Much of this history is drawn from the work of Gilbert Rist¹, Des Gasper², and, Richard Jolly, Lois Emmerij and Thomas G. Weiss,³ and highlights the tension between the ‘Western’ orthodox focus on economic growth and progressive forces calling for broader measures of Development. Diverging from these sources, I will suggest that the contribution of political philosophy has been important to the progress of Development but perhaps less significant than might be presumed, and seemingly invisible until the 1990s. If the HRA can be characterized as being driven by lawyers and political philosophers, then the Development Approach seems driven by economists and latterly philosophers. The appearance of separate technical silos dealing with rights and development has understandably attracted criticism⁴ but the root of this problem becomes apparent from the history of Development.

4.1 The 40s and 50s

Development can be viewed as having a long history. Gasper, for example, points to three eras:⁵

- From the rise of man to the formation of modern European States in the 16th century, through agriculture and the spread of cities.
- The rise of Europe and America, through colonies and industrialization.
- The ‘global development era’, post World War II.

Nevertheless, writers frequently focus on the third of these eras, and take President

¹ Rist (1997)

² Gasper (2004)

³ Emmerij, Jolly and Weiss (2001), Jolly, Emmerij and Weiss (2009), working within the UN Intellectual History Project.

⁴ Alston (2005)

⁵ Gasper (2004) p33

Harry Truman's 'Point Four' inauguration speech from 1949 (about which more later) as the starting point.⁶ However, I think this understates an important connection with the formation of the United Nations, the Bretton Woods Institutions, and Human Rights. Chapter 1 identified President Roosevelt's 'four freedoms' and the Atlantic Charter as the launch pad for all these initiatives. Roosevelt's freedoms included the freedom from want "... which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants -- everywhere in the world." Whereas the Atlantic Charter, added to the freedoms from want and fear the intention to lower trade barriers and to establish global economic cooperation and the advancement of social welfare. It was in this spirit and tradition that Truman constructed his inauguration address with three commitments: to continue support for the new United Nations organisation, to continue support for the reconstruction of Europe via the Marshall Plan, and to create a joint defence organization with European partners (NATO). According to Rist⁷, it was a civil servant who suggested extending the technical assistance, already given by the US to Latin American countries, to the poorer countries of the world. This idea was quickly adopted, given its apparent public relations value, as Point Four in the address and was subsequently viewed as inaugurating the development age. Before getting into Truman's big idea it is worth backtracking to get a better view of the context.

Chapter 1 outlined the key events from Roosevelt and Churchill's Atlantic Charter agreement of 1941, through the United Nations Declaration in 1942, the formation of the Bretton Woods institutions in 1944, to the signing of the UN Charter in 1945. Development was one of four powerful ideas contained in the UN Charter: the others being Peace, Independence, and Human Rights.⁸

'Development' was consequently a clearly established, if not clearly understood objective of the international community before Truman made his famous speech. Truman was later to claim he had spent two or three years considering the idea but this has been described as "opportunistic deception, because in reality there had been no advance planning, and it would take nearly two years for the Administration to start

⁶ For example Rist (1997) p69, Jolly et al (2009) p16, and pp102-3

⁷ Rist (1997) pp70-71

⁸ As interpreted by Emmerij et al (2001) p16.

implementing Point Four.”⁹

The full text of Point Four is rich in content but too long for inclusion here. Some of the key ideas are suggested even in the opening sentence:

Fourth, we must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas.

The speech is famous for introducing the notion of developed and underdeveloped countries as an alternative to the relationship of coloniser and colonised. By describing economically backward areas as underdeveloped the US implied that such countries could be developed or changed into copies of more economically successful countries, for the benefit of all. As the economically most successful country, after WWII, the US was in a position to apply hegemonic power over underdeveloped countries, a form of anti-colonial imperialism.¹⁰ The new hierarchy was based on the recently introduced economic measure of Gross National Product (GNP), and GNP per capita was seen as the most appropriate measure of welfare. The underdeveloped countries were so classified not because of historic conquests or mandates but because of a lack of the scientific or industrial capital necessary for greater GNP. Development policy, following Point Four took the form of technical assistance for the pursuit of growth in GNP per capita.

However, Truman was not the first to use the term underdeveloped in the context of the poorer countries. The UN secretariat, in line with the UN Charter’s Article 55, became a center of expertise for development economics. Hans Singer was hired as an economist to work on the challenges of underdevelopment in 1947, two years before the Point Four speech.¹¹ The pioneering work of the UN economic team was reflected in three major publications released between 1949 and 1951:

- *National and International Measures for Full Employment (1949)*
- *Measures for the Economic Development of Under-Developed Countries (1951)*
- *Measures for International Economic Stability (1951)*

⁹ Rist (1997) p70

¹⁰ Ibid p75

¹¹ Emmerij et al (2001) p 27

Both the drafting process and content of these reports deserve consideration. Each report was produced by teams consisting of some of the world's best economists supported by the UN Secretariat. There was a general recognition that such work was ethically and not just professionally important, given that the purpose was to contribute to greater economic and social justice within the world with less poverty.¹²

The reports were to prove overly optimistic in targeting stabilised world trade in a timeframe of three to four years. However, their content, based in the Keynesian orthodoxy of the time,¹³ contained a number of important recommendations that were truly pioneering:

- Industrial countries to make capital flows to developing countries to encourage steady production and economic growth rates, both locally and worldwide.
- Savings and investment rates to be increased in developing countries.
- Labour to be transferred from rural to urban areas in order to increase productivity together with full employment targets.
- Recommendations on land reform, banking systems and other factors that might limit the growth in production.
- New international commodity agreements to reduce short-term price fluctuations.
- The World Bank to increase lending to developing countries in general and specifically in the event of recession.¹⁴

These recommendations took on greater significance in the light of the emerging Singer-Prebisch thesis that challenged the economic theories of the day. Singer produced an analysis in 1949, which showed that the terms of trade of underdeveloped countries seriously deteriorated between 1876 and 1948, and concluded that underdeveloped countries were contributing to ever-rising standards of living in developed countries. Raul Prebisch went further in 1950, suggesting a center-periphery framework by which the terms of trade for developing countries, without appropriate

¹² Ibid p29

¹³ Mixed economies with private sectors coupled with public monetary and fiscal policies.

¹⁴ Jolly et al (2009) pp20-21

intervention, would face continuing decline. The recommended response to this uncomfortable thesis was a strategy for import substitution industrialization.

It is perhaps regrettable that various criticisms and conflicting priorities diverted attention from the UN's recommendations.

The Marshall Plan, launched in 1948, was the dominant focus of attention for the US with fully 2% p.a. of national income dedicated to rebuilding Europe for each of the subsequent four years. Consequently there was minimal World Bank funding for developing countries during this period.

Peter Bauer, a development economist who spent most of his career at the LSE, was perhaps the leading critic of the UN Reports. Bauer eventually developed the view that central planning, foreign aid, and price controls contribute to poverty rather than eliminate it. In response to *Measures for Economic Development* he criticized the report for suggesting that "inequality and privilege act as major obstacles to development," and for focusing too closely on issues of land tenure. He argued that pre-occupation with egalitarian ideas might serve to retard growth during the early stages of economic development. He also disputed the Singer-Prebisch thesis and the need for transfers of capital from developed to underdeveloped countries as calculated and proposed in *Measures for Economic Development*.¹⁵ Bauer was not alone in his criticism of the UN stance. Eugene Black, President of the World Bank during the 1950s, constantly argued for "less emphasis on large-scale external assistance, and more on domestic policies and effort." And, it wasn't until Robert McNamara eventually replaced Black in 1968 that World Bank capital was increased sufficiently to support larger scale development lending specifically targeted at reducing poverty. It is interesting that the questions of development ethics surrounding land reform and other egalitarian issues were discussed between the leading economists of the day with no apparent involvement of professional (political) philosophers.

Away from the UN, the 1950s saw the emergence of the Non-Aligned Movement as a reaction to Western domination of international relations. The Bandung Conference (or Asian-African Conference) of twenty-nine mostly newly independent countries met in 1955 to promote Afro-Asian development and oppose colonialism in all its forms. Its

¹⁵ Emmerij et al (2001) pp39-41

final communiqué included proposals for economic cooperation between the countries (South-South cooperation) whilst recognizing that external assistance had been valuable to the implementation of their various development programmes. The participants agreed to provide technical assistance and equipment to each other where possible. The Bandung Conference also recommended the establishment of a Special United Nations Fund for Economic Development (SUNFED) to focus on meeting the needs of the Asian and African countries participating.¹⁶ The communiqué also contained the seed of what would later appear as the New International Economic Order (NIEO).

The UN responded to Bandung by creating SUNFED in 1958 (later to be merged with the Expanded Programme of Technical Assistance, established in 1949 following Point Four, to become the United Nations Development Programme – UNDP) to collect voluntary contributions for the financing of major projects in the most impoverished countries.¹⁷

4.2 The 60s and 70s

The 60s and 70s was a challenging period for Development. The South presented a stronger and insistent voice, the meaning of Development would come under review and economic instability would eventually reverse much of the progress to-date.

The UN declared the 1960s to be the Decade of Development. The first of four such declared Decades as it turned out. This indicates the importance with which the notion of Development was held. The origination of this idea, like so many key UN ideas, came from a US President, Kennedy in this case. When the Burmese diplomat, and secretary of the 1955 Bandung Conference, U Thant took over the role of UN Secretary-General on the death of Dag Hammarskjöld in 1962, he submitted proposals, following Kennedy's speech, for the UN Development Decade.¹⁸

In his forward to the declaration announcing the Development Decade, "Proposals for Action," U Thant highlighted important shifts in direction. First he made clear that

¹⁶ Rist (1997) p84

¹⁷ Rist (1997) p89

¹⁸ Ibid p90

“Development is not just economic development, it is growth plus change.” He did not specify the change required but his statement reinforced the view that economic growth might be a means but not the entire ends of Development. A second point was “The acceptance of the principle of capital assistance to developing countries is one of the most striking expressions of international solidarity as well as enlightened self-interest.” This combining of self-interest and solidarity became a standard theme within the development movement. A third point was the observation that “The disappointing foreign trade record of the developing countries is due in part to obstacles hindering the entry of their products into industrial markets.”¹⁹ This notion of an inadequate ‘basic structure’ would appear repeatedly in both the human rights and human development histories. By drawing attention to this inhibitor of growth U Thant was trying to encourage change that was unwelcome in the industrial countries and difficult to impose without their support. However, the UN created the United Nations Conference on Trade and Development (UNCTAD) in 1964 with the mission to explore the issues of global trade and provide a forum for negotiations.

The first session of UNCTAD was held in Geneva in June 1964 with Raul Prebisch (of Singer-Prebisch thesis fame) as its first Secretary-General. Simultaneous with this meeting the developing countries in attendance formed The Group of 77 (G-77) and issued the “Joint Declaration of the Seventy-Seven Countries.” UNCTAD, which subsequently met on a regular basis, thus became the main UN vehicle for the voice of the South and the natural inheritor of the vision created at the Bandung Conference.²⁰

The G-77, by virtue of its size represented a powerful voting lobby within the UN in situations where one country had one vote (e.g. the General Assembly). This power was visibly used in 1974 when some of the developing countries had the UN GA adopt a New International Economic Order (NIEO), to replace Bretton Woods and restructure the basis of foreign trade. The NIEO was often seen as the revolt of the South. Certainly there were some developing countries that strongly resented what they saw as the continuing effects of colonialism. However, the revolution was not against capitalism but only about who benefits. Its proposals called for the same type of global economic growth but with a different distribution of profits.²¹ This apparent confrontation over which group benefits perhaps made it easier for the industrial nations for resist. In any

¹⁹ Ibid pp90-91

²⁰ Emmerij et al (2001) p53

²¹ Rist (1997) p150

event, despite the voting success in the GA, the power remained with the industrial countries and the NIEO fell short of its aims in the decades that followed.

A second development attributable to the Decade of Development was the formalisation of foreign aid commitments. From its inception, and very clearly after Truman's Point Four, the UN recognized the obligation of the rich countries to aid the development of the underdeveloped countries. For much of the formative period the West was more concerned with aiding those who would stand with them against the Eastern bloc. The preparations for the first Development Decade included the calculation that investment flows to the developing countries would need to reach 1% of the national income of the developed countries. This level was seen as the minimum required to facilitate the projected annual growth in the developing countries of 5%. Although the UN GA approved this figure it was subject to repeated recalculation and refinement. Eventually Jan Tinbergen, a Dutch economist later to win a Nobel Prize for contributions to econometrics, produced a revised recommendation for the Second Development Decade. This foresaw developing countries growth of 6% p.a. (up from 5%) partially financed by foreign aid of (still) 1%. This 1% figure had also been approved at two UNCTAD meetings in the 1960s. However, Tinbergen was subsequently to breakdown the 1% figure into private and public components leaving the government share (Official Development Assistance - ODA) at the now famous 0.7% GNP level (subsequently GNI), a target pledged by the UN GA in 1970 and re-affirmed on numerous subsequent occasions.²² During the same period Lestor B. Pearson, together with Arthur Lewis (another of the nine Nobel Prize in Economics laureates from the UN) and others, at the request of Robert McNamara President of the World Bank, published a report in 1969 on the previous 20 years of development assistance and recommendations for the future called "Partners in Development." This report included the proposed target for future ODA of 0.7%. Unfortunately this consistency in targeting had little impact on subsequent aid delivery.

A third major initiative during the 60s/70s was the emergence of the Basic Needs focus for Development. This move was preceded by an important paper from a UK economist, Dudley Seers, who was later to help found and lead the Institute for Development Studies at Sussex University. The paper titled "The Limitations of the

²² Emmerij et al (2001) p57

Special Case”²³ shows that the economics taught at the leading institutions is based on the economies of the developed countries (the special case) and, contrary to popular opinion, is not applicable to underdeveloped economies (the general case). He thus rejected the policies and advice coming from most of the experts influencing Development to this point. Seers also called for a new discipline of economics of non-industrial countries.²⁴ Perhaps not surprisingly his views failed to attract much support from the powers that be. However, the shortcomings of the orthodox economics were to become visible in the growing inequalities and poverty within developing countries that became apparent as the decade advanced.

At the time Seers was writing about the need for a new economics of non-industrial countries the economist Mahbub ul Haq was working on exactly that issue: the economies of non-industrial West and East Pakistan to be precise. Haq’s experience “deepened his appreciation that the real obstacles to progress lay in widespread poverty, illiteracy and ill health, concentration of wealth, the counter-productive regulations to which the political elites were wedded.”²⁵ In 1970, Haq moved from Pakistan to Washington to join the World Bank and was soon advising McNamara on development issues. It seems likely that he influenced McNamara’s 1972 ‘Address to the Board of Governors’ that launched the concept of Basic Needs.²⁶ The World Bank President chose to link economic growth with social justice and described the conditions of the people in the South who could not satisfy their most “essential basic needs”. He called for an increase in ODA, and, rejecting the concept of trickle down, for assurance that this additional aid would reach those in need. (In 1968 Haq had exposed the unreliability of trickle down in a speech in which he regretted the fact that the benefits of Pakistan’s impressive GNP growth had been appropriated by just 22 families.²⁷) McNamara concluded with the strongest of calls to the governments of the developing countries to give greater priority to basic needs: nutrition, housing, health, literacy, and employment.²⁸

²³ Seers (1963)

²⁴ Rist (1997) p107,

²⁵ Sakiko Fukuda-Parr and Selim Jahan, “Haq, Mahbub ul (1934-1998),” in Clark (2006) p213

²⁶ He is attributed with writing McNamara’s 1973 “Nairobi Speech” that brought poverty to the forefront of the World Bank agenda. Ibid p213

²⁷ Haq and Ponzio (2008) p23

²⁸ Rist (1997) p163

Haq and McNamara were therefore forerunners of the Basic Needs Approach (BNA) that emerged in the 1970s. Other writers sometimes attribute the launch of this idea to the International Labour Organization (ILO) and its publication “Employment, Growth and Basic Needs: A One World problem,” published in 1976 for the World Employment Conference.²⁹ The ILO strategy called for a country to attend to two aspects of basic needs. The first dealing with a family’s consumption needs; food, shelter, and clothing, the second addressing community services; safe drinking water, sanitation, public transport, health and education.

This strategy received support from US President Jimmy Carter and USAID for several years but hit resistance from supporters of the NIEO. The South had been advocating radical improvements in *international* distribution of income, whereas the BNA was advocating improvements to *domestic* distribution.³⁰ These were not necessarily incompatible but they did represent a different focus.

Following much research and published articles two different approaches to Basic Needs emerged:

- A strong approach that emphasized major structural changes, land reforms and other (domestic) redistributive measures, together with greater participation in development planning.
- A weak approach, as eventually advocated by the World Bank, focused on growth with limited redistribution, less emphasis on participation and more centralised technocratic frameworks.

This watering down of the original basic needs idea by the World Bank, and the resistance flowing from the NIEO, were perhaps two reasons for Haq, Sen and others to rebrand their collective development ideas in the 1990s. In any event the BNA slipped from prominence as the economy worsened at the end of the 1970s.

The relatively comfortable world of steady economic growth during the 1960s came in for a series of shocks that threw the whole financial system into turmoil. The OPEC

²⁹ e.g. Jolly et al (2009) pp187, 192, France Stewart, “Basic Needs Approach,” in Clark (2006) pp14-15.

³⁰ Emmerij et al (2001) p75

crisis of 1973 led to the oil-rich countries earning more ‘petrodollars’ than they could invest in their own economies. The US and European banks recycled these dollars as loans to developing countries, particularly in South America, because the oil shock had also produced recessionary conditions in their normal lending markets – US and European private enterprise. When inflation and interest rates reached double figures many of these loans to developing countries became unserviceable. The 1970s closed with a looming debt crisis. Countries such as Mexico were near to default and the biggest money center banks were at risk of collapse. It would take all of the 1980s before the Brady Plan³¹ brought relief to the banks.³² However, the 1980s became the ‘lost decade’ as far as Development was concerned. This would be the time for structural adjustment.

4.3 The 1980s

The potential for change emerged when orthodox Keynesian economics failed to foresee and prevent the oil shocks and their consequences. With the election of Ronald Reagan and Margaret Thatcher the impetus arose to adopt neo-liberal monetarist economics (privatization, free trade, open markets). The LDC debt crisis indicated that various economies and trade balances needed to be ‘adjusted’, and the IMF and World Bank were major executors in that process.

Structural adjustment involved policy changes as conditions for getting new or renegotiated loans from the IMF (relating to international debt) and World Bank (relating to Development projects). The goal was to reduce the borrowing countries’

³¹ The Brady plan sought permanent reductions in principal and existing debt-servicing obligations. This recognition paved the way for negotiations between the creditor banks and debtor nations to shift primary focus from debt reschedulings to debt relief. As part of the process, substantial funds were raised from the IMF, the World Bank, and other sources to facilitate debt reduction. Debtor nations used such funds to exercise options such as debt-equity swaps, buybacks, exit bonds, and other solutions. To qualify for borrowing privileges, debtor countries had to agree to introduce economic reforms within their domestic economies in order to promote growth and enhance debt-servicing capacity. Extracted from FDIC history at http://www.fdic.gov/bank/historical/history/191_210.pdf, 22/3/12

³² The key innovation within the Brady Plan was the introduction of ‘Brady Bonds’ that allowed the biggest banks to exchange their claims on developing countries into tradable instruments, in turn allowing them to get the debt off their balance sheets thereby reducing the strain on their capital.

fiscal imbalances. The Structural Adjustment Programmes (SAPs) were meant to transform the economies of the developing countries into market economies with a focus on trade and production. They typically included domestic changes such as privatization of state-owned monopolies, deregulation designed to encourage incoming foreign investment, and the reduction of trade barriers. The focus on balancing budgets and not overspending inevitably meant that public services previously available were cut back. Almost inevitably this hit the poorest segments of developing societies hardest.

The ‘neo-liberal’ policies imposed by the IFIs came to be known as the ‘Washington Consensus’ and have been the subject for much criticism, largely because of their negative impact on Development, and the way that impact was shared.³³ Perhaps the best that can be said about the policies is that they were experiments in the context of the most extreme threats to global stability, experiments from which important lessons were learned.

4.4 The 1990s and beyond

After a decade of adjustment medicine it was to be expected that the developing countries would come with very different if not fresh ideas when they convened the South Commission in 1987, under the chairmanship of Tanzanian former President, Julius Nyerere. However, the report issued in 1990 would disappoint in that respect and would reaffirm that Development must be achieved through rapid and sustained growth.³⁴ The Report was balanced enough to admit that some of the problems faced by developing countries were due to weaknesses of their own governments. It proposed a six-point programme of action that seemingly lacked breakthrough ideas:

- i. To remove the overhang of external debt
- ii. To protect the global environment and ensure sustainable development
- iii. To double concessional transfers of resources from North to South
- iv. To evaluate requirements, and the norms and indicators of performance

³³ Criticisms can be found in Sachs (2005), Stiglitz (2002), and Easterly (2006)

³⁴ Rist (1997) p201

- v. To help sales of Southern products in Northern markets
- vi. To stabilize the price of primary commodities

The Report attributed the widening gulf between the blocs not to differences in economic progress but to the enlargement of the North's power relative to the rest of the world.³⁵ The Commission must have realized, and been disappointed, that they had not produced a work that would change the course of events, despite the Chairman's recognition that the "responsibility for the development of the South lies in the South and the peoples of the South."³⁶

However, Nyerere's words were to bear fruit, as the Human Development Approach (HDA) was about to emerge thanks in large to the efforts of two outstanding economists from the South, Mahbub ul Haq and Amartya Sen.

Following his work on Basic Needs (with Paul Streeton and others) at the World Bank, and a period as a Finance Minister in Pakistan and a member of the South Commission, Haq proposed to William Draper, Administrator of the UNDP, the idea of an annual Human Development Report. In a move that was to strengthen the legitimacy of the annual reports, he also proposed that the "report should be independent of any formal clearance through the UN."³⁷ So it was that the intellectually independent HDRs were born with the full support of the UNDP.

Haq gathered a team to spearhead this task including Sen, a friend and colleague from their undergraduate days at Cambridge University, Paul Streeton, Frances Stewart, Meghnad Desai, another member of the South Commission, Gustav Ranis, Keith Griffin, Aziz Khan, Shlomo Angel, Pietro Garau and Mahesh Patel.³⁸ All the team members were trained economists with the exception of Angel and Garau who were trained as architects.

³⁵ Ibid p203

³⁶ *The Challenge to the South: Report of the South Commission*, under the Chairmanship of Julius Nyerere (1990) pvii

³⁷ Haq (1995) p25

³⁸ Rist (1997) p205

The HDA benefited from the lessons of the earlier BNA and the capabilities thinking of Sen. It introduced two key ideas that would distinguish the approach from earlier development thinking.

The first was a new measure, the human development index (HDI), to replace GNP as the principal measure of development. The HDI combines measures of income, life expectancy and level of education for any given country and produces different orderings from the existing rankings by GNP. In fact these new tables showed that GNP and Development were not as closely correlated as had sometimes been assumed. Some countries demonstrated strongly growing development with only small GNP while others showed the reverse. Rist observed that the new measure corresponded exactly to, and gave substance to one of the action points from the South Commission. “The participation of Desai in Haq’s UNDP team and in the development indicators expert group of the South Commission doubtless explains this happy coincidence.”³⁹

The second new idea was a ‘use of funds’ mechanism. The 1991 Report provides a means for evaluating the allocation of funds between development initiatives and other uses. Providers of ODA and other observers can therefore assess the efficiency with which funds provided are applied by recipient governments and bring pressure to ensure an adequate priority for such areas as health care, sanitation and education. Similarly, the HDR can assess the efficiency of the ODA providers and highlight the misrepresentation of military aid, for instance, as development aid.

The shift from GNP to HDI raises the question of the meaning of human development. Did the addition of ‘human’ to development simply mean a broadening of concern, the addition of health and education measures to those of economic growth? Such a move, after all, would seem little more than Basic Needs mark 2. However, the HDRs have consistently stated that Human Development is more than the content of HDIs; it is “a process of enlarging people’s choice.” These choices are the link to Sen’s ‘capabilities’ that we will explore in more detail in the next chapter. This point is underlined by the fact that the HDRs have introduced other measures over the years to reinforce the management of human development and demonstrate that HDI does not represent the totality of human development. These measures include the Gender-related

³⁹ Rist (1997) p206

Development Index (GDI), the Gender Empowerment Measure (GEM), and the Human Poverty Index (HPI). These and other measures will be explored in Chapter 7.

Twenty years of annual HDRs have highlighted numerous issues such as gender, participation, cultural liberty, human mobility and climate change. Throughout this period there has been the constant attention to global poverty as measured via the HDI and other indices. The 2003 Report featured the Millennium Development Goals (MDGs) and the 2005 Report attempted a rallying call with many detailed arguments for change and the following eye-catching statement:

The \$7 billion needed annually over the next decade to provide 2.6 billion people with access to clean water is less than Europeans spend on perfume and less than Americans spend on elective corrective surgery.⁴⁰

Despite these efforts, and those of others, the progress on the MDGs has been disappointing. The MDG Task Force Report of 2010 summarises one key aspect as follows:

Despite the renewed commitment to international cooperation, economic upheaval and uncertainty have taken a toll on progress towards achieving Goal 8, which is to strengthen the global partnership for development. Delivery of official development assistance is slowing down. The Gleneagles commitments to doubling aid to Africa by 2010 will not be met. The Doha Round of multilateral trade negotiations remains stalled. Debt burdens have increased, with a growing number of developing countries at high risk or in debt distress. And rising prices are hampering access to medicines, while investment in technology has weakened.

(Extracted from Introduction by Ban Ki-moon, UN Secretary General)

But what links the MDGs to Human Development and the HDRs in the first place? Perhaps prompted by the early HDRs, but certainly in frustration at the inadequate pace of earlier development efforts, the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD) produced a strategy paper in 1996, "Shaping the 21st Century," containing a set of concrete and measurable development objectives. This influential paper was largely based on a paper written in 1996 for the OECD by Sakiko Fukuda-Parr and Selim Jahan of the Human Development Report Office (HDRO), which included proposals for such targets and

⁴⁰ Accessed 14/1/2010 at http://hdr.undp.org/en/media/hdr05_summary.pdf, p30

goals.⁴¹ In addition to these targets the DAC paper also proposed a global partnership (built on ODA) to finance what it considered to be ambitious yet realistic goals.

The record of the last 50 years, from Marshall Plan aid to the network of development partnerships now evolving, shows that the efforts of countries and societies to help themselves have been the main ingredients in their success. But the record also shows that development assistance has been an essential complementary factor in many achievements: the green revolution, the fall in birth rates, improved basic infrastructure, a diminished prevalence of disease and dramatically reduced poverty.⁴²

The UN recaptured the initiative in 2000 when the GA adopted the Millennium Declaration, with eight MDGs based on the DAC proposals. The OECD continued to play an important role by contributing to the Inter-Agency Expert Group that tested and refined the MDG indicators, and by contributing to the UN's annual MDG progress reports. In particular they have supplied statistics and commentary on ODA flows. The MDGs initiative, however, has been successful in not only involving UN agencies and the OECD but also the Bretton Woods organizations and the widest range of related NGOs and national governments. It remains the most visible effort to-date aimed at human development and the reduction of extreme global poverty. The broadly accepted view of Human Development as reflected in the MDGs goes beyond income (as tracked by the GNP-growth school), and beyond basic health and education (as contained in the HDIs), to include gender and reproductive rights, environmental sustainability and even the spread of information technology. One issue that emerges, to which we will return in the next chapter, is whether the MDGs owe more to the Basic Needs Approach or the Capability Approach. In closing this sub-section we can record that beneath the 8 goals with 21 targets frequently mentioned in descriptions of the MDGs, there are some 150 public service interventions that should be universally accessible, or 'basic needs', as Jeffrey Sachs terms them, the lack of which would constitute extreme poverty.⁴³ From the single measure of GNP per capita to 150 basic needs is a very substantial expansion of the scope of Development.

⁴¹ Haq and Ponzio (2008) p77

⁴² Development Assistance Committee (1996) p1

⁴³ Sachs (2005) p292

4.5 The contribution of philosophy

One might read this brief history of development as being dominated by economists, and worry that political philosophy had been entirely absent from the cause until Sen's contribution in the 1990s when his Capability Approach contributed to the formation of the HDRs. Others might argue that the Basic Needs Approach broadened the concept of human development as early as the 1970s. However some, including Sen, dispute the philosophical underpinnings of the BNA, which after all emerged (like the CA) from the field of economics.⁴⁴

This might seem a problem of labels rather than substance. Many of the economists mentioned in this chapter could reasonably be described as development economists and in some cases development ethicists. For example, David Crocker, himself a development ethicist describes Haq, Stewart and Streeten as development economists⁴⁵, while in the same book listing Sabine Alkire, Des Gasper, Denis Goulet⁴⁶, Martha Nussbaum, O'Neill, Sen and Streeten (again) as development ethicists.⁴⁷ If Development Ethics is the field of enquiry that reflects on both the ends and the means of development (as suggested by Wikipedia) then it seems hard to deny that such luminaries as Haq or Stewart are fully qualified for that appellation. It is but a short hop to allow that development ethicists could be considered a specialist sub-group of political philosophers.⁴⁸ By this means one can interpret the main stages in Human Development evolution, certainly since the 1960s, to have been philosophically influenced.

One might reasonably argue that the inclusion of all prominent development economists amongst the ranks of philosophers is too quick. What links them, as a group is first their economics training and background. However, a response would point to the

⁴⁴ Sen (1984) *Resources, Values and Development*, p514

⁴⁵ Crocker (2008) p129

⁴⁶ Denis Goulet, one of the founding fathers of the discipline argued in *The Cruel Choice* (1971) that "Development ethics is useless unless it can be translated into public action. By public action is meant action taken by public authority, as well as actions taken by private agents by having important consequences for the life of the public community. The central question is: How can moral guidelines influence decisions of those who hold power?"

⁴⁷ Wikipedia understandably adds Gunnar Myrdal and Dudley Seers to the list of prominent development ethicists. http://en.wikipedia.org/wiki/Development_ethics, accessed 22/3/12.

⁴⁸ Crocker (2008) p191 describes development ethics as a particular form of political philosophy. This notion will re-surface in Chapter 11.

philosophical process of reflection on an ethical problem as being a better indicator of philosophical influence than educational background.

What seems important is that political philosophers take full account of the contribution of such development economists and development ethicists in their reflections about future issues.

What remains to be considered is the contribution of what might be termed mainstream political philosophers to the evolution of Human Development.

From the beginning of the 1960s, Denis Goulet, drawing on his background in continental philosophy, political science, and social planning, began arguing that “development needs to be redefined, demystified, and thrust into the arena of moral debate.”⁴⁹ The sociologist Peter Berger similarly argued that development often sacrificed the poor in the Third World rather than benefiting them. David Crocker, then a philosopher at Colorado State University, drew on their work when constructing what was perhaps the first graduate seminar in ethics and rural development in 1978.⁵⁰ As Crocker points out there were two other major influences that impacted on development philosophy at that time: the Hardin-Singer debate, and John Rawls *A Theory of Justice*.

The Hardin-Singer debate centered on whether or not affluent countries, or their populations, have moral duties to aid the starving poor in underdeveloped countries. Peter Singer argued that food aid was morally obligatory. Using the East Bengal famine of 1971 as context, he used the case of the drowning child and other arguments to claim, “if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it.”⁵¹ Singer claimed that food aid, as an example, was a moral duty and not merely a question of charity. Garret Hardin took the opposite view. Food aid was neither a duty nor a reasonable act of charity. Using his lifeboat analogy Hardin argued that the rich (those in the lifeboat) had a moral duty *not* to assist the poor (those in the sea). Aid would only worsen the situation in the long run because of more mouths to feed (capsizing of lifeboat). Underlying Hardin’s concern were Malthusian thoughts about population dynamics:

⁴⁹ *ibid* p4, with quotation from Goulet (1971)

⁵⁰ *ibid* pp3-7

⁵¹ Singer (1972) “Famine, Affluence, and Morality,” in (2000) p107

The harsh ethics of the lifeboat become harsher when we consider the reproductive differences between rich and poor.⁵²

These briefest of outlines do scant justice to the analyses presented by Singer and Hardin. However, the point is not to explore their arguments but merely to indicate the questions that were being examined by some of the leading political/ethical philosophers of the day, questions that would attract and hold attention for some time to come.⁵³ O'Neill was another leading philosopher who joined this debate with her 1975 paper "Lifeboat Earth," in which (apparently siding with Singer) she argues "those in a position to prevent or postpone famine deaths have a duty to do so, and further, that if they fail to do so, they will bear some of the blame for those deaths."⁵⁴ That this debate ran for some time indicates the question is not uncontested. However, the pro-camp, supporting the claim of duty, received further belated support from the inclusion of the 'duty to assist' in Rawls *The Law of Peoples*.⁵⁵

The second major influence mentioned by Crocker was Rawls *Theory of Justice*. This work, which focused on domestic rather than international justice, was of such depth and significance that it set the agenda for most political philosophy in the two decades that followed its publication in 1971. It seems impossible to trace all the impacts on human development of this game-changing work. However, it is clear that Sen's views on social justice were largely influenced by Rawls' arguments, and his concept of capabilities was developed partly in response to what he saw as weaknesses in Rawls' social primary goods.⁵⁶

We can conclude that Sen, in particular, was fully aware of the discourse within political philosophy during the formative period of the 60s and 70s, and engaged with that stream through his own work. We thus have a reasonable chain linking the earlier political philosophers with the content of the human development approach. One might suggest that without Rawls' primary goods, Sen might not have been prompted to

⁵² Hardin (1974) "Lifeboat Ethics: the Case Against Helping the Poor," *Psychology Today*, accessed 13/5/11 at http://www.garretthardinsociety.org/articles/art_lifeboat_ethics_case_against_helping_poor.htm

⁵³ Mentioned by Jean Drèze, and Amartya Sen, in (1989) *Hunger and Public Action*, p65

⁵⁴ O'Neill (1975) "Lifeboat Earth," in Pogge and Moellendorf (eds)(2008), *Global Justice: Seminal Essays*

⁵⁵ Rawls (1999) p37

⁵⁶ See for example Sen (1999) pp72-78, and Sen (2009) pp233-234, 254, 260-263.

elaborate capabilities beyond the notion of basic needs that had emerged from the development ethicists and development economists working in the human development arena. Nevertheless, one can also suggest that the contribution of traditionally recognized political philosophers to the field of human development was indirect until the engagement of Sen around 1990.

A remaining question is, “how might the domination by economists have been avoided?” It is too easy with hindsight to argue that the UN should have included of all social sciences and others within their work groups. The problem was originally conceived as being an economics problem, and hence the best economists were assembled for the task. If there is a criticism it is perhaps that the philosophers of the day did not find ways to influence events directly until Haq’s assembling of the HDRO.

4.6 Conclusion

The evolution of Development, involves many steps, from Roosevelt’s Freedom from Want and Fear, through focus on growth and the Development Decades of growth plus change and Basic Needs, through Structural Adjustment to the emergence of the HDA. The HDA, like the HRA, is multi-disciplined, driven primarily, in this case, by economists and latterly philosophers.

Chapter 5 Capability Approach to Human Development

This chapter examines the Capability Approach (CA) in order to better understand its potential in contributing to Human Development and to the reduction of global poverty. The two main versions of the CA, those of Amartya Sen and Martha Nussbaum, are presented including their justifications. Distinctive features are identified and contrasted, criticisms examined, and how both versions relate to Human Rights and the MDGs considered.

5.1 Sen's Capability Approach

Sen's CA developed alongside, and partially in response to, the BNA. He famously positions *basic capabilities* as a better response to the question, 'Equality of What?'¹, than can be obtained from (i) utilitarian equality, (ii) total utility equality, and (iii) Rawlsian equality. From this one might be tempted to think that the CA is a theory of justice, but this would be incorrect.

Capability is ... no more than a perspective in terms of which the advantages and disadvantages of a person can be reasonably assessed.²

The capability perspective does point to the central relevance of the inequality of capabilities in the assessment of social disparities, but it does not, on its own, propose any specific formula for policy decisions.³

Sen has provided ample material over thirty plus years that illustrates both the general theory and some specific applications of his capabilities thinking.

¹ Sen (1979) *Equality of What?*

² Sen (2009) *The Idea of Justice* pp296-7

³ *Ibid* p232

The following table is borrowed from David Crocker as a means of summarizing Sen’s position for ‘life going well’ in terms of agency and well-being, freedoms and achievements.⁴

	Agency	Well-Being
Achievement	Agency Achievement	Well-Being Achievements (Functionings)
Freedom	Agency Freedom	Well-Being Freedoms (Capabilities)

According to this view, life going well involves both agency and well-being freedom⁵, where agency freedom “is one’s freedom to bring about the achievements one values (which may or may not bear directly on one’s well-being) and which one attempts to produce,” while well-being freedom, or capabilities, is one’s freedom to achieve those things (functionings) that are constitutive of one’s well-being.⁶ The constitutive *functionings* (one’s beings and doings) “can vary from basic things such as being nourished, being in good health, avoiding escapable morbidity and premature mortality, etc., to more complex achievements such as being happy, having self-respect, taking part in the life of the community, and so on.”⁷ One’s *capability* is the set of alternative combinations of functionings from which one chooses one combination.⁸

Agency and *Well-being* are thus positioned as two distinct but linked aspects of human life, “each of which calls for respect [aid, protection] on the part of individuals and institutions.”⁹ Sen elaborates the interdependence saying:

⁴ Crocker (2008) p151, Sen identifies the four concepts contained in the table as concepts of advantage, Sen (1993) “Capability and Well-Being,” in Nussbaum and Sen (1993) *The Quality of Life*, p35. Sen also discusses the distinctions between the concepts in Sen (1985b) “Well-Being, Agency and Freedom.”

⁵ Sen elaborates on agency and well-being in (1985b) *Well-being, Agency and Freedom* pp185-7

⁶ Sen (1992) *Inequality Reexamined* p57, my insertion in brackets.

⁷ Ibid p39

⁸ Ibid p50

⁹ Crocker (2008) p150, note the similarity with Shue’s duties relating to human rights.

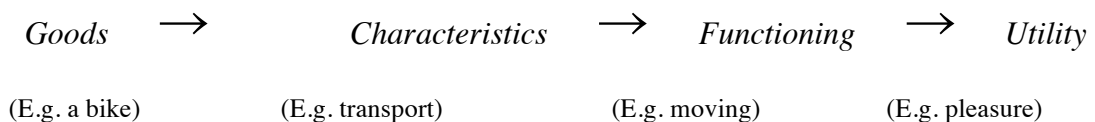
The pursuit of well-being can be one of the important goals to an agent. Also, the failure to achieve *non*-well-being goals can lead to frustration and thus to a loss of well-being.¹⁰

This interdependence of agency and well-being is reinforced by Sen's claim that Development is the process of expanding the real freedoms that people enjoy, specifically including agency freedom for both constitutive and instrumental reasons.

What people can positively achieve is influenced by economic opportunities, political liberties, social powers, and the enabling conditions of good health, basic education, and the encouragement and cultivation of initiative. The institutional arrangements for these opportunities are also influenced by the exercise of people's freedoms, through the liberty to participate in social choice and in the making of public decisions that impel the progress of these opportunities.¹¹

5.2 Sen's Justification

Sen has provided negative and positive arguments to justify the Capability Approach. Irrespective of the level of 'justification' achieved, these arguments go some way to illuminating the advantages of agency and well-being freedoms. However, before considering the various critiques of alternative approaches¹² the following schema, from *Choice, Welfare and Measurement*,¹³ is included to illustrate the relationship between possible categories involved in the value chain between a good and a person. As will become apparent, the alternative approaches place emphasis at different points in this chain.



¹⁰ Sen (1992) p57

¹¹ Sen (1999) p5

¹² Critiques prompted by analysis in Crocker (2008) Chapter 4

¹³ Sen (1982) *Choice, Welfare and Measurement* p30

5.2.1 Crude Commodity Approach Critique

This approach towards Development, or in other contexts towards social justice, involves focusing on selected commodities as the means to the preferred end. Perhaps the best example of this approach is the use of GNP per capita by economists and major institutions for much of the post-war period. Other examples might include the use of food or water. The advantage of such an approach is its simplicity – a single factor to measure and manage as the means of achieving the desired goal.

Sen offers three arguments to justify the superiority of the CA over the Crude Commodity Approach (CCA). First, that CCA could tend towards what Sen (following Marx¹⁴) calls ‘commodity fetishism’, the tendency to focus on the ‘means’ to the exclusion of the ‘ends’. However, this concern seems easily addressed once the danger has been highlighted. There is nothing that demands the ends be overlooked when addressing commodities as means.

Sen’s second argument introduces his concern with interpersonal variability.¹⁵ A pregnant woman might need more nourishment, and an older person more support than the average person. People vary in their ability to convert commodities (goods in the schema above) into functioning, and it is functioning that Sen proposes we should be concerned with. His observation that people differ in this conversion ability seems indisputable but this does not necessarily invalidate, in all cases, an approach based on average requirements with exceptions for special needs.

The third argument replays the second but at the societal level. His point is that some functionings are culturally specific, and Sen draws on Adam Smith for his example of needing a linen shirt to avoid being shamed when appearing in public in England.¹⁶ In terms of our schema, goods may have different characteristics in different societies, e.g. cow dung as fuel in India and fertilizer in Europe, and thus contribute, albeit indirectly, to different functionings. However, this argument does not disqualify a commodity

¹⁴ Sen refers to Marx’ *Capital: A Critical Analysis of Capitalist Production* in Sen (1985a) “The Standard of Living,” p22

¹⁵ Sen (1984) *Resources, Values and Development* p511, also Sen (1999) *Development as Freedom* pp70-71.

¹⁶ Sen (1984) p335, Sen (1992) p115

approach but merely clarifies that its application is contextual and needs to be culturally sensitive.

Sen's arguments appear to do a better job of highlighting some of the risks in policy making than of discrediting the commodities approach. The CA may be preferable in ideal circumstances, but for ease of measurement and simplicity there is much to be said for money as a flexible commodity that provides its holder with the freedom to choose her preferred functionings. Sen has recognized the measurement problem but proposes the point of measurement be shifted in the opposite direction, i.e. away from commodities, saying, "limits of practicality may often force the analysis to be confined to the achieved functioning bundle only."¹⁷

5.2.2 Rawlsian Commodity Approach Critique

The target here is Rawls' social primary goods (rights and liberties, opportunities and powers, income and wealth, and the bases of self respect).¹⁸ Sen recognizes that Rawls' use of primary goods in his theory of justice is motivated by the capabilities they facilitate rather than the goods in themselves, e.g. in a person's self-respect (the functioning) rather than in the bases of self-respect (the commodity). However, he positions his CA as "a natural extension of Rawls's concern with primary goods, shifting attention from goods to what goods do to human beings."¹⁹ Since Rawls introduces his social primary goods as having "a use whatever a person's rational plan of life," one might wonder whether it is fair to label his theory as commodity fetishist²⁰ or to suggest it needs further clarification on the distinction between means and ends. Indeed, one might be concerned that Sen's CA theory says too little about the means to ends, but, as will become apparent later, his application of the capability approach is more focused on means.

Sen invokes the individual variation argument to criticise Rawlsian primary goods.²¹ He is not alone in challenging Rawls on his treatment of interpersonal variations within *A*

¹⁷ Sen (1992) p53

¹⁸ Rawls (1971) *A Theory of Justice*, p62

¹⁹ Sen (1982) p368

²⁰ Ibid p368

²¹ Sen (1979), 366, Sen (1992) p 81-87

Theory of Justice such as the exclusion of people with disabilities from the ideal case. Sen admits that Rawls is not ignoring such cases but argues that they are too prevalent to be treated as mere exceptions. A shift from primary goods to capabilities enables this weakness to be overcome. However, one might question (with Rawls) whether or not the measurement and tracking of capabilities or functionings is always as practical as measuring and tracking the relevant primary goods.²²

5.2.3 Welfare or Utilitarian Approach Critique

Whereas for Sen the commodities approach, in whatever form, overemphasizes goods and neglects the variability of people, the welfare (utilitarian) approach overemphasizes people's mental states or utility and neglects other aspects of their well-being.²³ These two approaches represent both extremes of the schema shown earlier and Sen continues to argue for functionings, or the freedom to choose functionings (capabilities).

By associating welfarism with mental states and preference satisfaction Sen is able to introduce two criticisms: that it ignores agency and that it is distorted by adaptive preferences.²⁴

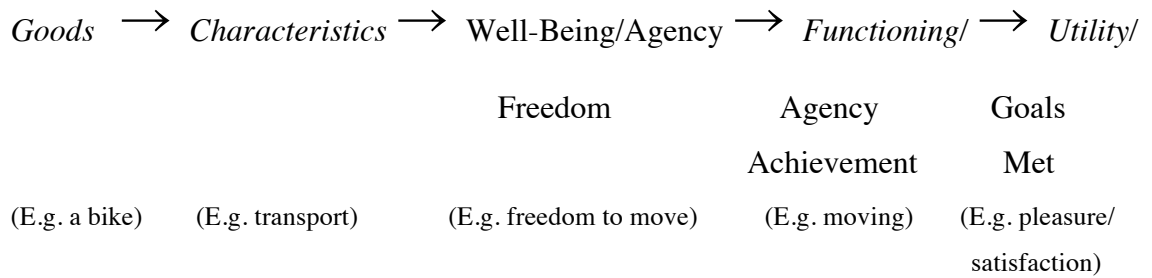
The first criticism depends on the understanding that Agency Freedom and Achievement do not necessarily contribute directly to pleasure or happiness, despite being important within our sense of the good. We might go hungry to share our food with another, or forego some desirable expenditure to contribute to a charity. Sen insists that for our lives to go well we need the freedom to pursue non-well-being objectives as well as well-being objectives.²⁵ This suggests that we might profitably adjust Sen's Schema to make the role of freedoms more explicit, as follows.

²² Rawls (1999) p13, n3. Rawls grants Sen's claim that citizens' effective basic freedoms are more fundamental than the primary goods they possess, given their differing capabilities in using those goods. He concedes "any use of primary goods must make certain simplifying assumptions about citizens' capabilities". He also notes that "to apply the idea of effective capabilities without those or similar assumptions calls for more information than political society can conceivably acquire and sensibly use." He concludes that Sen's "idea is essential because it is needed to explain the propriety of the use of primary goods."

²³ An observation made by Crocker, (2008) p125

²⁴ Sen (1984) p309, Sen (1985b) p191, Sen (1992) pp53-5, Sen (1999) p62

²⁵ Sen (1992) pp56-8



The second criticism builds on the observation that the victims of long-standing deprivation “take pleasure in small mercies,” having adjusted their aspirations downwards in the light of experience. Measurements of pleasure would therefore be an unreliable guide to the state of a person’s life.

Finally by referring to the requirement of utilitarian calculus to sum-total happiness, Sen invokes the standard criticism of utilitarianism, that it ignores the distribution of happiness across individual persons in pursuit of the aggregative total.²⁶

5.2.4 Basic Needs Approach Critique

Sen is both supportive and critical of the BNA. He had advocated a needs framework for assessing inequality as early as 1973²⁷, around the time McNamara and Haq were raising the basic needs issue at the World Bank. The similarities between the BNA and Sen’s CA are striking, but in this section we consider the final part of Sen’s negative justification of CA, his criticisms of BNA.

Sen first deploys his ‘standard’ criticisms of alternative approaches – the interpersonal variability criticism, and its societal (culturally relative) counterpart.²⁸ Both criticisms follow from the assertion that basic needs are defined in terms of commodities, even though the fact that different people might require differing levels of commodity for equivalent functioning is recognized by the BNA. Sen insists that a focus on commodities is inappropriate because commodity requirements may not be derivable from specified sets of capabilities given a presumed ‘many-one’ relation between

²⁶ Ibid p62

²⁷ Sen (1997) *On Economic Inequality, Enlarged Edition* p104

²⁸ Sen (1984) p513-4

commodity bundles and capability bundles, e.g. there being many alternative ways to adequately shelter a person.²⁹ Sen was later to accept that basic needs can be defined in terms of capabilities or commodities, as suggested by Streeten,³⁰ but appears not to have withdrawn his earlier criticism.³¹

Sen also criticizes the threshold nature of BNA, as often presented, with its focus on the *minimum* core needs, although he acknowledges that the approach need not have that emphasis.³² The problem with thresholds in general is that they ignore distribution and encourage policies that move individuals from just below to just above the threshold, thus undervaluing the demands of the even more needy (further below). The CA, Sen states, is not restricted to the issue of thresholds and can be used for judging advantage at any level.³³ The BNA, however, was specifically designed to focus on development and poverty reduction. Its attention to thresholds was therefore understandable. Sen, nevertheless, concludes that the problems associated with the way the BNA is often characterized could be overcome if it were considered to be “just one part of the capabilities approach.”³⁴

Sen also criticises the passive nature of the term ‘needs’ (what can be done *for* a person) when compared to the term ‘capabilities’ (what the person *can* do). He suggests that the latter corresponds better with the notion of positive freedom.³⁵ He admits that this distinction may be merely a matter of emphasis but views it as important, nonetheless, when considering the objectives of development.

Sen’s most telling criticism of the BNA is perhaps that it lacks a foundation in the sense of failing to explain why ‘basic needs’ are important.³⁶ Sen considers and rejects possible ‘foundations’ in the form of utility and commodity provision. He suggests this failure to provide a foundation would be overcome if BNA were indeed to be considered a part of the CA. If the BNA recognized the main issue as the goodness of

²⁹ Ibid p513

³⁰ Streeten (1981) p3

³¹ Sen (1989) *Hunger and Public Action*, p13n, in Sen and Drèze (1999) *The Amartya Sen and Jean Drèze Omnibus*.

³² Sen (1984) p515

³³ Ibid p514

³⁴ Ibid p515

³⁵ Ibid p514

³⁶ Sen (1985a) pp32-35

the life that one can lead, then “the so-called ‘basic’ needs in the form of commodity requirements are *instrumentally* (rather than intrinsically) important.”

Sen’s critiques of alternative approaches may seem less than fully convincing but they do help position the CA and point to its relative advantages.

5.2.5 Sen’s Positive Justification

In “Equality of What?”³⁷ Sen presents a case for equality of basic capabilities. He identifies the flaws, as he sees them, in alternative utilitarian and Rawlsian approaches (as discussed above), before arriving at his preferred CA. His method appears to be one of both correcting and building on the foundation of other approaches.

He uses a case-implication critique³⁸ to demonstrate that a cripple would benefit less than the average person from an equal share of primary goods. This is another instance of Sen’s interpersonal variability argument, his justification for moving up the value chain introduced earlier.

More recently, Crocker has attributed Sen’s normative outlook to his reading of Adam Smith’s concept of human freedom and to the Aristotelian/Marxist concept of human existence and well-being.³⁹ However, although Sen makes reference to both Smith and Marx in his early work⁴⁰, references to Aristotle’s views on functionings did not appear in Sen’s writings until prompted by Nussbaum around 1985.⁴¹ So, although Sen claims that the concepts of functionings and capabilities have “distinctly Aristotelian roots,”⁴² it appears his own versions of these concepts were developed from different rootstock

³⁷ Delivered as The Tanner Lecture on Human Values at Stanford University, May 22, 1979, and included in Sen (1982) *Choice, Welfare and Measurement*, Ch 16

³⁸ Ibid p353. A methodology for challenging moral principles by checking “the *implications* of the principle by taking up particular cases in which the results of employing that principle can be seen in a rather stark way, and then to examine these implications against our intuition.”

³⁹ Crocker (2008) p16

⁴⁰ E.g. Sen (1981) *Poverty and Famines*, (1982) *Choice, Welfare and Measurement*, (1984) *Resources, Values and Development*,

⁴¹ Sen (1985) “The Standard of Living,” delivered as the Tanner Lectures on Human Values at Cambridge University. “I am grateful to Martha Nussbaum for drawing my attention to the existence and importance of this Aristotelian connection.” p31

⁴² E.g. Drèze, and Sen, (1996) *India: Development and Participation* p 35, Sen (1999) *Development As Freedom* p75

before Nussbaum identified the Aristotelian connection. Sen's justification of the CA seems then to depend primarily on his reflections on alternative contemporary theories within a context directly influenced by Smith and Marx.⁴³ The Aristotelian 'justification' is better attributed to Nussbaum and is understandably welcomed as an additional support by Sen in his later writings.

In summary, Sen's justifications, both negative and positive, provide good but hardly insurmountable reasons for preferring a CA to other alternatives.

5.3 Sen's Evaluative Space

As the schema developed above demonstrates, Sen positions the space for ethical assessment between the extremes of goods or commodities and utility or welfare. Sen defines 'functionings' as "parts of the state of a person – in particular the various things that he or she manages to do or be in leading a life."⁴⁴ He continues, "The *capability* of a person reflects the alternative combinations of functionings the person can achieve, and from which he or she can choose one collection." Later in the same essay he states, "The capability approach is concerned with the identification of value-objects, and sees the evaluative space in terms of functionings and capabilities to function."⁴⁵ This evaluative space although originally proposed for consideration of egalitarian theories can also be applied to other social issues, such as well-being and poverty, liberty and freedom, living standards and development, gender bias and sexual divisions, and justice and social ethics.⁴⁶ This 'space' may seem straightforward but there exists significant potential for confusion as one digs deeper and explores the boundaries of Sen's key concepts of agency, well-being, living standard, and advantage. A brief investigation of this potential confusion may help in avoiding the pitfall.

Starting with perhaps the simplest potential confusion, Sen's meaning for the term 'advantage'. This may reflect little more than a change in usage by Sen. In "Well-Being,

⁴³ Accepting that many read Marx as influenced by Aristotle.

⁴⁴ Sen (1988a) "Capability and Well-Being," in Nussbaum and Sen (1993)

⁴⁵ Ibid p32

⁴⁶ Ibid p30n

Agency and Freedom” (1985), Sen likens advantage to well-being,⁴⁷ whereas in “Capability and Well-Being” (1988), he refers to the fourfold classification involving well-being and agency, freedoms and achievements as being appropriate for assessing human advantage.⁴⁸ Clearly this latter usage is broader than the former and suggests care is required when interpreting Sen’s statements involving advantage.

More troubling is the uncertainty concerning the boundaries of well-being and agency, a key feature in the breakdown of advantage (broader usage), as depicted in the diagram borrowed from Crocker earlier (and Sen’s fourfold classification mentioned above). Sen states that Agency is a broader term than Well-Being:

Agency...encompasses the goals that a person has reasons to adopt, which *inter alia* include goals other than the advancement of his or her own well-being goals.⁴⁹

Sen explains that well-being achievement can be seen as “an evaluation of the ‘wellness’ of the person’s state of being” rather than an assessment of her success in meeting overall goals. Nevertheless, he goes to say that well-being can include ‘other-regarding’ goals since doing good “may make a person contented or fulfilled, and these are functioning achievements of importance.”⁵⁰ This raises the concern that the satisfaction of each and every agency goal may contribute to well-being achievement, eliminating the distinction between agency and well-being. Sen attempts to clarify this distinction in his 1985 Tanner Lecture “The Standard of Living.” He refers to an earlier distinction he drew between ‘sympathy’ and commitment’ when considering motivations for action:

In helping another person, the reduction of the other’s misery may have the effect of making one feel – and indeed *be* – better off. This is a case of an action that can be promoted on grounds of “sympathy” (whether or not that is why the action is actually chosen), and this falls *within* the general area of promotion of one’s own well-being. In contrast, a case of “commitment” is observed when a person decides to do a thing (e.g. being helpful to another) despite its not being, in the net, beneficial to the agent himself. This would put the action outside the range of promoting one’s own well-being (linking the action with *other* objectives). At the risk of over-simplification, it may be said that we move from agency-achievement to personal well-being by narrowing the focus of

⁴⁷ Sen (1985b) p206

⁴⁸ Sen (1988a) p35

⁴⁹ *Ibid* p35

⁵⁰ *Ibid* p36

attention through ignoring “commitments,” and we move from personal well-being to the standard of living by further narrowing the focus through ignoring “sympathies”...⁵¹

Here then, we seem to get clarification on the boundaries between agency, well-being and a third category – standard of living. However, the distinction between sympathy and commitment, critical to boundaries between the key concepts under consideration, might appear from this explication to depend on some calculation of ‘net benefit’ to the agent - “despite its not being, in the net, beneficial to the agent.” Thus a charitable donation of say £100 might be seen as an act motivated by sympathy (if it produces a net, albeit fuzzy benefit to the agent), and hence one promoting one’s well-being, whereas a donation of £200 might produce insufficient positive feeling (when offset against the £200 cost) to count as sympathy but fall instead under the motivation of commitment, promoting instead one’s agency. On this view the boundary between agency and well-being is highly subjective at the very least.

Returning to “Capability and Well-Being,” we get another insight, specifically that a particularly important exercise in the appraisal of well-being is the evaluation of a person’s standard of living, which relates to a person’s “*own* life rather than from ‘other-regarding’ objectives or impersonal concerns.”

For example, the happiness generated by a purely other regarding achievement (e.g. the freeing of political prisoners in distant countries) may enhance the person’s well-being without, in any obvious sense, raising his living standard.⁵²

By one reading of this quotation efforts to free the political prisoners may improve one’s well-being, providing there was a *detectable contribution* to well-being, irrespective of the personal cost and hence net cost/benefit. By another reading consistent with Sen’s earlier quote, the good performed might fall either under agency or well-being achievement depending on the *net contribution* of costs and benefits. By either reading the action does not contribute to his living standard (although, presumably it might reduce the living standard if there is a cost involved). By the first construal it is hard to think of examples that would count as agency but not well-being, making the distinction of little value. Even the completion of the most unwelcome task (e.g. filling in a tax return) would produce a detectable contribution to well-being in the sense of satisfaction from doing one’s duty. By the second construal we are dependent

⁵¹ Sen (1985a) p38

⁵² Sen (1988a) p37

on a cost/benefit analysis across potentially incommensurate measures for classifying a goal or action as agency or well-being related. It follows that a goal initially considered as well-being related, because of presumed net benefits, might shift to being an agency achievement if the personal costs exceeded expectations and outweigh the personal benefits.

These various concerns, from plausible readings of “The Standard of Living,” and “Capability and Well-Being,” highlight the potential difficulty in grasping Sen’s distinction between agency and well-being. Fortunately, he offered another explanation in (1992) *Inequality Reexamined*, drawing on the earlier (1977) “Rational Fools: A Critique of the Behavioral Foundations of Economic Theory,” that provides a helpful clarification.

Stressing the importance of the distinction between agency and well-being, Sen offers an example that shows that agency and well-being goals can conflict,

If instead of being far away from the scene of crime – a crime that I would like to prevent – I happen to be bang on the spot, my agency freedom is certainly enhanced (I can now do something to stop that terrible event which I would much like to prevent), but as a result my well-being may go down (e.g. I may get wounded in the process of prevention even if my efforts are successful).⁵³

Sen suggests this conflict undermines the frequently held notion that agency and well-being goals are identical,

A false identification of well-being success and agency success can, of course, occur in the model of the ‘rational fool’, a common behavioural assumption in the economic theory whereby each person is seen as promoting his own well-being in every choice he makes.⁵⁴

In *Rational Fools*⁵⁵, Sen provides a more detailed explanation of commitment,

Commitment is, of course, closely connected with one's morals... covering a variety of influences from religious to political, from the ill-understood to the well-argued. p329

Commitment does not presuppose reasoning, but it does not exclude it; p344

⁵³ Sen (1992) p60

⁵⁴ Ibid

⁵⁵ Sen (1977) “Rational Fools: A Critique of the Behavioral Foundations of Economic Theory”

Commitment sometimes relates to a sense of obligation going beyond the consequences. Sometimes the lack of personal gain in particular acts is accepted by considering the value of rules of behavior. p342

From these comments we can conclude that acts of commitment do not necessarily follow from *calculations* of ‘net benefit’, as assumed in the earlier interpretations above. The rules of behaviour can dominate and make any assessment of consequential well-being redundant. Seen this way, “even though agency freedom is "broader" than well-being freedom, the former cannot subsume the latter”⁵⁶

Although the agency aspect and the well-being aspect both are important, they are important for quite different reasons. In one perspective, a person is seen as a doer and a judge, whereas in the other the same person is seen as a beneficiary whose interests and advantages have to be considered. There is no way of reducing this plural-information base into a monist one without losing something of importance.⁵⁷

This clarification, based on the nature of commitment, perhaps reduces the concern that agency and well-being may not be distinguishable.

5.4 Cohen’s critique

G.A. Cohen raises a different concern regarding Sen’s evaluative space in his 1993 contribution to *The Quality of Life*. Cohen gives credit to Sen for identifying the ethical importance of the space between goods and utility but suggests that Sen has overlooked an important component with his focus on capabilities and functionings. He proposes instead a category he calls ‘midfare’ constituted of the states of the person produced by goods but prior to utility. Cohen distinguishes between midfare and what he takes capabilities to be as follows:

The difference between midfare and capability (properly so called) will perhaps become more evident if we reflect a little about small babies. Small babies do not sustain themselves through exercises of capability. But it is false that, in the case of babies, goods generate utility and nothing else worth mentioning. When food is assigned for

⁵⁶ Sen (1985b) “Well-being, Agency and Freedom,” p207

⁵⁷ Ibid p208

the consumption of either a baby or an adult, each is enabled to be nourished. The fact that only the adult is able to nourish himself does not mean that he alone gets midfare. The baby gets it too. Hence midfare, the product of goods which, in turn, generates utility, is not co-extensive with capability, and ‘capability’ is therefore a bad name for midfare.⁵⁸

Cohen’s point is that a person can benefit from a context or situation determined by external events and actions of others without having to choose or decline something – without exercising a capability in the sense of a freedom to achieve or act. The provision of many public services such as sanitation or clean water might fall into this category of midfare. Cohen demonstrates that capability as often presented by Sen, and generally understood, fails to fully capture all the important benefits that goods make possible for persons, but his alternative term ‘midfare’ is also lacking in immediate clarity of content.

Cohen proposes that the right thing to equalize is ‘access to advantage’, rather than commodities, utility or basic capabilities, where ‘advantage’ is similar to Sen’s functionings, and ‘access to’ includes access by whatever direct or indirect means might pertain.

Under equality of access to advantage, the normative accent is not on capability as such, but on a person not lacking an urgent desideratum through no fault of his own: capability to achieve the desideratum is a sufficient but not a necessary condition of not suffering such a lack.⁵⁹

Responding to Cohen, Sen defends his preference for the concepts of capability and functionings but extends the scope of capabilities, through careful use of the term freedom, to include the missing component highlighted by the analysis of midfare:

The fact that a person has the freedom to enjoy a malaria-free life (or, to put it slightly differently, that his choice of a malaria-free life is feasible) may be entirely due to the actions of others (e.g. medical researchers, epidemiologists, public health workers), but that does not compromise the fact that he can have a malaria-free life and has the capability (thanks largely to others) to achieve such a life.⁶⁰

⁵⁸ Cohen (1993) “Equality of What? On Welfare, Goods and Capabilities,” in Nussbaum and Sen (1993) p20

⁵⁹ Ibid p28

⁶⁰ Sen (1992) p45

It seems a stretch to suggest a person *chooses* a malaria-free life in circumstances where catching malaria is improbable, thanks mainly to the actions of others. However, the dialogue between Cohen and Sen helps clarify and extend what is meant by the term ‘capability’, and even if the general understanding of that word does not naturally convey all its content, ‘capability’ benefits from consistent usage over an extended period, and no clearer and more comprehensive term has emerged.

Finally, if we take Cohen’s advantage to be similar to Sen’s functionings, then Cohen’s ‘access to advantage’ becomes similar to Sen’s ‘capability’ providing one reads capability in the broader sense, a point noted by Sen.⁶¹

5.5 Sen’s Analysis of Poverty

Poverty is just one of many problem areas that can be beneficially explored using the evaluative space of capabilities and functionings. However, Sen has not always restricted himself to this space when considering poverty. In his early work on famines, Sen introduced the Entitlements Approach as a response to extreme poverty. He argued that famines typically result from ‘failures of exchange entitlements’, rather than as a result of ‘Food Availability Declines’ (FAD), as was generally accepted at the time.⁶² He suggested the Bengal Famine of 1943 resulted not from a lack of food but from a widespread inability to purchase the available food. Price rises due to speculation was a major factor together with a lack of adequate employment opportunities and/or social security.

In *Poverty and Famines*, Sen expands this idea about ownership and entitlements. He defines an Exchange Entitlement as the set of all alternative bundles of commodities that he can acquire in exchange for what he owns.

A person will be exposed to starvation if, for the ownership he actually has, the exchange entitlement set does not contain any feasible bundle including enough food.⁶³

⁶¹ Ibid p46

⁶² Sen (1976) “Famines as Failures of Exchange Entitlements”

⁶³ Sen (1981) *Poverty and Famines*, p3

Sen is here defining poverty, in one of its most extreme forms - starvation, as a consequence of entitlement exchange failure.

Later in this book, Sen discusses the merits of two alternative approaches to poverty identification. He notes that the inability to meet 'basic needs' is a common test of poverty.⁶⁴ He questions whether such basic needs are "better specified in terms of commodities, or in terms of 'characteristics'," recalling the value chain above. In many situations the characteristics required imply quite directly the commodities needed, e.g. the characteristic of literacy implies the commodity of elementary schooling. However, some characteristics, such as nutrition, might be provided by a number of different commodities, different foodstuffs. This characteristics/commodities issue is just one of the disadvantages Sen sees in the BNA, as has already been mentioned.

Sen also explores the 'income' method for identifying poverty. Notwithstanding his general objections to the welfare economics approach, Sen notes,

The income of a person can be seen not merely to be a rough aid to predicting a person's actual consumption, but also as capturing a person's *ability* to meet his minimum needs (whether or not he, in fact, chooses to use that *ability*).⁶⁵

It is interesting that he refers to *ability* but makes no mention of 'capability' or 'functionings' in this work despite it following chronologically from *Equality of What?* (1979). It seems at this stage that Sen is still searching for the most appropriate evaluative space and includes commodities, ownership, entitlements (rights), and characteristics in his mix.

In 1982, Sen returns to the capability approach topic, including *Equality of What?* as a chapter within *Choice, Welfare and Measurement*. However, he makes no connection at this point between the CA and the entitlements approach. This 'oversight' he corrects in 1984, in a chapter of *Resources, Values and Development* dedicated to comparing entitlements and capabilities.⁶⁶ He confirms entitlements as the alternative commodity bundles that a person can command in an exchange society and adds,

⁶⁴ Ibid p24

⁶⁵ Ibid p27

⁶⁶ Sen (1984) *Resources, Values and Development*

On the basis of this entitlement, a person can acquire some capabilities, i.e. the ability to do this or that (e.g. to be well nourished), and fail to acquire some other capabilities. The process of economic development can be seen as a process of expanding the capabilities of people. p497

Having linked the two concepts Sen reiterates that the problems of starvation, hunger and famines (extreme forms of poverty) “could be better analysed through the concept of entitlement than through the use of the traditional variables of food supply and population size.” And, in contrast with the above quotation regarding economic development, he concludes,

Because of close links between entitlements and capabilities, focusing on entitlements – what commodity bundles a person can command – provides a helpful format for characterizing economic development. p504

This raises the question of whether Sen sees development being closely linked to capabilities or entitlements. Fortunately, in *Hunger and Public Action*, Sen and Drèze go further in clarifying the relation between entitlements and capabilities,

The focus on entitlements, which is concerned with the command over *commodities*, has to be seen as only instrumentally important, and the concentration has to be, ultimately, on basic capabilities.

Sen (and Drèze) then provides a detailed footnote that represents his most complete explication of the matter,

While the *entitlement* of a person is a set of alternative *commodity* bundles, the *capability* of a person is a set of alternative *functioning* bundles. Larger entitlements contribute to wider capabilities, but the relationship is not the same for different persons. For example, a pregnant woman has greater nutritional requirements and also special needs for medical attention, and hence having the same command over food and health care as another – non-pregnant – person may not give her the same capability to be well nourished and healthy. Public action has to be based on an adequately discriminating analysis, and this calls for causal investigations of capabilities and of variations in the relation between entitlements and capabilities.⁶⁷

It seems then for Sen, at least during the 1980s, the evaluative space for considering poverty, specifically famines and starvation, and development, encompassed capabilities, functionings *and*, albeit instrumentally, entitlements, together with commodities, characteristics and income. However, from the late 1980s onwards Sen

⁶⁷ Drèze, and Sen (1989) p13

seems to shift his focus more completely to capabilities. Poverty is defined in terms of basic capabilities or capability deprivation.⁶⁸ The concept of 'Entitlements' generally receives less attention in his writings and in *Development as Freedom* (1999) it is again positioned as an "instrumental freedom that contributes directly or indirectly to the overall freedom people have to live the way they would like to live."⁶⁹

5.6 Sen's Positioning of the Entitlements Approach

Although Sen's emphasis, when dealing with poverty and famines, shifts over time from *entitlements* to *capabilities*, at no point does he reject his earlier work or explain the shift in emphasis. However, one possible reason for that change is the substantial criticism the Entitlements Approach received.

In the twenty-five years following the original paper numerous authors analysed, challenged, and even refuted Sen's position.⁷⁰ However, a paper by Purusottam Nayak argues that most of the criticisms can be attributed to confusions of one sort or other.⁷¹ Space prevents a full examination of the criticisms and confusions but the following example is illustrative.

Nayak suggests a first confusion arises when the entitlement approach is understood to provide a hypothesis about the causes of famine rather than a framework of analysis. Various critics rejected what they took to be Sen's dismissal of FAD as a cause of famines. However, Nayak maintains that Sen advocated the entitlement approach for two reasons:

1. Plurality of Causes:

There are many causes of famines. It can also occur in the absence of decline in food availability. The entitlement approach is in a position to identify these causes, which the FAD approach will have no clue about it (*sic*).

⁶⁸ Ibid p 15

Sen in Nussbaum and Sen (1993) p 41, Drèze, and Sen (1995) pp11, 69, Drèze, and Sen (1996)p 36

⁶⁹ Sen (1999) *Development As Freedom*, pp38-9

⁷⁰ For a brief summary of criticisms see Devereux (2001) "Sen's Entitlement Approach: Critiques and Counter-critiques"

⁷¹ Nayak (2005) "Understanding The Entitlement Approach To Famine,"

2. Asymmetry of Impact:

Whatever may be the cause of famine, its degree of impact felt on different sections of society are different. Thus, FAD approach does not supply any information in this regard whereas entitlement approach explains such asymmetries by looking separately at the entitlement sets of different socio-economic groups.⁷²

Although the extensive criticism of Sen's Entitlement Approach might be seen as a possible reason for his appearing to distance himself from that approach, it seems that Sen could have resisted the criticism, by clarifying his position as indicated by Nayak, and continued to press the importance of entitlements had he wished. His reasoning is perhaps that entitlements are only instrumentally rather than intrinsically important. The most important evaluative space for Sen is that of functionings and capabilities (with agency freedom and achievements), and his focus remains on spreading that message.

Another reason for Sen to down-play the entitlement approach is that it is subject to the same criticism (interpersonal variability) that he levels at commodity and other approaches, as discussed earlier.

5.7 Sen's approach to Development

Sen's CA may be the evaluative space for ethical assessment, but it is perhaps insufficient for addressing the subject of human development. Sen is clear in identifying many other requirements in the challenge of development. That he cleverly combines all those requirements under the banner of freedom, enabling him to talk of 'development as freedom,' does not remove the fact that he sees development as a complex process of interconnected elements. In expanding his term 'freedom' we find that democracy plays an essential role, but that his dependence on democracy raises many questions as well as answers.

In *Development as Freedom*, Sen presents the idea that extending human freedom is both the end and means of development. When talking of ends Sen means 'freedom' in the sense of agency freedom and well-being freedom (capabilities), as assessed in his

⁷² Ibid

evaluative space. These freedoms do not stand in isolation but depend instead upon a number of economic, social and political circumstances. Sen makes clear that the ‘end’ of the enhancement of human freedom entails “a need to develop and support a plurality of institutions, including democratic systems, legal mechanisms, market structures, educational and health provisions, media and other communication facilities and so on.”⁷³ If the provision of these institutions is the means of development then it is perhaps not immediately obvious that each element requires human freedom. However, Sen insists “people have to be seen ... as actively involved ... in shaping their own destiny, not just as passive recipients of the fruits of cunning development programs.”⁷⁴ So here in the ‘means’ of development we have freedom as participation.

Given the interconnected nature of the elements in Sen’s ‘plurality of institutions’, one might wonder where to begin. Legal systems and effective media may seem essential to democracy, but at the same time the reverse may also seem true. Sen is wise not to offer an ideal sequence for addressing the various institutions although he does dispute, on loosely empirical grounds, the ‘Lee thesis’ (named after Singapore’s PM Lee Kuan Yew) that advocates suppressing civil and political rights until economic needs have been addressed, and the Chinese view that the state’s rights must be put ahead of individuals’ rights.⁷⁵ Rather, he concentrates instead upon the central role of the democratic system and notes, “A country does not have to be deemed fit for democracy; rather, it has to become fit through democracy.”⁷⁶

The rise of democracy, Sen suggests, is the preeminent development of the 20th century,⁷⁷ and supports this view with his claim that “no substantial famine has ever occurred in any independent and democratic country with a relatively free press.” Not everyone accepts this claim but the point being made is the huge importance Sen attaches to the democratic system in its broadest conception. Sen sees democracy as not identified with majoritarian rule, or with the holding of free and fair elections. The democratic system also involves “the protection of liberties and freedoms, respect for legal entitlements, and the guaranteeing of free discussion and uncensored distribution

⁷³ Sen (1999a) *Development as Freedom*, p53

⁷⁴ Ibid

⁷⁵ Ibid pp15, 148-151, also in more detail, Sen (1999b) *Democracy as a Universal Value*, p3

⁷⁶ Sen (1999b) p2

⁷⁷ Ibid p1

of news and fair comment.”⁷⁸ Democracy therefore incorporates many of the institutions mentioned earlier as being necessary for development.

Sen justifies this high regard for democracy by pointing to its three virtues, three ways in which it enriches the lives of citizens: its intrinsic, instrumental, and constructive values.

The intrinsic value is apparent in the political and civil freedom exercised by citizens of a democratic society. This social participation is an important part of human life and well-being. The instrumental value emerges when democratic institutions listen to the views and claims of citizens. Politicians in democracies, after all, are motivated to listen to the needs of the electorate. And finally, the democratic process of discussion and debate helps society and individuals to learn from each other and construct their values. Sen goes further to suggest that these three virtues constitute a claim for democracy to be viewed as a universal value, a view he insists would not have been plausible in the 19th century.

However, Sen also says that “while we must acknowledge the importance of democratic institutions, they cannot be viewed as mechanical devices for development ... Their use is conditioned by our values and priorities, and by the use we make of the available opportunities...”⁷⁹ So we find a tension, or at least reflexivity, in Sen’s comments concerning the formation and role of values. The functioning of democratic institutions depends upon the prevailing values, and, the process of democracy is a major contributor in the formation of values. The worry is in identifying how to ensure that values move in the ‘right’ direction as quickly as possible. A critic might argue that Sen provides insufficient guidance on how values are to be developed and leaves too much to the virtues of democracy. This concern will re-appear later.

Aside from his positive arguments in favour of democracy, Sen also deals with some of the more notable negative criticisms: that the focus on democracy is a ‘Western’ obsession and, that poor people would choose basic commodities before democracy.

⁷⁸ Ibid p6

⁷⁹ Sen (1999a) p158

Sen denies that democracy is uniquely ‘Western’, giving lengthy examples of participation and debate within ‘Asian values’.

It (democracy) cannot be disposed of by imagined cultural taboos or assumed civilizational predispositions imposed by our various pasts.⁸⁰

Sen tackles the argument about poor people’s preferences saying, it

is fallacious at two different levels. First ... the protective role of democracy may be particularly important for the poor. This obviously applies to potential famine victims who face starvation. It also applies to the destitute thrown off the economic ladder in a financial crisis. People in economic need also need a political voice. Democracy is not a luxury that can await the arrival of general prosperity. Second, there is very little evidence that poor people, given the choice, prefer to reject democracy.⁸¹

Further criticism of Sen’s position can focus on the lack of delineation and prioritisation of capabilities within the CA, or the absence of clear duties and responsibilities associated with the capability needs. Sen, however strongly resists the temptation to elaborate on lists of capabilities or specific responsibilities in general, leaving such decisions to the democratic process, although he is prepared to criticize specific actions in particular circumstances, such as the handling of the Bengal famine of 1943, or the Irish famine of the 1840s.⁸² With the benefit of hindsight such criticism of past actions seems entirely reasonable.

In conclusion, Sen’s approach to development, that he terms ‘development as freedom’, might be understood as hinging on agency and well-being freedoms enabled and supported primarily by the institutions of democracy. The worry remains that the concept of democracy, without specific content and restrictions, might seem too broad and unfocused to act as the primary support for human development. At the same time, Sen’s “focus on people’s empowerment can be seen as the fundamental difference with the BNA.”⁸³

⁸⁰ Ibid p12 (my insertion), also Sen (2003) *Democracy and its Global Roots*.

⁸¹ Sen (1999b) p9

⁸² Sen (1999a) e.g. pp173-4

⁸³ Deneulin (2006) *The Capability Approach and the Praxis of Development* p2

5.8 Nussbaum's Capabilities Approach

Martha Nussbaum is the second foundational contributor to the field of capability ethics. Her independent contributions and collaborations with Sen have helped define the boundaries of capabilities thinking. Her work has benefited from and contributed to Sen's position. However, the focus here is not on a detailed examination of Nussbaum's position, but rather on the main differences Nussbaum brings to the capability approach to development as already described.⁸⁴

5.8.1 Central capabilities listed

Whereas Sen consistently resisted producing or supporting a list of basic or central capabilities, Nussbaum has found it important to derive such a list. Over time, and in response to dialogue, she has modified her list and is careful to present the latest version as unfinished and open-ended. However, in addition to providing content to the notion of capabilities she also makes clear that delivering the content is a responsibility of government.

a decent political order must secure to all citizens at least a threshold level of these ten central capabilities:

1. *Life.*
2. *Bodily health.*
3. *Bodily integrity.*
4. *Senses, imagination, and thought.*
5. *Emotions.*
6. *Practical reason.*
7. *Affiliation.* (A) Being able to live with and toward others; (B) Having the social bases of self-respect and nonhumiliation;
8. *Other species.*
9. *Play.*
10. *Control over one's environment.* (A) *Political.* (B) *Material.*⁸⁵

Nussbaum's latest list is of ten capabilities, is open to various challenges, including why the content is grouped under ten headings - instead of seven, or twelve. However, the

⁸⁴ For a detailed comparison of Sen and Nussbaum's positions see Crocker (2008). Also Gasper (2004)

⁸⁵ Capability headings drawn from Nussbaum (2011b) *Creating Capabilities*, pp32-34. Detailed capabilities relating to bodily health, practical reason and control over one's environment show wording differences from an earlier version contained in Nussbaum (2000)pp79-80

issue of concern here is not the content of Nussbaum's list but the question whether 'central capabilities' should be centrally specified.

Sen is not opposed to lists of capabilities worked out for specific contexts but rejects Nussbaum's attempts at centralised listing because it undermines the important role of democracy:

My own reluctance to join the search for such a canonical list arises partly from my difficulty in seeing how the exact lists and weights would be chosen without appropriate specification of the context of their use (which could vary), but also from a disinclination to accept any substantive diminution of the domain of public reasoning.

The problem is not with listing important capabilities, but with insisting on one pre-determined canonical list of capabilities, chosen by theorists without any general social discussion or public reasoning.⁸⁶

However, Nussbaum has not claimed canonical status for her lists and has recognised the need for contextual application, expecting individual governments to interpret their content in culturally sensitive ways. Her list is a starting point for practical reasoning, not a binding constraint. Her concern is that without such a guideline governing elites may fail to guarantee, in any reasonable form, what she takes to be the central requirements for minimally flourishing lives. And, rather than restricting the role of democracy, she sees her list as contributing to the democratic process at a number of levels: as a source for constitution framing; as a source for constitution interpretation; as a spur to constitution amendment; and also as a source of legislation implementing individual entitlements.⁸⁷

Another important aspect of Nussbaum's list is its 'threshold' nature. The idea is that the threshold levels of capabilities "provide a basis for central constitutional principles that citizens have a rights to demand from their governments."⁸⁸ Nussbaum's views are directed towards a more specific aim than Sen's more general 'evaluative space'.

Questions of course remain about the level at which to set the threshold, but this again supports Nussbaum's claim that her approach is vague enough to allow for (democratic) public reasoning to fine tune the details.⁸⁹

⁸⁶ Sen (2005) pp157-8, Similar wording in Sen (2004) p333 n31

⁸⁷ Nussbaum (2011b) p77

⁸⁸ Nussbaum (2000) p12

⁸⁹ Nussbaum (2011b) p41

5.8.2 Nussbaum's approach to agency

Whereas Sen finds it necessary to distinguish agency from well-being, as described earlier, Nussbaum incorporates the idea of agency within her ten central capabilities, specifically through No. 6, Practical Reason, and the notion of choosing a conception of the good, and also No. 7, Affiliation, in the sense of living towards others.

I agree with Sen that the concepts introduced by these important distinctions [between well-being and agency, and freedom and achievement] are important; but I believe that all the important distinctions can be captured as aspects of the capability/function distinction.⁹⁰

Nussbaum goes further saying that the two mentioned capabilities are of special importance “since they both organize and suffuse all the others, making their pursuit truly human.”⁹¹ In other words, one's conception of the good may well contain other-regarding objectives as well as self-interested goals, and,

the opportunity to plan one's own life is an opportunity to choose and order the functionings corresponding to the various other capabilities.⁹²

Some find important distinctions between the two approaches to agency. Crocker, for example, prefers Sen's agency and well-being approach to Nussbaum's list inclusive of practical reason and affiliation. He sees her lack of a specific notion of agency as a serious weakness and “one reason for her failing to give sufficient weight to citizen participation and democratic decision-making.”⁹³ However, I am less certain that Nussbaum gives insufficient weight to democratic decision-making as evidenced by earlier quotes from *Creating Capabilities*. Her use of practical reason and affiliation seems broadly equivalent to Sen's use of agency. If there is a distinction between the two approaches with regard to agency it does not seem an important one in the context of global poverty reduction - human development does hang on choosing one over the other - they are alternative descriptions of the same basic idea.

⁹⁰ Nussbaum (2000) p14

⁹¹ Ibid p82,

⁹² Nussbaum (2011b) p39

⁹³ Crocker (2008) p19

5.8.3 Nussbaum's justifications

Nussbaum has offered two seemingly distinct justifications of the capabilities approach. The first was drawn from Aristotle's work in *Politics* and *Nicomachean Ethics*. The second adopts a version of Rawls' political liberalism.

In "Nature, Function and Capability," Nussbaum set out to describe and support Sen's capability approach as an approach to political distribution and to demonstrate that Aristotle held that view. She starts with Aristotle's claim that the best politeia (roughly translated as form of government) is that arrangement according to which anyone whatsoever might do best and live a flourishing life.⁹⁴ She interprets Aristotle to require that the task of politics is both broad, in the sense of covering most people, and deep, "in that it is concerned with the totality of the functionings that constitute a good human life." This emphasis on functioning as opposed to desire fulfillment is at the heart of her, and Sen's, criticism of utilitarianism and provides a basis for handling questions arising from cultural difference.

Nussbaum supports her claim with much careful analysis of Aristotle's writings. One might argue that the mere fact that Aristotle thought something appropriate doesn't make it right - after all he approved of slaves and did not support women's rights as we think of them. Nussbaum herself recognises this challenge but maintains that although Aristotle's believing something does not make it true, "it does, on the whole, make that something a plausible candidate for the truth, one deserving our most serious scrutiny."⁹⁵

In a final section of "Nature, Function and Capability," Nussbaum draws on *Nicomachean Ethics* (1.7) to identify Aristotle's common link between the various functionings constituting the flourishing life, the activity of practical reason. She concludes its role would be two-fold: "it would have an architectonic role, as what organizes the whole life, providing for its activities, and it would infuse each activity, causing it to become human, rather than merely vegetative or animal."⁹⁶ Here then we

⁹⁴ Nussbaum (1987a) p2, referencing *Politics* 1324a23-5

⁹⁵ Nussbaum (1987b) "Non-Relative Virtues: An Aristotelian Approach," p3

⁹⁶ *Ibid* p47

find Nussbaum's Aristotelian basis for her response to Sen's agency discussed above (also further evidence that Sen's views are grafted onto different, non-Aristotelian rootstock).

Nussbaum's second approach to justifying the CA first emerged in *Women and Human Development: The Capabilities Approach*. She likens her method of justification to Rawls' approach of reflective equilibrium. Rawls had attributed the idea of reflective equilibrium to Nelson Goodman,⁹⁷ but Nussbaum finds earlier sources in the procedures of Socrates and Aristotle, "justification is achieved not by individuals acting alone but by debate among Socratically deliberating individuals."⁹⁸ She goes on to suggest that the approach of protecting the ten central capabilities, or basic entitlements as she sometimes terms them, is a form of political liberalism in that it could become the basis for an overlapping consensus within a pluralistic society.⁹⁹ Nussbaum recognises that this in itself is not enough since other approaches might also attract a consensus of support. Her intention is to argue that other approaches do less well when compared to the CA. In this way she mirrors the approach of negative and positive justifications offered by Sen. Where Nussbaum differs from Rawls' political liberalism is in the formulation of the functionings of human flourishing to be embodied in every society's constitution. Rawls would argue that the content of the good life, the conception of the good, should be a matter for practical reason of each individual within the society concerned.¹⁰⁰ For Nussbaum the application of practical reason comes one stage later, in determining the exact specification and threshold of each central capability.

5.9 The relationship between Capabilities and Human Rights

Both Sen and Nussbaum have explored the relationship between capabilities and human rights at some length. Both have noted the apparent overlap between the concepts and considered how one approach might improve the understanding of the other. Sen suggests that the two concepts go very well together, so long as we don't try to subsume either concept entirely within the other.¹⁰¹

⁹⁷ Rawls (1971) p20n

⁹⁸ Nussbaum (2011) p77

⁹⁹ Ibid p79

¹⁰⁰ A point made in Crocker (2008) p124

¹⁰¹ Sen (2005) "Human Rights and Capabilities," p163

There are many human rights that can be seen as rights to particular capabilities. However, human rights to important process freedoms cannot be adequately analysed within the capability framework.¹⁰²

Sen is consistent in holding that the capability approach deals only with the opportunity aspect of freedom, whereas human rights accommodates both opportunity aspects and process aspects, and is thereby broader in scope.

Although the idea of capability has considerable merit in the assessment of the opportunity aspect of freedom, it cannot possibly deal adequately with the process aspect of freedom, since capabilities are characteristics of individual advantages, and they fall short of telling us enough about the fairness or equity of the processes involved, or about the freedom of citizens to invoke and utilize procedures that are equitable.¹⁰³

Nussbaum's view on the overlap between the two concepts appears to have strengthened in recent years. In, "Capabilities and Human Rights," Nussbaum identifies two different relationships between the different categories of human rights and capabilities. She suggests that the best way of thinking about CPRs is to consider them as 'combined capabilities' (a combination of internal or personal capabilities and external or enabling capabilities). She cites political participation and freedom of speech as examples.¹⁰⁴ The internal capability might imply a requirement to provide the necessary education, whereas the external capability might require social and legal conditions that actually permit free speech and political participation. At the same time she argues that ESCRs appear to have a different relationship to capabilities. She writes that the rights to income, or the right to shelter and housing can be plausibly analysed in several different ways, "in terms of resources, or utility, or capabilities" (invoking Sen's spectrum or value chain described earlier).¹⁰⁵ However, she goes on to recommend the use of capabilities in understanding such rights, partly because it would explain why we might have a rationale "for spending unequal amounts of money on the disadvantaged or creating special programs to assist their transition to full capability."¹⁰⁶

¹⁰² Ibid p151

¹⁰³ Sen (2004) "Elements of a theory of human rights," p336

¹⁰⁴ Nussbaum (1997a) p135

¹⁰⁵ Ibid p137

¹⁰⁶ Ibid p138

However, a decade later Nussbaum writes that capabilities are closely related to human rights, and can be viewed as one species of a human rights approach.¹⁰⁷ Indeed she identifies her ten central capabilities with the central human rights, and says a state that has not secured these rights is not even minimally just.

In my view, these central entitlements are prepolitical, belonging to people independently of and prior to membership in a state; and they generate constraints that political institutions must meet...”¹⁰⁸

Like Sen, Nussbaum considers the language of capabilities useful for understanding human rights and vice versa. This would seem reasonable and probable if the two approaches are simply different perspectives on the same object. However, despite Nussbaum’s identification of central capabilities and central human rights there remains a question regarding the degree of overlap between the two concepts.

As already mentioned, Sen sees the scope of human rights to be broader than that of capabilities. In his view, only the former addresses the process aspect of freedom.

Capabilities and the opportunity aspect of freedom, important as they are, have to be supplemented by considerations of fair processes and the lack of violation of people’s right to invoke and utilize them.¹⁰⁹

Nussbaum, referring to Sen (2004) pp330-337, is not convinced. She points to the right to privacy (fundamental to women’s control over their reproductive capacities) as a procedural right, but that it is also an individual capability. Nussbaum claims Sen sees procedural rights as different from others because they involve governmental structure, but she insists that so do all capabilities.¹¹⁰ Nussbaum is thereby denying Sen’s view that the scope of human rights is broader than that of capabilities.

Unfortunately, Nussbaum appears to mis-state Sen’s position when further discussing the question of scope in *Creating Capabilities*.

Sen has argued that the notion of capabilities is broader than the notion of rights, because capabilities can include matters of procedure (whether one is able to engage in a certain

¹⁰⁷ Nussbaum (2011a) “Capabilities, Entitlements, Rights,” p23

¹⁰⁸ Ibid pp25-6

¹⁰⁹ Sen (2004) p338, also Sen (2005) p157

¹¹⁰ Nussbaum (2011a) p28

sort of process), whereas rights are always matters of substantive opportunity (what one is actually able to have).¹¹¹

She goes on to give examples of rights that are procedural (examples that Sen would presumably accept) as support for her rejection of the (mis-attributed) view that capabilities are broader than rights because they alone address the process aspects of freedom. I mention this only because Nussbaum then offers an alternative reason why capabilities are broader than human rights - the fact that some capabilities are trivial, and some are even bad, and these are not included in human rights.¹¹² However, when considering the relationship between human rights and capabilities Nussbaum is focussing on only her ten central capabilities. We can conclude that Nussbaum would continue to differ with Sen in holding that both capabilities and human rights can address opportunity and process aspects of freedom, whereas Sen holds that only human rights can incorporate both aspects, the notion of capabilities failing to address the process aspect.

One might think this issue of scope would be easily resolvable via a comparison of individual rights and capabilities, and their corresponding duties. However, only Nussbaum provides a list of central capabilities, and this lacks the detail and duties found in the corresponding human rights conventions, general comments and country reporting. Nussbaum, like Sen, relies on the process of public reasoning to fill in the details of capabilities. They agree on the view that both concepts help inform the other, but the extent of the overlap with human rights depends significantly on how the gaps in the approach are filled as it is operationalised.

5.10 Capabilities and the Millennium Development Goals

Much has been written about the relationship between human rights and the MDGs, particularly with regard to encouraging greater emphasis on a rights-based approach to implementation.¹¹³ However, leaving aside the probable overlap between human rights

¹¹¹ Nussbaum (2011b) p67

¹¹² In Nussbaum (2003) p33 she argues that this potential for capabilities to be trivial or bad is a reason why Sen's "perspective of freedom" is too vague.

¹¹³ E.g. Alston (2005) "Ships Passing in the Night"; UN Office of the High Commissioner for Human Rights (2010) "Human Rights and the Millennium Development Goals in Practice"; Dorsey et al (2010) "Falling short of our goals"

and capabilities, the focus here is on capabilities and MDGs. A point to emphasise, that may have been apparent throughout this chapter, is that the CA, even more than the HRA, lacks accountability (assigned duties, corresponding measures of performance, and reporting to some recognised authority with powers of enforcement or sanction).

Chapter 4 (Section 4.4) gave a brief history of the formation of the MDGs including the contribution of Fukudo-Parr and Jahan while serving in the HDRO, to the targets that make up the MDGs. The influence of human development thinking was thereby established, even if it was not clear if that thinking owed more to its BNA pedigree or to Sen's CA. Of course, the MDGs are not a straight representation of Sen's CA (or Nussbaum's capabilities). Sabine Alkire has provided a very helpful table that highlights the differences between the HD (capability) approach and the MDGs:¹¹⁴

MDGs	HD
Fixed in number	Open-ended
Fixed in time	Enduring
Fixed internationally	Needs periodic debate
Developing countries	All countries
Focused on poor	Includes all people, with priority for poor
Needs political will	Needs political will
Omits participation	Requires participation
Omits Human Rights	Complements Human Rights
Concrete LT Political focus	requires LT concrete goals

However, it is Fukudo-Parr who evaluates the impact of Sen's CA on the practice of implementing the MDGs. She reports that MDGs have become the norm for all stakeholders in the international development community – national governments, donor agencies, UN and other multilateral organizations, civil society, academics, and the private sector.¹¹⁵ Following Haq and Sen's criticism of the then dominant policy focussed on economic growth, the development community was attracted to an approach centered on "human well-being, conceptualised as expansion of capabilities in multiple dimensions." However, one perhaps unwanted consequence of this is that "Development aid is justified on humanitarian grounds for the sake of charity rather

¹¹⁴ Alkire (2008)

¹¹⁵ Fukudo-Parr (2011) "Theory and Policy in International Development"

than on developmental grounds for the sake of justice.” Fukudo-Parr claims that the CA to human development has changed the normative framework but that it has had much less impact on the implementation strategies that still place emphasis on economic growth. She supports her claim with empirical evidence:

A study by the author (2010) of 22 Poverty Reduction Strategy Papers (PRSPs) found that these national strategy documents almost all identify poverty reduction as the over-riding goal and action plans focus on economic liberalization and social investments. They emphasized commitment to the MDGs but were selective in which ones they emphasized among the multitude of targets and indicators.

What is striking is the absence of the strategic elements of the HDCA—empowerment, distribution, employment generating growth, and democratic governance.

She further observes,

Although the “Washington Consensus” may be “dead,” the basic macroeconomic policy prescriptions for macroeconomic stability and privatization of economic activity remain at the core of both World Bank and IMF lending operations and conditions.

Fukudo-Parr concludes, that a possible reason for this outcome is that the MDGs “contain no element of causal ideas about *how* poverty comes to exist and persist and how to end it.” She questions, “whether it is ideas *or* interests that shape state policy and action.”

These observations and concerns raise important questions for the CA, and indeed all approaches, to human development. Is it sufficient to identify and present a plausible, justifiable idea for a normative framework? Can the workings of public reason and democracy be relied upon to fine tune and direct the implementation of such a framework? Are there clear roles and responsibilities? How will accountability be achieved?

5.11 Conclusion

Sen and Nussbaum have developed a framework that compares favourably with commodity and utilitarian approaches when applied to human development. They have justified their stance largely through extended reflection and public debate over more than twenty years. Both claim some overlap with the HRA but the extent of overlap and boundaries is still disputed. The CA, in both forms, has clearly influenced the international normative outlook as evidenced through the formation and persistence of the Millennium Declaration and Goals. However, there are clear signs that all is not well. Implementation strategies for the MDGs are unconvincing and expectations are mixed, some progress can be reported but other goals are unlikely to be met. It is natural to ask if there is something missing in the CA, as presented by Sen and Nussbaum.

Chapter 6 Extending the Capability Approach

This Section closes with an exploration of various initiatives to extend and apply the CA to the problem of global poverty. The first part considers two efforts to better understand and address poverty in practice. A second part deals with the influence of cultural values, and the final part examines various proposals regarding the role of institutions.

6.1 Understanding and Addressing Poverty in Practice

We start with Sen's own efforts with Jean Drèze, over many years, to investigate poverty, famines, and development in India and elsewhere. Sen's practical turn addresses some open questions left by his theoretical work but leaves important open issues in terms of how best to proceed. The second effort is that of Jonathan Wolff and Avner De-Shalit, who offer an improved way of understanding poverty that provides a focus for action for those governments and groups committed to addressing poverty.

6.1.1 Sen and Drèze on the Practice of Development

Sen's theoretical work maintains that the capability perspective "does not, on its own, propose any specific formula for policy decisions."¹ He also argues against, and studiously avoids detailing, a list of central capabilities such as those proposed by Nussbaum. In his practical work with Drèze, Sen continues to avoid lists of basic capabilities, although they do talk of the important enablers of basic capabilities. An exception to the 'no list' rule, albeit an incomplete one, can be found in the Preface to *India: Economic Development and Social Opportunity*.²

¹ Sen (2009) *The Idea of Justice* p232

² Sen (1995) pvii

Expansions of basic capabilities, including such freedoms as the ability to live long, to read and write, to escape preventable illness, to work outside the family irrespective of gender, and to participate in collaborative as well as adversarial politics, not only influence the quality of life that Indian people can enjoy, but also affect the real opportunities they have to participate in economic expansion.

Earlier, he talks of their dependence on such enablers as

basic education, health services, ownership patterns, social stratification, gender relations, and the opportunity of social cooperation as well as political protest and opposition.³

Later, with regard to enablers,

The key issue is that many of the basic entitlements that people need in order to improve their lives (e.g. to primary education, child vaccination, safe contraception, clean water, social security, environmental resources, legal protection) depend to varying extents on some form of positive government activity.⁴

In addition to these incomplete lists of basic capabilities and basic entitlements, or enablers, Sen and Drèze in their various books provide a wealth of data on development in India, China and several other developing countries. They identify two essential bases for expanding social opportunities, those of ‘supportive public intervention’, and ‘the market mechanism’ and suggest that context determines the best balance between the two.⁵ However, this suggestion that the solution to entitlement protection, and hence capability improvement, is based on some combination of market liberalism and state welfare leaves many wanting more. How is the balance to be struck, and how is any advancement to be motivated?

Sen’s answer seems to be,

The quality of governance ultimately relates, to a considerable extent, to the practice of domestic politics and to ‘public action’ in the broad sense of action by the public (rather than just for the public, by government).

... political parties and public activists have an important role in the emergence and survival of particular policies and economic strategies.⁶

³ Ibid pv

⁴ Ibid p190

⁵ Ibid p84

⁶ Ibid p190

The first part of this ‘answer’ might be read to imply that the poor (in India) have only themselves to blame. They have failed to use the democratic institutions to bring about changes that would have improved their lot. This reading, however, would be somewhat unfair to Sen. He recognises that there are major imbalances in the possibility to participate in democratic institutions as a result of inequalities of power and influence.

Elitist biases can be found, for instance, in the orientation of the news media (dominated by middle class concerns), parliamentary debates (now heavily geared to business-oriented legislative reforms), the legal system (far from impartial between different classes), foreign policy (strongly influenced by the superpower aspirations of the Indian elite), and so on.⁷

Drèze and Sen argue that rather than addressing this problem by adopting a more authoritarian system, as has sometimes been proposed, the problem of marginalisation of the underprivileged is best addressed by expanding the scope of democracy through political action and democratic practice.⁸ They point to Kerala as evidence that progress is possible, citing its decentralised planning process experiment. However, Kerala has a culture quite distinct from the rest of India with different values and social norms developed over hundreds of years. It seems unlikely that effective ‘public action’ will emerge soon in the rest of India.

This raises the importance of the second part of Sen’s above ‘answer’ - the role of political parties and public activists, but Drèze and Sen offer little guidance on how such roles might be triggered or enhanced, or how the balance of power might be adjusted. They conclude their latest book with the view that “Much will depend on the possibility of enhancing public participation more widely within India... There are reasons for hopeful engagement.” However, as Sen has pointed out the Indian Government has failed to guarantee basic entitlements such as free education⁹ despite sixty years of democracy. Without some new initiative it seems unlikely that the inequalities of power and capability will disappear, and Sen’s optimism appears unsupported.

⁷ Drèze and Sen (2002) *India: Development and Participation*, 2nd ed. p376

⁸ *Ibid* p377

⁹ *Ibid* p41

6.1.2 Wolff and De-Shalit's *Disadvantage*

Sen writes, “poverty must be seen as the deprivation of basic capabilities rather than merely as lowness of incomes, which is the standard criterion of identification of poverty.”¹⁰ This potential confusion of poverty with lack of money perhaps explains why Wolff and De-Shalit title their book *Disadvantage*, and not ‘Poverty’. In any event, their subject is the deprivation of pluralist functionings and their intention is to provide practical guidance to policy makers, in developed societies, intent on its reduction.¹¹

Wolff and De-Shalit advance the capabilities approach in a number of ways:

1. Dynamic public reflective equilibrium
2. Functioning security
3. Clustering of functionings
4. Fertile functionings and corrosive disadvantage
5. Justification.

The first of these headings refers to the general approach adopted by Wolff and De-Shalit. Whereas Sen proposes that the details of capabilities be left to the democratic process within a particular community, and Nussbaum insists of populating her own list of central capabilities, allowing only for the democratic process to decide on details at a second level, Wolff and De-Shalit select a more participatory process. The term ‘dynamic public reflective equilibrium’ captures the idea that the ‘reflective equilibrium’ being sought is not regarding philosophers’ theories and intuitions alone, but also includes the theories and intuitions of the society (citizens) under review, through their constructive interaction during individual interviews.¹² This new form of the established justifying process picks up some of the participatory intentions of Sen and addresses some of the concerns voiced about Nussbaum’s highly centralised approach. Nussbaum might respond that the continuous updating of her list of central capabilities demonstrates her own openness to participatory input, but Wolff and De-Shalit have made participation more central and explicit. The power in this approach is

¹⁰ Sen (1999) p87, similar in Sen (2009) pp254-7

¹¹ Wolff and De-Shalit (2007) pp3-8

¹² Ibid pp41-3

confirmed through the addition of at least one new central capability to Nussbaum's list as a result of structured listening to selected representatives (interviewees). The remaining four headings on the above list have each benefited from this process of dynamic public reflection.

The second topic of 'functioning security' refers to the disadvantage incurred if an existing functioning is at risk. Two people on the same income will feel very different levels of (dis)advantage if one, and only one, of them is at significant risk of losing their source of income. Recognising this, Wolff and De-Shalit replace the term 'capability' with 'genuine opportunity for secure functionings'.¹³ Not a phrase that rolls off the tongue, but one that captures both this concern with vulnerability and risk, and also that opportunities have to be real and not just formal or insubstantial. This recognition of the importance of risk in the assessment of functionings is one of several new concepts introduced by Wolff and De-Shalit and accepted by Nussbaum as enhancing "the theoretical apparatus of the Capabilities Approach."¹⁴ Dealing with the risk to functionings, or at the least the perceived risk, is an incremental task for governments to address as they move to reduce disadvantage. Making it a central plank of policy that health care will remain free and readily available to all citizens would be one way of addressing the risk associated with bodily health functioning (even if circumstances could subsequently cause such policies to be dropped).

Aside from the direct risk that might undermine a particular functioning, Wolff and De-Shalit identify two other forms of vulnerability. The first, termed 'cross-category risk', recognises that a risk to employment triggers a second risk - to nutrition and bodily health that a shortfall in income would entail. The second, termed 'inverse cross-category risk', picks up the tendency of disadvantaged people to place one secure functioning at risk in order to obtain another. For example, they might take on dangerous or illegal work in order to supplement their income when their primary employment is under threat. The challenge for governments to secure functionings for their citizens, in the face of these various risks, is thereby more complex than it might first seem. Fortunately, the third and fourth items on the list offer some prospect of reducing the complexity.

¹³ Ibid p37

¹⁴ Nussbaum (2011) pp42-3

Starting with a pluralist view of functionings, Wolff and De-Shalit focus attention on what they term the indexing problem - how to identify the least advantaged.¹⁵ With ten or more central functionings (Wolff and De-Shalit propose several additions to Nussbaum's list), and uncertain thresholds for each, and uncertain weightings between each, how can one measure individuals' overall level of disadvantage and determine the least advantaged?

Firstly, they found, through limited interview-based research, that some categories of functioning were viewed to be more important than others - the *most* central functionings, one might say. These are,

- Life;
- Bodily health;
- Bodily integrity;
- Affiliation (more often described as 'belonging');
- Control over one's environment; and
- Sense, imagination, and thought.¹⁶

Secondly, they recognised that the complexities of indexing or ranking people by disadvantage would be mitigated if disadvantages and risks compound each other and cluster together. Again, they confirmed this intuition with (somewhat limited) empirical research. This identification of the potential linkage and interaction between pluralist functionings is an important increment to the capability approach. Wolff and De-Shalit suggest that researchers should look for 'dynamic clustering', the mechanisms by which clustering of disadvantage may persist, and or accumulate over time.¹⁷ They conclude that governments should investigate clustering, that is whether or not there are people who rank near the bottom of several of the central functionings, and whose functioning in these categories is low or at risk, for these would be the most disadvantaged.

The insight that different functionings can interact is not only valuable for the indexing problem, but also points the way for corrective action. Wolff and De-Shalit, identify 'fertile functionings' and 'corrosive disadvantages' as important elements because of their interactive powers. The idea behind the former is that improvements in the 'fertile' functioning, or perhaps its preconditions, will positively impact on other functionings.

¹⁵ Wolff and De-Shalit (2007) pp89-107

¹⁶ Ibid p106

¹⁷ Ibid p120

One might think of the provision of education (a precondition) to improve the functioning of Sense, Imagination, and Thought also contributing to Bodily Health, Practical Reason and other functionings. Of course, Sen might claim he had already identified the cross-functional power of entitlements, or enablers, such as education and healthcare.¹⁸ Similarly, Streeten might claim to have identified the important interdependence of various need categories.¹⁹ However, neither Sen nor Streeten capture the reader's attention regarding this potentiality in the way that 'Fertile Functionings' does. The other category, Corrosive Disadvantage, is perhaps typified by assaults on Bodily Integrity that lead in turn to damage to the functionings of say Emotions, Practical Reason, or Affiliation. In this regard the Government may come to see the broader benefits of protecting citizens from threats to Bodily Integrity.

Wolff and De-Shalit go further in considering how governments might build on these ideas but the details of such analysis is beyond the scope of this overview. Policy selection must respect the contextual requirements and the analysis of the relevant factors is far from trivial. However, Wolff and De-Shalit have provided more structure to work with than Nussbaum's CA.

The final item on the earlier mentioned list is that of 'Justification'. Wolff and De-Shalit, do not repeat the groundwork established by Sen and Nussbaum for the basic CA. Neither do they criticise or attack other approaches. However, they do offer an additional source of justification through their recognition of feminist thought and the duty of care, with its emphasis on giving rather than receiving. They specifically propose a republican view, that they take to be consistent with the ethics of care, "according to which what matters when we come to compare the well-being of people is not what one is entitled to, but also to what extent one is able to contribute to society and one can participate in the collective shaping of the public; that is, in politics."²⁰ Not only does this help shape the content and threshold of basic functionings but it also adds a justification (satisfying a duty of care) as to why it is important for governments (and perhaps others) to secure such functionings for everyone in society.

These in outline are the five incremental ideas contained in Wolff and De-Shalit's *Disadvantage* that arguably advance the capability approach to human development,

¹⁸ Sen (1995) p185, Drèze and Sen (2002) pp41-2

¹⁹ Streeten (1981) p133

²⁰ Ibid p45

and the reduction of poverty. Collectively these ideas provide a valuable resource to governments, individuals and bodies committed to addressing the challenge of both local and global poverty. The concern remains, what to do when the commitment is weak or temporary? The CA, even in this advanced form, appears to lack a mechanism to assign responsibility and ensure accountability. We will return to this topic in the final Section.

6.2 The Role of Values

Chapter 5 outlined how Sen justifies his high regard for democracy by referring to its instrumental and constructive functions, as well as its intrinsic appeal. Democracy is *instrumentally* valuable when citizens use it to generate policies based on their reasoned views and values - the use of democratic institutions “is conditioned by our values and priorities, and by the use we make of the available opportunities....”²¹ It is *constructively* valuable when the participative process influences and shapes their values.

As noted earlier, some reflexivity is apparent in Sen’s position in that the functioning of democratic institutions seemingly depends upon prevailing values, and, the democratic process is purportedly a major influence on values. But what exactly is meant by values in this context, and how do they change?

6.2.1 What are Values?²²

In *Valuing Freedoms*, Alkire cites the social psychologist Shalom Schwartz’s work on values suggesting it has the most substantive empirical grounding in the field of values research.²³ According to Schwartz, various “theorists view values as the criteria people use to select and justify actions and to evaluate people (including the self) and events”.²⁴ He goes on to provide a more considered definition:

²¹ Sen (1999a) p158

²² A more philosophical, less empirical response to this question is contained in the section 6.2.3

²³ Alkire (2002)

²⁴ Schwartz (1992) p1

Values (1) are concepts or beliefs, (2) pertain to desirable end states or behaviors, (3) transcend specific situations, (4) guide selection or evaluation of behavior and events, and (5) are ordered by relative importance.²⁵

Based on empirical research across 20 countries (European Social Survey - ESS), Schwartz singles out ten motivational value types (that is 10 groups from a comprehensive set of 51 individual values, separately defined and bracketed below²⁶), which are universal, in the sense that all groups across all countries recognise them as motivating, but are prioritized differently across societies and individuals:²⁷

- 1) self-direction (freedom, creativity, independent, choosing one's goals, curious, self-respect);
- 2) stimulation (an exciting life, a varied life, daring);
- 3) hedonism (pleasure, enjoying life);
- 4) achievement (ambitious, influential, capable, successful, intelligent, self-respect);
- 5) power (social power, wealth, authority, preserving my social image, social recognition);
- 6) security (national security, reciprocation of favours, family security, sense of belonging, social order, healthy, clean);
- 7) conformity (obedient, self-discipline, politeness, honouring of parents and elders);
- 8) tradition (respect for tradition, devout, accepting my position in life, humble, moderate);
- 9) benevolence (helpful, responsible, forgiving, honest, loyal, mature love, true friendship); and
- 10) universalism (equality, unity with nature, wisdom, a world of beauty, social justice, broad-minded, protecting the environment, a world at peace).

Schwartz claims that some values motivate actions aimed at the benefit of the individual and some values motivate actions for the benefit of groups. Furthermore, he argues

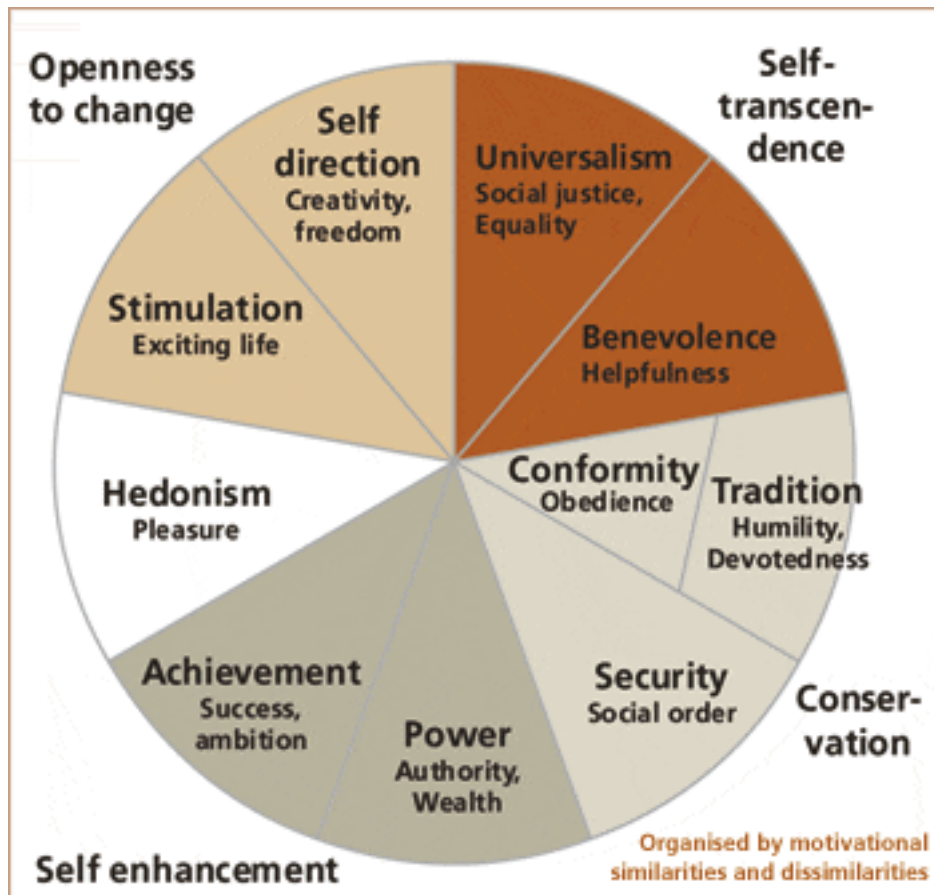
²⁵ Ibid p4

²⁶ Appendix I

²⁷ Research extended to 70 countries, with same basic conclusions, Schwartz (2006) "Basic Human Values"

values that serve individual interests are to some extent opposed to those that serve collective interests.²⁸

The dynamic relations among the ten motivational types of values can be represented as follows.



These conflictual, or in some cases compatible, relations can be summarized with two basic dimensions shown in the diagram. Within the circular diagram adjacency implies compatibility and opposite positions imply conflict. On the first dimension of *Self-enhancement* vs. *Self-transcendence*, power and achievement values oppose universalism and benevolence values. The first pair of values reflects pursuit of self-interest, whereas the latter pair involves concern for the welfare and interests of others. The second dimension, of *Openness to change* vs. *Conservation*, shows self-direction and stimulation values opposing security, conformity and tradition. The former pair emphasise independent action, thought and feeling, and readiness for new experience,

²⁸ Schwartz (1992) p13, diagram taken from <http://essedunet.nsd.uib.no/cms/topics/1/1/2.html>, accessed 23/3/12.

whereas the latter values emphasise self-restriction, order and resistance to change. Hedonism appears to share elements of both openness and self-enhancement.

The research also suggests that although individuals and groups may differ in the priorities they assign to particular values, their values are organized by the same structure of motivational oppositions and compatibilities.

What seems critical, to an exploration of the role of values, is not the type of values that individuals or groups hold (they all hold the same set of value types) but the priority they assign to each of the ten basic value types. Schwartz confirms this noting, “value priority profiles ... from 28 cultures on culture-level value types indicated significant differences. For example, students and teachers from the United States are conspicuous for the high importance they attribute to values expressing a desire to get ahead personally in the social hierarchy (e.g., wealth, authority, ambitious, successful) and the low importance they attribute to values expressing social concern (e.g., social justice, equality, loyal, responsible). Spanish and Italian students and teachers show the opposite pattern.”²⁹ This raises the prospect that unless something brings about a shift in value priorities within these sample groups then ‘democratic’ processes within each group would not produce similar outcomes. If such samples were representative of their entire cultural groups this might explain American foot-dragging on Human Rights Conventions and ODA relative to other ‘Western’ democracies. One might even suggest that poverty, both domestic and global, is simply a consequence of existing value priorities - we all care about benevolence and universalism but, on balance, not quite as much as we care about our self-interests, and not quite enough to motivate behaviour to significantly reduce poverty. It also seems questionable that the standard democratic processes, as practiced in America, Italy and Spain, would be sufficient on their own to bring about the changes in group value priorities necessary to promote poverty reduction - at least they appear not to have done so as yet.

Whereas values are *beliefs* about what is worthwhile and desirable that motivate action (to paraphrase Schwartz’ definition), norms are the social *rules* of behaviour reflecting a culture’s values. Norms are usually enforced with positive and/or negative sanctions, which may range from nods or disapproving glances to fines or formal rebukes.

Anthony Giddens’ Structuration Theory³⁰ holds that an individual’s action is performed within the context of a pre-existing social structure that is governed by a set of norms

²⁹ Schwartz (1992) p60

³⁰ Giddens (1984) *The Constitution of Society: Outline of the Theory of Structuration*

(rules), which are distinct from those of other social structures. Furthermore, the structure and norms are not permanent but are sustained and modified by values and action, as for example in Sen's view of democracy and values. The reflexive nature of norms and values suggests that changing the behaviour of a group may be a slow process, or at least multi-step process, involving some individuals adopting new values and behaviours that eventually influence structures and norms that then permit the behaviour of others to conform to the new value. This would seem to be reflected in the history of changing attitudes towards gender differences, sexual persuasion, racial discrimination etc. It also suggests that, despite the importance of social norms, it is a change in values that is more likely to catalyse a change in group behaviour.

6.2.2 Why do cross-cultural differences in values exist, and how do they change?

Schwartz identifies a number of factors that influence individuals' values, including people's age, life stage, gender, background, education, social roles, expectations, and the sanctions they encounter.³¹ This analysis tends to confirm Sen's views on adaptive preferences although Sen makes no reference to Schwartz in his writings. Schwartz' view is that individuals' values can and do change over time and in response to background variables. However, he does not offer a theory on how to 'develop' individuals' values.

Sen, as we have already seen, promotes the constructive aspect of democracy with its potential to shape values. Sen also holds that access to additional information, knowledge from science, knowledge about the world, knowledge about predicted effects of actions, may affect cultural value systems.³² However, it is apparent that other drivers of values must also exist, as identified by Schwartz or as part of the background conditions.

S  verine Deneulin identifies a number of such drivers, some of which are specific to cultural groups:

³¹ Schwartz (2010) p5

³² Alkire (2002) p135, referring to Sen (1993) "Positional Objectivity" p135-6

- global capitalism (materialism and conception of the good life linked to material wealth);
- environmentalism (shift in consumerism);
- class and inequality (one's situation of the economy shapes one's values in life);
- religion and secularism (religion may shape people's values);
- ethnicity and identity (how one identifies oneself as belonging to a specific group);
- immigration and the diaspora (immigration may change the dominant values of a society, and may also change the values of immigrants' countries of origin), and
- urbanization (cities change people's values).³³

Deneulin talks of cultural and ethnic groups having different values. However, in the light of Schwartz' work we should probably interpret this to mean they have different *priorities* across the main value types.

Given that some of these drivers appear unlikely to change in the short term (e.g. perhaps global capitalism, ethnicity, and religion), Deneulin focusses her efforts on *groups*, which she claims are a main driver of value changes.³⁴ She argues that “the human development and capability approach needs to pay greater attention to the different groups that construct the value frameworks from which people derive their values,” and that “this requires a more critical analysis of the power dynamics between groups.” Rather than accepting that some drivers are effectively fixed and unchangeable (e.g. capitalism) Deneulin points to the groups that sustain these concepts, e.g. the multi-national companies, international financial institutions, and academic economists that sustain capitalism, the environmental groups that sustain environmentalism, etc.

In this line of thinking, Deneulin is following the work of her doctoral supervisor, Frances Stewart, and specifically her work on ‘Horizontal Inequalities’, and ‘Groups and Capabilities’. In the former Stewart argues that inequalities between culturally formed groups (Horizontal Inequalities) is a very important but neglected dimension of development.³⁵ She highlights the importance of ‘claims groups’ in challenging the prevailing social order, and points to the achievements of trade unions in 19th century Europe and the suffragette movement. Stewart concludes:

³³ Deneulin (2009) “Advancing human development: Values, groups, power and conflict,” pp3-4, referring to the conclusions of a seminar organised by the Overseas Development Institute entitled ‘Values 2020: How will changing values and beliefs in the UK and key regions influence development and foreign policy in practice?’

³⁴ Ibid p2

³⁵ Stewart (2002) “Horizontal Inequalities: A Neglected Dimension of Development,” p1

Democracy in strongly divided countries needs to be a form of constrained democracy, designed to ensure an inclusive system.

Features of a constrained democracy include:

- strong human rights provisions to protect all groups; including outlawing discrimination;
- alternative voting system; or other forms of proportional representation;
- requirements that members of each group participate in government;
- job allocations to different groups;
- decentralisation of government so that power-sharing occurs.
- members of major groups also need to be included at all levels of the civil service, the army and the police.

Stewart is thus advocating institutional measures and affirmative action to compensate for power imbalances that typically maintain horizontal inequalities and hinder the corrective actions of minority groups. Without some counter-acting influence to offset dominant interests democracy alone seems unlikely to overcome existing biases.

Stewart builds on this view and argues, “groups are a critically important category... as a dominant influence over preferences and values helping to determine which capabilities individuals value.”³⁶ This in turn leads to her view that “we should consider group capabilities as well as individual ones.”

But is it enough to consider group capabilities as Stewart suggests, or to analyse more critically the power dynamics between groups as Deneulin proposes? Stewart suggests the following practical approach:

Assume we know what valuable and non-valuable capabilities are. Then we can look at group influences (and groups themselves) in the light of whether they promote values/preferences among individuals leading to the promotion of valuable capabilities or support choices favouring non-valuable ‘bad’ ones.³⁷

However, it is still not clear from this who should do what. Is it the government that is being nominated to evaluate and selectively support ‘positive’ groups, and would this not be viewed as discrimination? Is it the philosophers who are urged to analyse the power relationships, and encourage the right groups; and what form would such encouragement take; and would it make any difference? Groups may be a key, or possibly *the* key, to enhancing individuals’ values (priorities) but who or what is to ‘enhance’ the groups?

³⁶ Stewart (2004) “Groups and Capabilities,” p1

³⁷ Ibid p6

6.3 The Role of Institutions

We have seen that Sen calls on the institution of democracy and ‘public action’ to construct the values that motivate societies’ behaviour. We have also seen that Stewart advocates ‘a constrained form of democracy’ with specific restrictions and safeguards intended to moderate the power of elite groups and protect minority groups from marginalisation. This section outlines three further attempts to motivate institutional changes, and enable value development, in order that the CA might be operationalised.

6.3.1 Deneulin’s Praxis of Development.

Deneulin sets out to identify the actions which would build just institutions so that the well-being of the members of society can be ensured. This set of actions she terms the ‘praxis of development’.³⁸ She takes Sen’s CA as the base and suggests it is built around three foundational elements:

- 1) Freedom Consequentialism, human well-being is assessed in terms of the freedoms that people have reason to choose and value,
- 2) Individuals seen as the subjects of development and individual agency as central to promoting human well-being,
- 3) Freedom-proceduralism, political participation is considered as the way through which people can be agents of their own development.³⁹

Deneulin argues that if Sen’s CA is to serve as the basis for a praxis of development it will need to be strengthened and extended on each of these three foundational elements. Her specific recommendations call for a ‘thickening’ of each element and follow from an examination of their basis in the light of an understanding of the role of values.

Regarding ‘freedom consequentialism’, Deneulin is concerned that the evaluative space of ‘freedoms people have reason to chose and value’ is likely to be polluted with values and norms dictated by conditions of power imbalances. Even if the background

³⁸ Deneulin (2006) *The Capability Approach and the Praxis of Development*, p14

³⁹ Ibid p3, p210

conditions are ‘democratic’ there is no guarantee that elites will not have controlled existing processes such that ‘people’s choices’ are not strictly in their best interests. She concludes that safeguards are necessary to avoid the distortion of people’s values, and proposes that the CA “needs to be thickened with a certain set of components of human well-being that societies should promote.”⁴⁰ This thickening, she suggests, might be accomplished through a combination of Nussbaum’s ten central capabilities and the Millennium Development Goals. The choice of the most important capabilities would not be left to chance, in the form of democratic determination, but would be given as a condition for democratic elaboration. No doubt Sen would resist this as being a paternalistic or perfectionist approach.

The second element on Deneulin’s list highlights the individual as the sole subject of development. She talks extensively about the need to understand ‘the structures of living together’, which includes group values and norms. She supports her claim with extensive research on two countries with contrasting histories of development, Costa Rica and The Dominican Republic. From the earlier discussion of values we can appreciate why Deneulin would want to consider the development needs of groups in addition to those of individuals. However, it is not entirely clear how Deneulin proposes to achieve a thickening of Sen’s position on this element. What is to be done with the understanding of group dynamics? It seems a further step is required to transform this idea into a practical recommendation. Arguably, this is what Deneulin is attempting in her subsequent work.⁴¹ However, despite reinforcing her views on the importance of groups, she appears not to have established a clear plan for incorporating this insight into a practical approach.

The final element in Deneulin’s list concerns Sen’s reliance on political participation as the way for peoples to develop themselves. She notes that the exercise of democracy is not always prioritised towards promoting human freedoms. Power imbalances and conflicting priorities often leads to reinforcement of existing behaviours and the favouring of elites and powerful special interest groups. Deneulin seeks to limit such unwelcome tendencies by a “procedural assessment of decision-making processes.”⁴² This proposal echoes Stewart’s proposal for constrained democracy but is less specific.

⁴⁰ Ibid p211

⁴¹ Deneulin (2009) “Advancing Human Development: Values, Groups, Power and Conflict”

⁴² Deneulin (2006) p213

Deneulin seems correct in her view that Sen's capability approach, on its own, is inadequate for ensuring human development. The CA says too little about how values are formed and change, and the role that groups play in social dynamics. Her proposals to thicken the Sen's CA in the areas she identifies seem constructive. However, her specific proposals are vague or add little substance to other existing versions of the CA, such as Nussbaum's.

6.3.2 Nussbaum's Constitutional Emphasis

Nussbaum is also critical of Sen's apparent reliance on under-specified democracy - "too frequently ... the word democracy is insufficiently defined."⁴³ She notes that Sen's work makes little reference to law and institutional structures, whereas within her own work these elements are central. This reflects Nussbaum's stated focus on minimal social justice, contra to Sen's more general outlook.⁴⁴

But my goal ... is to go beyond the merely comparative use of the capability space to articulate an account of how capabilities, together with the idea of a threshold level of capabilities, can provide a basis for central constitutional principles that citizens have a right to demand from their government.⁴⁵

Nussbaum has backed-up this theoretical approach with analysis of the connection between the CA and constitutional law, and with direct recommendations to the US Supreme Court.⁴⁶

Nussbaum's constitutional recommendations have two core components. Firstly, she recommends that the threshold levels of central capabilities be enshrined in the constitution of a given society, whilst recognising that this might be insufficient for full justice without further consideration of inequalities. The second component recognises the power imbalances that typically exist within democratic societies. She suggests that several measures are needed to compensate for this tendency including separation of powers, a degree of decentralisation (somewhat anticipating Stewart), independent administrative agencies, mechanisms to detect and prevent corruption, both in

⁴³ Nussbaum (2011) *Creating Capabilities*, p179

⁴⁴ *Ibid* p166

⁴⁵ Nussbaum (2000) p 12

⁴⁶ Nussbaum (2011) pp166-7

government and business, and the legal training of law enforcement officers.⁴⁷ Whilst committed to the importance of such measures Nussbaum also recognises that a constitution bearing all these elements may still not guarantee the capabilities of citizens:

A nation may have an admirable constitution but be, in daily life, a plutocracy, if the media and political campaigns are unduly controlled by wealthy individuals and groups. Such is the case in today's United States; for that reason, human capabilities are gravely at risk.⁴⁸

Nussbaum is similarly critical of the gap between the Indian Constitution and Indian laws and practice, which provide too little substantive support for women's constitutional rights.⁴⁹ Interestingly, Nussbaum makes no specific mention of group or individual values in the works mentioned here, but appears sensitive to their implications, and mentions the need for philosophers to talk more with political scientists, psychologists, sociologists and others.⁵⁰

However, whilst Nussbaum points the way for stronger institutional support within the CA, her recommendations still leave an important gap. Who is charged with which duty to bring about the necessary change? As Nussbaum, Deneulin, and others, have made clear existing power imbalances work against participation-led reform, and governments will not take action against their own perceived interests. How are governments to be made accountable to those whose capabilities are most at risk?

6.3.3 Gasper's return to Rights

Des Gasper provides in-depth analysis of Sen's theoretical and practical approaches and finds similar strengths and weaknesses to those mentioned already.⁵¹ He applauds Deneulin's work on the praxis of development but seeks to extend it in response to the "evergrowing concentration of money power." He specifically mentions the role of constitutional protection for basic rights, echoing Nussbaum's claim for the protection

⁴⁷ Nussbaum (2000) pp311-2

⁴⁸ Ibid 312

⁴⁹ Ibid pp 288, 441n31

⁵⁰ Nussbaum (2011) p189

⁵¹ Gasper (2008a), Gasper (2008b)

of central capabilities, but makes the further step of proposing a rights-based approach. By this he means constitutional, legal protection and sufficient government obligations for a list of basic needs (capabilities), and not just any list but “a universal list which can be adjusted locally, such as the Universal Declaration of Human Rights. Lists are not self-enforcing, but can be valuable instruments in political struggles for human dignity.”⁵² Although Gasper does not go into details, we can assume that he intends that the full range of duty specifications, both domestic and global, such as found in General Comments of UNHRs (even if as yet incomplete), together with the full range of associated reporting requirements and sanctions to support accountability. With this move Gasper is seeking to graft the institutional framework of the HRA onto the philosophically argued CA in order to offer a practical strategy for human development and poverty reduction. Arguably the human rights framework is more complete than the alternative reporting mechanism contained within the HDRs, although it is unclear which set of reporting has the more (if any) influence.

There is something very attractive about the coming together of the HRA and the HDA. The thought of a unified focus on the problems of development that combines what have been largely separate efforts seems compelling. However, the worry with relying on the HRA to complete the CA to development is that it would seem to make the latter redundant. Basic capabilities would be those contained within, or to be added to, human rights. Consequently, the CA might seem reduced to just another justification of the HRA which, of course, makes a virtue of not being based on any single (foundational) philosophical justification. Could this worry about redundancy explain Sen’s reluctance to limit his CA to the question of societal justice, or to offer a list of basic capabilities? Perhaps this would be going too far, but the worry about redundancy may remain until an alternative approach safeguarding basic capabilities in the face of unenlightened values is forthcoming.

⁵² Gasper (2008b)

6.4 Conclusion

This chapter has briefly explored the application of the CA to the subject of human development. We have seen how Sen, when dealing with practical cases, has joined Nussbaum and others in adopting a short list of basic or most central capabilities. We have noted the participative techniques and interactive nature of capabilities (fertile functionings and corrosive disadvantage) proposed by Wolff and De-Shalit, and concluded that effective techniques exist for governments or departments that are committed to poverty reduction. The stumbling block seems to be that commitment. Democratic governments are subject to many influences due to power imbalances but are generally responsive to the dominant influence, be that voters or special interests. Government commitment to poverty reduction would therefore seem to depend on the values of the influencing parties, and in particular the relative importance within those groups of 'other related' values (benevolence, universalism) versus the values of self-interest.

Stewart and Deneulin have recognised the importance of values, particularly those of groups in developing countries, and have called for constrained democracy or other institutional measures. Gasper has proposed backing the CA into the HRA to take advantage of its institutions (rules, reporting and sanctions).

What seems missing from the 'extended' CA is a clear assignment and acceptance of duties, with associated mechanisms for ensuring accountability - Nussbaum does assign responsibility for delivering capabilities to governments but it is not clear that those duties have been accepted.⁵³ We have been offered a picture of what would be good - a framework for measuring poverty in its many forms and some institutions that might support poverty reduction - but we have not been offered a credible path to achieve that good outcome. The focus has been on ends and not (sufficiently) means. It is unclear that democracy can be relied upon to fill in the blanks, as Sen would advocate. My tentative conclusion is that the various efforts and ideas described above are collectively insufficient to ensure the reduction of global poverty.

⁵³ Nussbaum (2011b) *Creating Capabilities*, pp32-33

But perhaps this is too pessimistic. Perhaps the MDGs, HDRs, and the numerous philosophical publications are shifting peoples' values and will eventually influence behaviour so as to address all poverty concerns - all that is required is sufficient time. To assess that possibility it seems necessary to check the measurement of progress in poverty reduction.

Section 3 Progress and Diagnosis

Many attention grabbing statistics are available, such as the earlier reference to European spending on perfume, some suggesting great progress and others suggesting the opposite. Few such statistics are included here. Nevertheless the measurement of poverty is important, providing we do not get distracted by the headlines.

The reasons measurement is important, include:

- To confirm (refute) there is a (poverty) problem
- To tell if it is getting better or worse
- To assess the impact of key theories, approaches and variables
- To justify focus/expenditure/effort relative to other priorities
- To publicise the matter - build awareness (hence the catchy stats)
- To 'manage' poverty, if we want to control poverty, measurements must include:
Inputs, outputs, and processes (broken into steps if complex).

Chapter 7 explores the measurements relating to poverty used by philosophers and practitioners in the field of human rights and human development.

Chapter 8 draws on the earlier chapters to diagnose what might be missing from the Human Rights and Human Development approaches, and what might be done to close the gaps. The worrying conclusion is that both approaches may have overlooked a critical factor.

Chapter 7 Measuring Poverty

This chapter surveys the key measurements normally associated with the practice of addressing global poverty. Measurement is, of course, important for a number of reasons including:

- To confirm (refute) there is a (poverty) problem
- To tell if it is getting better or worse
- To assess the impact of key theories, approaches and variables
- To justify focus/expenditure/effort relative to other priorities
- To publicise the matter - build awareness
- To 'manage' poverty, if we want to control poverty, measurements must include:
Inputs, outputs, and processes (broken into steps if complex).

The evolving views on what constitutes poverty and how its consequences might best be quantified will become apparent, reflecting both economic and philosophical input. The significance of both national and international inequality is explored together with their disputed relationship with poverty. One conclusion from this survey is that there appears to be growing and perhaps adequate information on the extent of poverty globally. Another conclusion is that progress in poverty reduction might seem disappointing. However, if our concern is with the management of poverty, with the efficient reduction of global poverty, then our measurements might need to provide adequate coverage not only of the outputs, the extent of poverty as variously conceived, but also of the inputs, the causal factors. This survey suggests there is an imbalance between the measurements of inputs and outputs normally associated with global poverty. This may simply reflect that fact that the causal factors of global poverty are more complex to measure than the consequences, or perhaps that they are too politically sensitive to publicise. However, the imbalance does prompt deeper consideration of possible causal factors and how they might better be quantified. The search for more data on possible causal factors is taken up in later chapters.

The survey begins by exploring 'who' is measuring poverty before going on to examine the significance of inequality, various forms of measurement, and drawing conclusions.

7.1 Who is Measuring?

There are numerous entities contributing in the field of development. Such contributors include many UN agencies¹, OECD, WTO, various NGOs, and combinations thereof, but only those with significant poverty indicators are mentioned below:

World Bank

The World Bank produces two important sources for poverty related data:

World Development Indicators - the most current and complete set of development indicators available, covering 216 developing and high-income economies, updated quarterly for the last 15 years.² Although it defines and reports poverty in income terms it also provides data on broader poverty measures such as education, health, nutrition, employment, mortality, and individual MDGs including Goal 8 and ODA. Many commentators use this data set as the source for their analysis.

World Development Reports - The World Bank's major analytical publication produced annually with each report focussed on a particular aspect of development. The 2011 Report, "Conflict, Security, and Development," notes that "no low-income, conflict-affected state has yet achieved a single Millennium Development Goal."³

United Nations Development Programme

UNDP sponsors the independently authored, variously themed, global Human Development Report published annually since 1990, together with numerous national and regional reports. HDRs include multidimensional development indices, and progress against MDGs.

UN Task MDG Force

¹ Including those listed at

http://www.unric.org/html/english/library/backgrounders/poverty_eng.pdf, accessed 22/3/12.

² Available at <http://data.worldbank.org/data-catalog/world-development-indicators>, accessed 22/3/12.

³ Available at

http://wdronline.worldbank.org/worldbank/a/c.html/world_development_report_2011/abstract/WB.978-0-8213-8439-8.abstract, accessed 22/3/12.

Created by the UN Director General in 2009 to support the MDGs agenda and provide direction and operational support to UN Country Teams. The main output has been a series of papers on the MDGs plus the 2010 Report “The Global Partnership for Development at a Critical Juncture,” dealing with the lack of progress on MDG Goal 8 (partnership).⁴

The UN University, World Institute for Development Economic Research, UNU - WIDER,

UNU-WIDER produce the World Income Inequality Database (WIID), that collects and stores measurements of income inequality for developed, and developing countries. WIID (2) incorporates an update of the Deininger & Squire database from the World Bank, new estimates from the Luxembourg Income Study and TransMonEE, together with other sources.⁵ The Deininger-Squire database covers 138 countries to varying degrees, from 1890 to 1996, though mainly from the 1960s to the early 1990s.⁶ It was largely superseded by WIID (1) covering the years from 1997 to 1999 and made accessible in September 2000. The Luxembourg Income Study (LIS) produces a database of micro-economic income information from 30 countries for social science research. The 2006 LIS database includes household income data spanning 30 years.⁷ And, the TransMonEE Database, initiated in 1992 by UNICEF, captures a range of social and economic data relating to children, young people and women in countries of Central Eastern Europe and the Commonwealth of independent States (CEE/CIS).

OECD Development Assistance Committee

Produce annual reports on ODA together with numerous reports on individual development topics.

Transparency International, and Global Integrity,

Two organisations that report country level corruption on a regular basis.

⁴ Available at http://www.un.org/en/development/desa/policy/mdg_gap/mdg_gap2010/mdg8report2010_engw.pdf, accessed 22/3/12.

⁵ Details available at http://www.wider.unu.edu/research/Database/en_GB/database/, accessed 22/3/12.

⁶ See <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:20699070~pagePK:64214825~piPK:64214943~theSitePK:469382,00.html>, accessed 22/3/12.

⁷ Details at <http://www.lisdatacenter.org/>, accessed 22/3/12.

Whereas there are these numerous sources for development data there are fewer global reports on Human Rights. Amnesty International produce annual reports and country reports but tend to focus on civil and political rights, with poverty now included as an afterthought.⁸

7.2 Income-based Poverty Measurement

Despite the arguments presented earlier favouring multi-dimensional definitions of poverty, there are several arguments for the adoption of single dimension, income-based measurements:

- Availability of data, particularly at national level,
- Income may be the best proxy for multi-dimensional poverty,
- Income may be the most important 'fertile' commodity, providing choice to the recipient.

The World Bank measures poverty by comparing results against defined poverty lines (income/consumption amounts). For example it defines *national* poverty lines in terms of "local perceptions of the level and composition of consumption or income needed to be non-poor."⁹ It points out "the perceived boundary between poor and non-poor typically rises with the average income of a country and thus does not provide a uniform measure for comparing poverty rates across countries." Later it defines an *international* poverty line at \$2.00 per day, and an extreme international poverty line of "\$1.25 a day in 2005 PPP terms, which represents the mean of the poverty lines found in the poorest 15 countries ranked by per capita consumption." These, and earlier figures of \$1 a day, are regularly referred to in the literature with seldom a comment about how absurd they seem from a developed country perspective. The US poverty line is currently just above \$60 per day. Figures of \$1 or \$2 a day seem to equate to the minimum possible for

⁸ Amnesty International launched its Demand Dignity campaign in 2010, which aims to end the human rights violations that drive and deepen global poverty, with three main strands: Slums and Forced Eviction, Corporate Accountability, and Maternal Health.

⁹ World Bank Indicators, 2011 p 62

physical survival.¹⁰ It represents a commodity set that would seem to leave nothing for education above the most basic level, nothing to support political participation, nothing to enable contribution to society, indeed nothing to permit capabilities other than the most basic possible survival. Passing above these lines would not represent a departure from poverty - from a developed country perspective. However, the World Bank definition makes clear that the line is set by local perceptions not 'developed country' perceptions. Accepting the input from the 'poor' is certainly a worthy and recommended approach, but the levels specified appear to reflect 'adaptive preferences' at its worst - the uneducated poor simply do not know what they need to live a flourishing, non-poor life, as understood by those in developed countries, since in general they have no experience of such possibilities. Their understanding of 'non-poor' should not be taken as the last word on the subject, in the same way that a child's understanding of what is best needs to be qualified. Nevertheless, \$1.25 stands as the extreme poverty line and we can agree that reaching this level is necessary before moving on to whatever level would constitute emergence from poverty.

This concern about the different perceptions of poverty raises the question of whether the concept of poverty is better understood in absolute terms or relative terms. Sen, in *Poverty and Famines* (1981), argues that both concepts are useful and that neither supplants the other.¹¹ The absolute approach he sees as relating to biological needs associated with the threshold of hunger and starvation. He recognises that measuring income may be more practical than attempting to measure the basket of biological needs directly - a useful intermediary approach, but one with the added benefit of introducing a notion of capability:

The income of a person can be seen not merely to be a rough aid to predicting a person's actual consumption, but also as capturing a person's *ability* to meet his minimum needs (whether or not he, in fact, chooses to use that ability).¹²

The income approach to poverty measurement thus has the twin attractions for Sen of acting as a proxy for the direct measurement of basic needs, however defined, and, as a means of incorporating choice (capability) and not merely functioning, irrespective of

¹⁰A view challenged in Banerjee and Duflo (2011) *Poor Economics: A Radical Rethinking of the Way to Fight Global Poverty*, and in Collins, Morduch, Rutherford and Ruthven (2009) *Portfolios of the Poor: How the World's Poor Live on \$2 a Day*

¹¹ Sen (1981) p22

¹² Ibid p27

how we, as bystanders, may feel about the value of ‘choice’ when confronted with eating or starving.

Sen mentions two objections to the income approach to measuring poverty, the first of which is not so much with the parameter of income but with the notion of a cut-off level - the poverty line. Sen repeatedly argues that the issue with the poverty line is the problem of distribution. Counting the numbers of people above and below the line takes no account of how far above or below they may be, how the income is distributed among the poor.¹³ He proposes the Gini coefficient as one way to overcome this shortfall.¹⁴ This underlines his view that both absolute and relative income measures are useful.

Sen’s second objection derives from his concern with social variations, as previously discussed, and his observation that some need more commodities than others to achieve the same capabilities. In this view income measurement, as a proxy for commodity bundles, falls short of direct measurements in the functioning space.¹⁵ However, if we accept the practical advantages of using an income measure we are left with the concern about the importance of relative vs. absolute levels.

7.3 Does Inequality matter?

As mentioned above, the border between being poor and being non-poor varies from society to society (or nation in this context), depending upon its degree of development. The national poverty line may correspond to the starvation line in poor societies but equate to owning a car, a phone, or Adam Smith’s oft-quoted ‘linen shirts’ in others. The international poverty line as defined by the World Bank appears to correspond to the former level rather than the latter, and its use raises questions about inequality within and between societies.

Inequality within societies

¹³ E.g. Sen (1981) p37, Sen (1982) pp373-85, Sen (1992) pp102-7

¹⁴ The Gini coefficient is a measure of statistical dispersion named for its inventor, Corrado Gini

¹⁵ Sen (1992) p111

Some egalitarian thinkers might argue that inequality is never good for a society. However, others argue that the presence of inequality within developing societies may in fact be indicative of positive progress towards a more developed state. One such view put forward by Simon Kuznets,¹⁶ and frequently invoked, argued that inequality first increases before later decreasing as societies move from low productivity agriculture to higher productivity industries, reflecting the idea that leaders make progress before followers, and that followers would not progress at all but for the earlier progress of the leaders. This builds on the assumption that only the relatively well-off can save money and invest for growth, and that investment is the engine of growth. Hence inequality leads to surplus income for some, which leads to faster investment, which leads to stronger growth that eventually benefits everyone. The Kuznets Curve, an inverted-U shape, conveys this sense of growing and declining inequality as societies move from one level of development to another with higher GNP.

This trade-off of equality, argued for by some in the name of faster growth, is not limited to incomes or consumption. Donnelly has pointed out that trade-offs in basic needs, such as healthcare and education, and trade-offs in liberties, such as freedom of speech and freedom of assembly, are also advocated in the name of development.¹⁷

However, much empirical analysis conducted in the 1990s has undermined the Kuznets inverted-U hypothesis.¹⁸ Gary Fields surveying this research concluded that regarding poverty, “Nearly always when economic growth takes place, poverty has fallen” but regarding income inequality, “The Kuznets curve is neither a law nor even a central tendency. The pattern is that there is no pattern.”¹⁹ It follows that inequality within developing countries can no longer be justified by simple referral to Kuznets curves. But this still leaves the question of whether national inequality matters.

Branko Milanovic has identified a number of thinkers who argue that national income inequality does not matter providing that absolute poverty is low. However, he states that a growing proportion of researchers believe that such inequality may be detrimental because either (a) it slows growth, (b) leads to political instability or market failures that damage growth in turn, or (c) people are simply inequality-averse.²⁰ He also suggests

¹⁶ Kuznets (1955) “Economic Growth and Income Inequality.”

¹⁷ Donnelly (2003) p197

¹⁸ A point made by Donnelly

¹⁹ Fields (1999) pp 23-4

²⁰ Milanovic (2005) *Worlds Apart*, pp154-5 for further references.

that the acceptable level of inequality within a society may be influenced by its culture. However, complete consensus on whether national income inequality matters, in its own right, seems some way off and is perhaps unlikely in the light of differing values.

However, if income inequality is linked to absolute poverty then a convergence of views rejecting such inequality seems more likely.

Robert Wade and Thomas Pogge both argue that inequality and poverty are closely linked.²¹ David Held and Ayse Kaya neatly summarise these two authors' views as follows:

- (a) inequality is of significance in gaining a more comprehensive understanding of the conditions of the very poor;
- (b) inequality may sustain poverty as well as contribute to it;
- (c) inequality has negative repercussions for efforts to increase growth and reduce poverty.²²

In particular, Wade suggests there is good evidence that higher national income inequality goes with:

- (1) higher poverty and specifically, a lower contribution of economic growth to poverty reduction (lower 'growth elasticity of poverty reduction');
- (2) higher unemployment;
- (3) higher crime;
- (4) lower average health
- (5) weaker property rights
- (6) more skewed access to public services and state rule-setting fora, and lower standards of public services; and
- (7) slower transitions to democratic regimes, and more fragile democracies.²³

And Pogge elaborates his concerns, saying:

²¹ In their separate contributions to Held and Kaya (2007) *Global Inequality*

²² Held and Kaya (2007) p19

²³ Wade "Should We Worry about Income Inequality?" in Held and Kaya (2007) p115

High inequality tends to bias the range of publicly available information about the poverty problem, the range of publicly available explanations of its persistence, and the range of reform proposals offered to address it. These distortions impede effective poverty eradication efforts. High inequality also strengthens the incentives and political power of those who have a vested interest in resisting serious poverty eradication efforts. For these reasons, the avoidance of severe poverty, which may be easy in a low-inequality system, becomes politically very difficult in a high-inequality system, even if *per capita* income is much higher in the latter.²⁴

Though not conclusive, these views make a plausible case for linking income inequality and absolute poverty within societies, thereby implying that national inequality does matter. But perhaps even more important is the question of inequality between nations.

Inequality between societies

Pogge argues that severe poverty is not simply a national issue as he interprets Rawls to imply, in his *Law of Peoples*, but it is highly dependent on global rules established by the powerful, developed countries to the disadvantage of the poorer, developing countries. This advantage of the powerful countries also works to limit the scope of poorer countries to rebalance the rules, let alone tip them in their favour.²⁵ Furthermore, Pogge maintains that existing rules encourage corruption in developing countries by allowing rulers to sell-off or borrow against natural resources, depriving the country of its potential long term wealth (the so-called resource and borrowing privileges).²⁶

Milanovic takes a similar stance, arguing that governance at the global level is plutocratic, and that the rich countries dominate the governing bodies. He gives the example of the IMF where the poorest 40% of the world population has less than 10% of the voting rights, whereas the richest 10% has 43% of those voting rights.²⁷ A consequence of this inequality is that global redistribution is restricted to concessional loans and ODA, as opposed to taxes and transfers.²⁸ Furthermore Milanovic argues that globalisation has heightened awareness in the poorer countries of the income gap enjoyed by the more developed countries, and that this awareness can fuel tension. Again, this heightened awareness and the lower cost of travel both fuel greater

²⁴ Pogge “Why Inequality Matters” in Held and Kaya (2007) p145

²⁵ Ibid p135

²⁶ Ibid p136

²⁷ Milanovic (2005) p150

²⁸ Ibid p152

migration,²⁹ with potential problems at both ends - loss of productive labour on the one hand and unwelcome immigrants drawing on jobs or welfare on the other.

Whether globalisation floats all boats, as is often claimed, or whether some folk are left completely deprived in the watercraft department remains a matter of debate. However, one consequence of the current rules is neatly illustrated by the then UK overseas aid minister Hilary Benn, “rich countries support their agriculture with a staggering \$279 billion a year. That's more than 10 times current aid to Africa”³⁰

The view that inequality matters, though still disputed, is well summarised by Gasper:

Enormous inequalities are part of the cause, not only part of the moral problem: markets pull resources to the monied, away from the more vulnerable.³¹

It seems there are sufficient grounds for considering national and international income inequality to be important for an understanding of poverty. It follows that attention should be given to measuring both absolute poverty and the components of inequality, to which we now turn.

7.4 Three Concepts of Inequality

Branko Milanovic, a Lead Economist at the World Bank, has noted that the headlines on inequality can seem very confusing, with some claiming it has increased, some saying it has decreased and others that it has stayed the same.³² He points to differences in definitions, methodology, and exchange rates, and well as a lack of reliable and complete data, each of which can distort the picture of inequality variance over time. To help reduce this confusion he has defined and popularised three concepts of inequality.³³

²⁹ Ibid p156

³⁰ Mentioned in Held and Kaya (2007) p1, and published in *The Observer*, July 2005, “Ending unfair subsidies is a moral imperative,” accessed 9/9/11 at <http://www.guardian.co.uk/business/2005/jul/03/g8.politics>

³¹ Gasper (2008a) p245

³² Milanovic (2005) p3

³³ Ibid pp7-11

Concept 1 – Un-weighted International Inequality: compares countries in terms of their income divided by their population - GNP per capita. The mean income of persons in say Somalia is thus compared with the mean income of citizens of the US. The distribution of all such country values gives a measure of international inequality (Gini coefficients).

Concept 2 - Weighted International Inequality: weights each country's GNP per capita by the population number so that the figure for China counts for more than the figure for Finland in deriving the inequality measure across all countries. Like Concept 1, this measure ignores the distribution of incomes within countries.

Concept 3 - Global Inequality: takes the domestic inequality into account for each country in arriving at a world inequality coefficient. This would seem the best concept for identifying and quantifying the poorest segments of global society but it suffers from less complete data, particularly over historic time periods, making trend analysis less certain.

Notwithstanding this handicap, Milanovic has estimated global inequality over the past two centuries, using social tables and various estimation techniques, and concluded that the level of inequality has increased over that period until reaching a rough plateau in the 1950s. He also notes that “the main determinants ... have become differences in mean country incomes rather than inequalities within nations,”³⁴

the composition of global inequality changed from being driven by class differences within countries to being driven by locational income differences (that is, by the differences in mean country incomes). The latter accounted for only 15 Gini points around 1820, but account for more than 60 Gini points today.³⁵

To be clear, 60 Gini points represents a very large part of total global inequality, which according to Milanovic' latest calculations using updated PPPs³⁶ stands at 70 Gini points versus earlier estimates of 65 points.³⁷ However, the view that International Inequality is by far the main determinant of Global Inequality is potentially helpful for policy considerations. We should also be sensitised to the need for specificity when

³⁴ Milanovic (2009b) p1

³⁵ Ibid p24

³⁶ Purchasing Power Parities

³⁷ Milanovic (2009a) p1

discussing inequality. We need clarity about the concept selected plus details of methodology and exchange rates used if confusion is to be avoided.

7.5 Multi-Dimensional Poverty measurement

At first glance it seems obvious that a move from income-based to multi-dimensional poverty measurement is a step in the right direction. The CA has persuasively demonstrated that poverty itself is multi-dimensional, and, clearly extends beyond income deprivation. However, almost as quickly, we can reflect that a multi-dimensional poverty index would bring few benefits and some distinct disadvantages.

The attractions are obvious - we can select measurable indices of dimensions covering the prioritised capabilities. However, combining a number of separate measures into a single index requires assigning a fixed weighting to each variable (capability) that somehow neglects the importance of their context-sensitive independence. There are other disadvantages: some preferred capabilities would be difficult to measure or have no historic measurements, inhibiting trend analysis; the more complex the index the less easily it will be understood; the launching of one index will eventually lead to better, improved indices, diluting the benefits available from a constant focus; and, interpreting a change in value will be impossible without analysing the components.

It should also be noted that various studies have shown that the simple international income inequality measure correlates well with more broadly conceived poverty measures in many contexts.³⁸

We can conclude that while multi-dimensional poverty prompts the measurement of selected dimensions in many contexts, it is not necessarily well served by a multi-dimensional poverty *index*.³⁹

Nevertheless, it is worth briefly exploring some of the more prominent indices developed over the last 40 years. One of the first followed the emergence of ‘basic needs’ as an alternative to the income approach to poverty - the *Physical Quality of Life Index* (PQLI). This index, introduced by the Overseas Development Council and used in the 1979 report by the OECD-Development Assistance Committee, uses three basic measures: life expectancy at age one; infant mortality; and, literacy. It is clear from

³⁸ Streeton et al (1981) p87

³⁹ A similar point is made in Ravallion (2011) p2

these parameters that the index better reflects the extent of life rather than the quality of life. However, the index had the relative merit of being easier to construct than some alternatives given the data already available. This early, but not inaugural, multi-dimensional index prompted many of the criticisms that apply to all such measures - the arbitrary choice of elements, perhaps determined by availability; the arbitrary nature of the weightings, equal in this case; and, the trade-offs concealed within a single composite measure.⁴⁰

Perhaps the most successful multi-dimensional index is that introduced in the 1990 HDR, the *Human Development Index* (HDI). The index was developed by a team of leading experts, at the instigation of Haq, including Desai, Sen, Stewart and Streeton.⁴¹ The HDI incorporates three components: longevity (life expectancy), knowledge (schooling) and income. Haq points to the inclusion of income within the index as an advantage over the earlier PQLI that ignores the importance of income.⁴² However, there has been much discussion over the appropriateness of the various measures proposed for the three components reflecting the concerns already mentioned. Sen was concerned that the HDI was a ‘crude index’ unworthy of such attention in HDRs.⁴³ Elsewhere Sen admits that Haq was right to persist with the HDI:

“We need a measure,” Mahbub demanded, “of the same level of vulgarity as GNP—just one number—but a measure that is not as blind to social aspects of human lives as GNP is.” Mahbub hoped that not only would the HDI be something of an improvement on—or at least a helpful supplement to—GNP, but also that it would serve to broaden public interest in the other variables that are plentifully analysed in the Human Development Report.

Mahbub got this exactly right, I have to admit, and I am very glad that we did not manage to deflect him from seeking a crude measure.⁴⁴

Here we see a benefit easily overlooked in evaluating multi-dimensional poverty indices, the ‘headline’ potential - the attractor to draw in observers and point the way to more meaningful disaggregated measures.

⁴⁰ Streeton et al (1981) p88

⁴¹ Richard Ponzio in Haq and Ponzio (2008) p100

⁴² Haq (1995) p48

⁴³ Sen quoted in Ponzio and Haq (2008) p101

⁴⁴ Sen, *Assessing Human Development*, HDR (1999) p23

With this in mind, it is hard to know whether the subsequent proliferation of indices within HDRs represents progress or regress - a dilution of impact or an enrichment of content. In any event, new indices were periodically introduced within the HDRs:

PFI - Political Freedom Index - Introduced in 1991, controversial and eventually dropped because of difficulties in measurement.

GDI - Gender Development Index - introduced in 1995 to indicate the inequality in HDI parameters between the genders.

GEM - Gender Empowerment Measure - also introduced in 1995, it tracks inequalities between men's and women's opportunities, combining measures in political and economic participation and decision-making, and control over economic resources.

HPI - Human Poverty Index - introduced in 1997, the HPI tracks the most basic dimensions of deprivation: restricted longevity, lack of basic education, and lack of access to public and private resources, but with some differentiation in the parameters of lesser and more developed societies.

The 2010 HDR introduced three new indices, arguably strengthening the efficacy of development measurement, but also weakening the focus.⁴⁵

HDI - reformulated version based on the same three basic parameters but with different weightings.⁴⁶

IHDI - Inequality adjusted HDI - “a measure of the level of human development of people in a society that accounts for inequality ... the lower the IHDI (and the greater the difference between it and the HDI), the greater the inequality.”⁴⁷

MPI - Multi-dimensional Poverty Index - based on three parameters similar to the HDI but with 10 variables measured at the household level rather than the national level.

This latter index, the MPI developed by Sabina Alkire and Maria Emma Santos, received a fair amount of media coverage when it was launched. Of its ten dimensions, two are for health (malnutrition, and child mortality), two cover education (years of schooling and school enrolment), and six represent living standards. Dimensions are

⁴⁵ Ravallion (2010a) “Mashup Indices of Development” list numerous other multi-dimensional indices currently in use.

⁴⁶ For criticism of this change see Ravallion (2010b) “Troubling Tradeoffs in the Human Development Index”

⁴⁷ *Human Development Report 2010*

weighted equally within each main parameter and each parameter is weighted equally (one-third each) to form the composite index. Households are identified as poor if they are deprived across at least 30% of the weighted dimensions. One limitation of this index is that data for all dimensions must come from the same households, the same survey. Consequently some potentially useful data is excluded. Another drawback is that assumptions have to be made about the distributions within households, a common weakness in surveys but one that can conceal poverty, particularly gender-related poverty. On the plus side, the MPI allows the poorest to be identified and the index is easily decomposable. However, like all multi-dimensional indices it suffers from arbitrary weightings and for conveying a false sense of commensurability in the attempt to create attention-grabbing simplicity. In most situations it is the components that matter not the index.

The indices mentioned above all relate to the capability approach to development but it should be mentioned that the World Bank also produces multi-dimensional indices to support their lending operations. They cover a range of dimensions but have similar weaknesses to the indices already mentioned.⁴⁸

A final multi-dimensional index considered here relates to Human Rights and specifically ESCRs, and represents a measure of progress over similar indices. Fukudo-Parr's ESRF, Index incorporates the measurement of *obligations performed* as well as rights enjoyed, and takes account of the requirement for *progressive realisation* by considering a state's resources.⁴⁹

The ESRF Index evaluates the obligations of *progressive realisation* in terms of the maximum levels achieved globally at the country's level of income - the empirically determined Achievement Possibilities Frontier. It imposes a penalty on countries with resources sufficient to fully realise a given right but failing to do so.⁵⁰ The main ESRF Index, for lesser-developed countries, ESRF1, (first proposed in Fukuda-Parr, et al, 2008) examines five core economic and social rights: the right to food, to education, health, adequate housing, and decent work. A second index for high-income OECD countries, ESRF2, uses indicators more appropriate to countries with advanced economic and social development.

⁴⁸ Ravallion (2010a)

⁴⁹ Fukudo-Parr et al (2009) p3

⁵⁰ Ibid p6

The ESRF Index thus provides a quantitative assessment of the degree to which states are complying with their obligations under the ICESCR. The scores reflect the state's policy response including both the relative priority and effectiveness of the policies adopted in the face of the external constraints. The best performing of the lesser-developed countries in the initial survey of 170 plus countries, Guyana, achieves a score of 96%, across all rights, whereas the best performing developed country, Finland, meets just 95% of its obligations across the similar rights. At the same time, the worst performing country, Equatorial Guinea, meets only 16% of its human rights obligations. The published results suggest many countries, developed and less-developed, are falling short of their economic and social rights obligations. "Of the 44 countries scoring below 70% of obligations met, only 27 are low income countries." The responsibility for such low performance rests primarily with the state in question, but as Fukudo-Parr et al state, "the role of the international community is also an important factor to be considered. Is the donor community providing assistance that is adequate not only in quantity but in quality?"⁵¹

Many factors could induce low scores on the index such as inadequate public spending, ineffective policies, a history of neglect, or external constraints and relationships. It is claimed that the ESRF Index is a more useful measure than the HDI for assessing the efforts to progressively realise economic and social rights. Interestingly Fukudo-Parr et al report that countries with similar HDI scores compare very differently on the ESRF Index. For example, Finland and the US have very similar scores on the HDI (both .95 in 2006) but rank first and last amongst high-income OECD countries on the ESRF table. Furthermore the US ranks worst or nearly worst, within this high-income set, for each right in the index.

In summary, the ESRF differs from development measures such as GDP per capita, and socio-economic indicators such as mortality rates, and multi-dimensional indices such as HDI, because it measures outcomes against the obligations of progressive realisation taking account of the frontier of possible achievements (APF). Where the ESRF falls short is in assessing countries performance against their obligations to assist other states fulfill their own human rights duties. Fukudo-Parr et al, recognise the importance of both ODA and the global basic structure, dominated as it is by the developed countries,

⁵¹ Fukudo-Parr et al (2009) p3

but the ESRF is unable to measure those influences directly. Nevertheless, by considering some of the important causes as well as outcomes of human rights practice the ESRF represents an advance over other multi-dimensional indices.

7.6 Other Measures

There are too many individual measures of poverty related factors to be mentioned here. Some are components of multi-dimensional indices to be found in HDRs, some are indicators of MDGs, and others are found in Country Reports relating to Human Rights. The quantification of the poor may be incomplete and imprecise but there is a lot of data available. However, poverty measurement is not restricted to measuring the poor. It also involves measuring the local and global context as suggested above. This includes measuring aid, both official and other, measuring corruption and assessing the global basic structure.

Of all these measures, the ODA figures reported annually (by OECD and HDRs) are perhaps the most visible given their prominence as part of MDG 8 and the long history of 0.7% GNI promises. Arguments about the dubious effectiveness of aid and the destructive effects of corruption serve to distract attention from the failure of most developed countries to deliver on their long-standing aid commitments (typically since 1970). However, the headline numbers of aid need further examination to identify the true nature and the restrictions on much of the so-called aid. The result is that the real picture on aid provision is even less attractive than the headline numbers imply.

7.7 What the Measurements Reveal

Space prevents a listing of all the available data. However, even if space were not constrained there is a good reason to limit the amount of data. Stats fatigue, if not confusion, is very likely with ever more extensive data sets, unless one is looking for something specific. My main objective is to confirm that global poverty is a problem, and that it is not receding fast enough. To that end, the following from Chen and Ravallion should suffice. They estimate for 2005:

1.4 billion people, or one quarter of the population of the developing world, lived below our international line of \$1.25 a day in 2005 prices; 25 years earlier there were 1.9 billion poor, or one half of the population. Progress was uneven across regions. The poverty rate in East Asia fell from almost 80 percent to under 20 percent over this period. By contrast it stayed at around 50 percent in Sub-Saharan Africa, though with signs of progress since the mid 1990s. Because of lags in survey data availability, these estimates do not yet reflect the sharp rise in food prices since 2005.⁵²

If we use a line of \$1.00 a day at 2005 PPP (almost exactly India's official poverty line) then we get a poverty rate of 16%—slightly under 900 million people—while if we use the median poverty line for all developing countries in our poverty-line sample, namely \$2.00 a day, then the poverty rate rises to 50%, slightly more than two billion people.⁵³

The developing world as a whole is clearly still on track to attaining the first Millennium Development Goal of halving the 1990s “extreme poverty” rate by 2015. China attained the MDG early in the millennium, almost 15 years ahead of the target date.⁵⁴

However, the developing world outside China will not attain the MDG without a higher rate of poverty reduction than we have seen over 1981-2005. The persistently high incidence and depth of poverty in Sub-Saharan Africa are particularly notable.

This data suggests we have a persisting problem.

7.8 Conclusion

Great strides have been made in the subject of measuring poverty related factors, including the implementation of multi-dimensional indices and inequality measures. Critics argue about the interpretation and explanation of data. One might be concerned that relatively recent events such as the clarification of HRA duties via General Comments this century may not have had sufficient time to show their full affect. On the other hand one might reasonably argue that we have become habituated, by the World Bank and others, to accept a very low bar as our target. A further observation, indicated in the introduction to this chapter, is that there seems to exist an imbalance

⁵² Chen and Ravallion (2008)

⁵³ Ibid p33

⁵⁴ Ibid p34

between the quantity of measurements addressing the extent and nature of poverty and the quantity of data regarding factors influencing global poverty. This is perhaps to be expected given that it seems natural to measure a problem before working out how best to resolve it. However, from a process control viewpoint it is important to have adequate data on all the major inputs in order to evaluate their impact on the outputs. This survey suggests that, with regard to global poverty, further consideration be given to the quantification of possible contributing factors.

My conclusion is that 70 years of Human Rights and Human Development, despite common origins and aims, and adequate justifications, has produced disappointing results in the challenge to reduce global poverty. The philosophical questions remain, why that is, and what might be done about it?

Chapter 8 Diagnosis

The first two Sections explored the philosophical credentials of the two main approaches to global poverty - human rights and human development. The conclusions reached included that their construction was assisted by philosophical input, that they have been strengthened by critical examination, and that they are adequately justified. What distinguishes them from other well considered approaches are their critical mass: they both enjoy the apparent support of most nations, UN bodies and many NGOs. And yet, global poverty continues to be a profound problem. There are many contributing factors that might explain this failure, including: ODA shortfalls, dysfunctional aid, globalisation, trade barriers, wars, global financial crisis, exceptionalism, US imperialism, and corruption. Some might see these issues as purely practical matters, of little concern to philosophers. However, I agree with those, such as Thomas Pogge and Leif Wenar, who incorporate such factors within a broader scope of enquiry when considering the problem of global poverty.¹

This chapter examines some of the possible reasons why the human rights and human development approaches have not been more successful. It starts by considering possible gaps in the HRA and HDA before exploring some of the other obstacles, such as human selfishness and the anarchic nature of the international system, that might seem to block the elimination of global poverty.

¹ E.g. Pogge (2010a) *Politics as Usual: What lies behind the pro-poor rhetoric*, Wenar (2009) “Realistic reform of international trade in resources.”

8.1 Gaps in Economic, Social and Cultural Duties

The concern here is that gaps, or lack of clarity, in the duties relating to economic, social, and cultural rights might be the reason global poverty continues to be a problem. Chapters 1-3 provide the essential details of the lengthy process by which the duties relating to economic, social and cultural rights became established. Key elements of those duties arose through the publication of General Comments.

Complementing the ICESCR and the General Comments have been a number of other UN Conventions that bare on the issue of global poverty, such as the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of the Child (1989). These conventions are arguably elaborations of rights included more generally in the UDHR.

The timings of all these rights statements, but particularly the General Comments, give some weight to the notion that it is too early to judge the success or failure of the human rights enterprise. However, the essential aims of the ICESCR (and the ICCPR) have been clear for fifty years and states parties, who bear the primary duties relating to the rights, have been aware of the general direction if not all the details of their responsibilities for much of that time. Consequently the recently identified gaps in states parties' duties towards their own populations are unlikely to be the principal cause of our problem. Evidence suggests that underdeveloped countries blame external factors for their slow progress rather than lack of clarity in their responsibilities.² Key amongst such external factors has been the disappointing level of international cooperation: the provision of ODA, and the rules regarding the Global Basic Structure. Whereas the Committee on ESCRs has progressively clarified the primary duties of states parties, it has failed to nail down the transnational duties.

² Starting with the Bandung Conference in 1955, see Ch4.

8.1.1 ODA Shortfalls

Much has been written on the positive and negative effects of foreign aid. Some argue for more aid, some for less aid and others for 'better' aid. Leaving aside the merits or otherwise of various instantiations of ODA, what is indisputable is the fact that since 1970, the levels of ODA have always fallen short of the agreed UN target of 0.7% GNI. Some at least think this shortfall contributes significantly to global poverty. What exactly is the problem of ODA from a human rights perspective?

Arguably the problem is twofold: an issue of specification, and an issue of compliance. The concept of international cooperation and assistance first appeared in the UN Charter (articles 55 and 56), and developed in the Covenant (ICESCR).³ At these early stages, before the emergence of Shue's correlative duties and the tripartite typology, the cross-border duties were indeed vague. Considerable efforts have since been made to clarify the duties. Alston and Quinn noted, in their paper for the Limburg meeting, that the obligations of international cooperation could not be considered as legally binding, but neither were they meaningless:

In the context of a given right it may, according to circumstances, be possible to identify obligations to cooperate internationally that would appear to be mandatory on the basis of the undertaking contained in Article 2(1) of the Covenant.⁴

Steady progress in formalising the cross-border duties has been achieved by the Committee since that time via General Comments and the examination of States Reports.

For example, regarding 'Obligations to fulfil' within GC14, para 39:

To comply with their international obligations in relation to article 12, States parties have to respect the enjoyment of the right to health in other countries, and to prevent third parties from violating the right in other countries, if they are able to influence these third parties by way of legal or political means, in accordance with the Charter of the United Nations and applicable international law. **Depending on the availability of resources, States should** facilitate access to essential health facilities, goods and

³ Background on the duties of international assistance and cooperation in this section drawn from Sepúlveda (2003) pp370-378

⁴ Sepúlveda (2003) p372, referencing Alston and Quinn, 1987 p191

services in other countries, wherever possible and **provide the necessary aid when required.** (Emphasis added)

This paragraph clearly indicates that the Committee considers it a duty for countries with adequate funds to provide aid when required, and builds on the content of UDHR Article 22, which establishes the notion of international cooperation:

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and for the free development of his personality.

In the same vein, Sepúlveda notes that the Committee urged Japan, in response to its 2001 Country Report, to ‘increase its efforts to provide international assistance to developing countries and to establish a time frame within which the internationally accepted goal of 0.7 per cent of GNP set by the United Nations will be achieved’.⁵

So it transpires that the *specification* of international duties has edged closer to a clear and effective requirement. However, the ‘depending on the availability of resources’ conditional leaves the requirement somewhat loose, and the *compliance* achieved via the country report comments is doubtful at best. Following the written encouragement from the Committee in its Concluding Observations of 2001, Japan achieved 0.18% (versus target of 0.7%) in 2009. The inescapable conclusion is that the existing measures to ensure the international compliance of developed countries are insufficient. Furthermore, it seems that the Optional Protocol, approved but not yet in effect, is unlikely to change that state of affairs. We will return later to the question of how countries might be made accountable for their international duties.

8.1.2 Pediment Duties

If ODA is the first ‘external factor’ identified by underdeveloped countries as restricting their development, then the global basic structure (international basic order, or international trade and financing conditions) is the second. Within Cassin’s Portico (described in Ch1.2), the articles relating to the basic structure are part of the Pediment

⁵ Ibid p375, referring to Concluding Observations Japan E/C. 12/1/Add.67 para 37

(“because they bring under one roof individuals, civil society, and the state, with all their respective rights and responsibilities”⁶). Of these, Article 28 clearly reflects the drafters’ intentions that everyone has a right to an effective international basic order, and Article 29, adds the proviso that everyone has duties to their society, arguably to ensure that it performs its role in the global basic structure.

Basic Structure Duties Shortfall

Pogge has been one of the most vociferous critics of the existing basic structure. In “Why Inequality Matters,” he identifies many weaknesses in the current system, which largely stem from the unfair bargaining position of the most powerful (developed) countries. These weaknesses in the structure include:

- i. International trade rules, formulated within the World Trade Organisation (WTO), provide unfair protection to developed countries’ markets, thereby restricting the export opportunities of developing countries.
- ii. WTO rules on intellectual property (TRIPS) though seeming to protect the research investment of pharmaceutical companies, also works against the most needy beneficiaries of such investments.
- iii. International borrowing and resource privileges which encourage illegitimate regimes to sell or borrow against a country’s natural resources to finance and maintain their controlling position.
- iv. Weak controls on corruption, allowing major corporations to corrupt developing country’s officials for access to resources, markets, and cheap labour, with freedom from health and labour and fiscal restrictions.⁷

Pogge maintains that these weaknesses are self-reinforcing and lead to increasing inequality over time.

How might the HRA respond to this apparent problem? As shown above, the requirement for an appropriate international order was foreseen from the outset of the UDHR drafting process. The intentions seem clear and one might expect that the application of the Limburg Principles by the Committee (to make effective, in line with drafters intentions) might lead to clear and effective duties on Bretton Woods institutions, and national governments. Responding to Pogge, one might say that the Committee simply needs more time to specify the duties relating to the international order.

⁶ Glendon (2002) p190

⁷ Pogge in Held and Kaya (2007) pp135-145

However, to advocate such an interpretation would seem naive. The US, the most powerful player in the IFI, has indicated that it will not let its interests be impacted by UN interference. The US has repeatedly declined to ratify UN covenants and conventions, or has ratified with provisos ensuring the rules do not extend to the US. As already noted, the US has not ratified the ICESCR. It exempted itself from the constraints within the ICCPR. It failed to ratify the Convention on the Rights of the Child (along with Somalia). It exempted itself from the constraints of the Genocide Convention. The US *did* ratify the anti-torture convention, but conditioned by a very special definition of torture.

Noam Chomsky highlighted this pattern of US exceptionalism in a lecture to the London School of Economics and Political Science, in 2009, in which he elaborated the US position on human rights with a number of examples demonstrating their self-exemption from constraints and duties. He quotes US Ambassador Jeane Kirkpatrick, saying that for her

the socioeconomic provisions of the UD are "a letter to Santa Claus... Neither nature, experience, nor probability informs these lists of 'entitlements,' which are subject to no constraints except those of the mind and appetite of their authors."

He also quotes Paula Dobriansky, Undersecretary of State for Global Affairs under Bush II, Assistant Secretary of State for Human Rights and Human Affairs in the Reagan and Bush I administrations, who sought,

to dispel what she called the "myths" about human rights, the most salient being the myth that so-called "'economic and social rights' constitute human rights."⁸

In a detailed investigation of US exceptionalism on Human Rights, Andrew Moravcsik, a professor of politics at Princeton University, seeks to understand the reasons for this stance. He concludes that "U.S. power, democratic stability, conservative extremism on particular issues, and fragmented American political institutions" offer a theoretically and empirically adequate explanation. He goes on to suggest that these factors are not some short-term contingency but reflect a "deep structural reality of American political life," and barring a Great Depression-like event, American ambivalence towards

⁸ Chomsky (2009) "Human Rights in the New Millennium"

international human rights is unlikely to change anytime soon.⁹ This despite the role of the US in creating and detailing the UN, the UDHR, and its Covenants. As long as this stance is taken by the US it seems that efforts by the Committee to clarify and monitor the performance of Pediment duties will remain fruitless.

This leads to the next gap in the HRA, that of Accountability.

8.1.3 Accountability

Chapter 5 suggested that accountability involves: the assignment of duties, corresponding measures of performance, and reporting to some recognised authority with powers of enforcement or sanction. In the context of human rights several of those conditions are met: duties are largely defined and assigned, although international duties only loosely, and various measures of performance exist, including country reports.

The problem arises with regard to the power to hold to account, where the position is quite uneven. Developing countries are firmly held to account for duties foreseen by the IMF and World Bank on pain of financial penalties. The various UN bodies also bring some pressure to bear on compliance by developing countries through their control over aid programmes. However, the UN often depends on the sanction of ‘naming and shaming’ as the means to bring stragglers into line. This of course presumes that the ‘named’ care or would in any way suffer from this admonition. We have already noted the lack of effective action following Japan’s rebuke over its ODA. Another example is the Concluding Observations for Germany from 2001. This contains two paragraphs, amongst a total of forty-nine, dealing with the issue of ODA:

Under Principal subjects of concern

15. The Committee regrets that, according to UNDP, the State party devoted 0.26 per cent of its GNP to official development assistance (ODA) in 1998, well below the goal of 0.7 per cent set by the United Nations.

And under Suggestions and recommendations

⁹ Moravcsik “Paradox of U.S. Human Rights Policy,” in Ignatieff (2005), accessed 17/1/12 at [http:// www.princeton.edu/~amoravcs/library/paradox.pdf](http://www.princeton.edu/~amoravcs/library/paradox.pdf)

33. The Committee urges the State party to ensure that its percentage of GNP devoted to ODA rises steadily towards the United Nations goal of 0.7 per cent.

This report comes some 30 plus years after the UN commitment to the 0.7% target. Perhaps strongly motivated by this sanction Germany drove its contributions to a lofty 0.35% in 2009. An alternative view would be that UN sanctions mean very little to developed countries. German politicians have little to fear from Concluding Observations. Developed countries are simply not accountable to the UN in any meaningful way. Developed States' governments are only accountable to their voters, to special interest groups and corporations according to some, and to a varying degree the media.

One might think that being accountable to voters, via the threat of rejection at the ballot box, would motivate compliant behaviour. However, this would require voters (a) to be aware of the duties required and of specific failures to meet those responsibilities, and (b) to care about the duties involved. Given the lack of media coverage of UN Concluding Observations in most developed countries, there seems little chance that any significant proportion of voters would be aware of the international duties and failures, let alone care.

This leads to the last of the proposed gaps in the HRA.

8.1.4 Education

I take it as given that most people in developed countries know about human rights in general but that few know about all the actual rights specified in the various covenants and conventions. I take it that even fewer know about the interpretation of those rights provided by General Comments and other Committee statements. Consequently, people in general are unaware of the full range of rights to which they are entitled, or of the obligations agreed to and accepted by their governments. Being blissfully unaware of these duties, the general populations bring minimal pressure on their governments to comply. It was presumably to avoid this scenario that the drafters of UDHR inserted in the Preamble, or 'Courtyard Steps' in Cassin's Portico, the commitment to build awareness through education. It was clearly believed that 'respect for these rights and

freedoms' depended upon awareness, and that awareness required 'teaching and education' about rights, 'by every individual and organ of society'.

However, progress on rights education was so limited that, in 1994, the General Assembly endorsed the 'UN Decade for Human Rights Education, 1995-2004'. The Committee subsequently produced a plan of action for that 'decade' in which they concluded:¹⁰

(para.324) Human rights education is itself a human right.

(para.325) The human rights treaty bodies, particularly the Committee on Economic, Social and Cultural Rights, have a special responsibility ... to assess and monitor progress in the implementation of the binding obligations of States parties to promote human rights education at the national level.

Five years after the completion of this UN Decade for HR education, The Committee issued its Concluding Observations for the U.K. (2009). Under the heading of 'Principal subjects of concern and recommendations' it noted:

15. The Committee is concerned about the low level of awareness of economic, social and cultural rights not only among the public at large but also particularly among judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals, despite the State party's assurances to the contrary.

The Committee recommends that the State party take effective measures to increase awareness of economic, social and cultural rights among the public at large as well as among judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals, including by lending adequate support to civil society and national human rights institutions in their efforts in relation to awareness- raising. It also recommends that the State party take steps to improve awareness of the Covenant rights as justiciable human rights and not merely rights as part of the "Welfare State."

I have been unable to find any media coverage of this adverse finding regarding the UK's non-compliance with the UDHR. To be clear, some 60 years after signing the UDHR incorporating the Preamble mentioned above, with its the commitment to teaching and education, and following a 'UN Decade for HR education', the UK still

¹⁰ Committee on Economic, Social and Cultural Rights official records (E/C.12/1995/18) accessed 18/1/12 at [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/52d67689f3a7fd36802564730058baef/\\$FILE/G9615405.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/52d67689f3a7fd36802564730058baef/$FILE/G9615405.pdf)

suffers from lamentably low levels of awareness of ESCRs. On the positive side the British Institute for Human Rights, a private charity “committed to challenging inequality and social justice in everyday life in the UK,” produced in 2008 a teaching aid “to facilitate effective teaching and learning of human rights within KS3 Citizenship,” catchily titled *Right Here, Right Now*.¹¹ This provides a very good introduction to the subject, including a listing and summary of rights, but fails to mention anything about global poverty, duties of international assistance or issues regarding the global basic structure, other than quoting verbatim UDHR Articles 22 and 28.

The gap in human rights education and awareness is a major reason why the UK government is not held to account by the voting public. UK citizens in general are unaware of their rights in detail or of the obligations to other countries falling on the UK government. Until the public is made aware there seems little prospect of closing the other gaps in the human rights approach to global poverty. It is possibly too cynical to suggest that successive governments over the last 60 plus years have resisted introducing effective human rights education because it would raise expectations, highlight unfulfilled commitments, and attract unwelcome accountability. Irrespective of that, it is not at all obvious why the media have failed to hold successive governments to account for these shortcomings.

Before considering the possible response to this situation, I turn briefly to the gaps in the HDA.

8.2 Gaps in the Human Development Approach

Chapter 6 concluded that an extended CA was still deficient in two respects: clear assignment and acceptance of duties, and associated mechanisms for ensuring accountability. One could point to the MDGs and the HDRs as mechanisms that set and measure progress by country against specific goals. Certainly the attention brought by these mechanisms has focussed the efforts of many, particularly underdeveloped countries. But like the HRA, the HDA depends essentially on the Global Basic

¹¹ Accessed 19/1/12 at <http://www.bih.org.uk/sites/default/files/RightHereRightNow.pdf>

Structure and ODA, as well as on the performance of states' duties. These dependencies on international cooperation are spelled out in MDG 8, summarised below:

Target 8a: Develop further an open, rule-based, predictable, non-discriminatory trading and financial system

Target 8b: Address the special needs of the least developed countries

Target 8c: Address the special needs of landlocked developing countries and small island developing States

Target 8d: Deal comprehensively with the debt problems of developing countries

Target 8e: In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries

Target 8f: In cooperation with the private sector, make available the benefits of new technologies, especially information and communications

Indicators for these targets include:

Official Development Assistance:

- Net ODA, total and to the least developed countries, as percentage of OECD/DAC donors; gross national income
- Proportion of total bilateral, sector-allocable ODA of OECD/DAC donors to basic social services (basic education, primary health care, nutrition, safe water and sanitation)
- Proportion of bilateral official development assistance of OECD/DAC donors that is untied
- ODA received in landlocked developing countries as a proportion of their gross national income
- ODA received in small island developing States as a proportion of their gross national incomes

From this it is clear that efforts were made in the construction of the MDGs to focus on the twin goals of increasing ODA volumes and making aid more effective, in other words to move towards the long held targets and to distinguish development related ODA from military aid and other distortions in 'official aid'.

Nevertheless, the MDG Task Force Report for 2010 indicated:

- There has been no significant reduction in the tariffs imposed by developed countries in 2008, and average tariffs on key products from developing countries remain relatively high.
- Preliminary data show that total aid by DAC donors reached almost \$120 billion in 2009, or 0.31 per cent of donor country GNI. Only five European countries met—and in fact exceeded—the 0.7 per cent United Nations target, namely, Denmark, Luxembourg, the Netherlands, Norway and Sweden¹²

It seems that despite the efforts aimed at clarifying the meaning of international cooperation, and high profile conferences such as the Gleneagles Summit of 2005, the developed countries have not been persuaded to honour their longstanding commitments. It is tempting to think that the problem is similar to that impacting the HRA: lack of government accountability due to lack of voter interest caused by low awareness of obligations brought about by lack of relevant education.

However, a further problem exists for the HDA - the fact that the MDGs have a limited timeframe, concluding in 2015. Obviously the problem will still exist by that date. Anticipating that outcome 380 civil society organisations have begun a global campaign, “Beyond 2015,” aimed at establishing a global development framework after the MDGs, and UN Secretary-General Ban Ki-moon established a “UN System Task Team” in 2011 to coordinate efforts beyond the MDGs, and a “High Level Panel on the Post 2015 Development Agenda” in July 2012. Consequently we might reasonably expect some evolution of the MDGs in the years to come.

Even if we follow Gasper’s suggestion discussed in Chapter 6 and back the HDA into the HRA to take advantage of its permanent duties, tracking and accounting, progress seems blocked until some remedy is found for developed country intransigence on the global basic structure and aid.

¹² MDG Task Force Report 2010, Accessed 22/5/11 at http://www.un.org/esa/policy/mdggap/mdggap2010/mdg8report2010_engw.pdf

8.3 Obstacles to Progress

Of all the many contributing factors to global poverty listed earlier, Thomas Pogge has focussed on various weaknesses in the global basic structure, including the international rules for trade and intellectual property, and the international resource and borrowing privileges. Over a period exceeding 20 years he has highlighted the shortcomings in these various institutions and proposed solutions, such as The Health Impact Fund, which aims to provide fresh motivations for pharmaceutical companies to better meet the health needs of the poor. In this manner Pogge has extended the scope of his enquiries beyond conceptual analyses such as those of rights and duties to practical matters of implementation. As Leif Wenar observes,

Pogge has made feasibility the hub of his investigations.... For example, in the article on incentivizing the creation of essential medicines to combat the diseases that afflict the poor Pogge first asks whether differential pricing of drugs in rich and poor countries could work. He shows why this is a dead end, and starts afresh.¹³

Amongst the obstacles that Pogge and like-minded philosophers face in bringing forward practical solutions are those of simple human selfishness and the anarchic nature of the international system.

One might reasonably ask whether selfishness is a good thing or a bad thing. After all, moderate selfishness (or mutual disinterest as Rawls terms it) features as part of Hume's Circumstances of Justice, along with moderate scarcity and relative equality, as recalled by Rawls in *A Theory of Justice*.¹⁴ It would also seem central to the economic theory of 'Homo Economicus', in which narrowly self-interested actors use rational assessments, to attempt to maximize utility as a consumer and economic profit as a producer. However, one might point to a distinction between selfishness and narrow self-interest. According to some, selfishness is based on short-term calculations and self-interest requires a long-term perspective.¹⁵ For others self-interest is the action of an agent no matter what they are doing, whereas selfishness (and its opposite, altruism) requires the interaction of others in a particular situation. For Schwartz, as discussed in Chapter 6, self-enhancement values are positioned as the opposite of the altruistic (self-

¹³ Wenar (2009) "Realistic reform of international trade in resources," p127

¹⁴ Rawls (1971) pp127-130

¹⁵ E.g. Paul Nevins in response to comments on his letter to The New York Times, "Sunday Dialogue: Are Americans Selfish?" accessed 25/10/12 at http://www.nytimes.com/2012/07/15/opinion/sunday/sunday-dialogue-are-americans-selfish.html?pagewanted=all&_r=0

transcendent) values of universalism and benevolence. Although these various self-related terms are sometimes used interchangeably I will interpret selfishness in this context to mean an excessively low regard for altruism. Viewed this way an agent's degree of selfishness reflects the relative weighting of self-enhancement values versus self-transcendence values (in Schwartz' terms). Selfishness is potentially an obstacle to poverty-related initiatives if the importance attributed to values expressing social concern is too low (assuming individual values have any bearing on the initiatives concerned). This is the worry raised by Schwartz' previously mentioned comparison of US and Spanish/Italian attitudes – might selfishness inhibit efforts to build increased international cooperation? If so, one might consider how, if at all possible, to shift the balance in favour of greater self-transcendence values, i.e. benevolence and universalism in Schwartz' schema.

While we might debate the extent of human selfishness and its impact, there seems little doubt that we live in an anarchic international system, at least in the sense that our society of states lacks a central political authority or government.¹⁶ However, the implications of this fact for international relations are hotly debated. Depending upon one's view international anarchy might represent an insurmountable obstacle or merely a part of the context when considering social policies to address issues such as global poverty. The range of possibilities is illustrated by three of the leading descriptive theories of international relations: neorealism, neoliberalism and constructivism. A basic grasp of these theories helps in evaluating the work of Pogge and the prospects for success of his proposals.

Neorealism holds that states are the primary actors in international relations and that each state has national interests that drives its foreign policy and often opposes those of other states. Kenneth Waltz described the nature of neorealist international relations as a "self-help" system, meaning that no other states can be relied upon to help guarantee the state's survival.

With many sovereign states, with no system of law enforceable among them, with each state judging its grievances and ambitions according to the dictates of its own reason or desire - conflict, sometimes leading to war, is bound to occur. To achieve a favorable

¹⁶ Hedley Bull stated that anarchy was "the central fact of the international system and the starting place for theorizing about it." (Bull 1966 p35). Some might dispute the claim above on the basis that international anarchy is reduced or eliminated by the existence of multinational institutions such as the United Nations, WTO, etc.

outcome from such a conflict, a state has to rely on its own devices, the relative efficiency of which must be its constant concern.¹⁷

On this neorealist view, anarchy requires states to constantly monitor the motives and capabilities of their counterparts. It requires a focus on relative power. States need not be the most powerful, but merely as powerful as their potential enemies. Cooperation is limited to situations where dependency can be avoided. Orderly international relations obtain when powerful states avoid conflict through a balance of power.¹⁸ Some resemblance to selfishness at the individual level might be apparent.

By comparison neoliberals see anarchy at the international level much like a free market system with independent states acting like autonomous consumers. In their view self-interest motivates agents to cooperate and create supportive institutions. In contrast to neorealists, they see stability and order in an anarchic system as a consequence of cooperation rather than a balance of power. Jack Snyder, in reviewing theories of international relations suggests the core beliefs of the neoliberal theory are that “the spread of democracy and global economic ties, and international organizations will strengthen peace.”¹⁹ However, one might feel that the dependence on democracy is a weakness in the neoliberal position. It seems likely that countries transitioning from a weak political infrastructure to democracy face a significant risk of abuse and corruption as they adopt a market economy. This could lead to increased economic inequality, and a revolt against those that have most recently plundered the countries resources.

Constructivists, on the other hand, do not see anarchy as the main driving force in international relations. Snyder claims that constructivists believe, "International politics is shaped by persuasive ideas, collective values, culture, and social identities," and, “Social reality is created through debate about values, human rights and international justice.”²⁰ Alexander Wendt argues, “Anarchy is what states make of it.”²¹ In his view social norms shape and change foreign policy rather than the balance of power as advocated by neorealists. In other words it is the process and not structure that is

¹⁷ Waltz (1959) *Man, the State and War: A Theoretical Analysis* p159

¹⁸ Summary based on views presented in The Internet Encyclopedia of International Relations, accessed 26/10/12 at <http://www.towson.edu/polsci/irencyc/anarchy.htm>

¹⁹ Snyder (2004) “One World, Rival Theories.” *Foreign Policy* 145: 52–62.

²⁰ Ibid

²¹ Wendt (1992) - Anarchy is what States Make of it: The Social Construction of Power Politics

fundamental. Evolving identities and norms drive the degree and nature of cooperation.

He concludes,

Where neorealist and constructivist structuralisms really differ, however, is in their assumptions about what structure is made of. Neorealists think it is made only of a distribution of material capabilities, whereas constructivists think it is also made of social relationships. Social structures have three elements: shared knowledge, material resources, and practices.²²

Wendt provides a striking example of the difference between neorealist and constructivist readings of international politics that highlights the significance of social relationships.

500 British nuclear weapons are less threatening to the United States than 5 North Korean nuclear weapons, because the British are friends of the United States and the North Koreans are not, and amity or enmity is a function of shared understandings.²³

Nevertheless, neorealism has long been considered by many to be the leading theory of international relations based on its ability to explain past conflicts including WWII and the Cold War. However, the appeal of constructivism was boosted by the apparent failure of either neorealism or neoliberalism to predict the *end* of the Cold War. As Wendt explains, the importance of the Gorbachev regime was

... that it had the courage to see how the Soviets' own practices sustained the Cold War, and to undertake a reassessment of Western intentions. This is exactly what a constructivist would do, but not a neorealist, who would eschew attention to such social factors as naive and as mere superstructure. Indeed, what is so striking about neorealism is its total neglect of the explanatory role of state practice²⁴

This brief outline suggests that the implications of anarchy in the international system for the work of Pogge, and others, very much depend on one's preferred explanatory theory. Wenar finds evidence to suggest that perhaps Pogge denies the premise of anarchy

Pogge cuts against the foundational premise of mainstream international relations theory. This is the premise the global order is anarchic. According to Pogge, the citizens and governments of the rich countries (perhaps in concert with the leaders of poor countries) impose the major structural rules of the global economic order like the two international privileges, meaning that in some sense these actors have coercive control over setting and enforcing these rules. According to mainstream international relations

²² Ibid p73

²³ Ibid p73

²⁴ Wendt (1995) - Constructing International Politics, p80

theory, there is no agent that has such coercive control—any more than there is such an agent in classic state of nature theories. Pogge could perhaps draw on minority views within international relations (e.g., dependency theory) to support his denial of anarchy at the global level. Yet victory against the dominant theories in international relations—realism and liberalism in their many elaborations—will require a real fight.²⁵

Whether Pogge in fact denies anarchy or merely the neorealist interpretation, or needs constructivism to explain the imposition of the structural rules of the global economic order is open for debate. However my interest is mainly in how anarchy and its various interpretations might impact on his proposals for addressing those structural rules.

Wenar recognises that for Pogge the acceptance or denial of anarchy is not the main issue but rather, “whether the rules of the global order like the international privileges are in fact leading to significant oppression and poverty – and, if so, whether there are feasible paths to improving these rules.”

Later, when describing potential remedies for the resource privilege Wenar observes,

To be feasible, as Pogge says, a reform to this aspect of the global order would have to generate its own support by being morally and prudentially appealing to the major players who would be affected by it. The questions of feasibility is (sic) particularly intense with respect to the resource privilege because of the tremendous economic and political stakes involved in the international trade in extractive commodities.²⁶

He describes Pogge’s proposal to reform the resource privilege through constitutional amendments and a Democracy Panel²⁷ as characteristically imaginative and careful.

Pogge attends to the incentives this proposal would create, as well as to the unintended consequences that the proposal might engender.

Indeed Pogge is so scrupulously honest about his own proposal that, in the end, he states it cannot work as intended. The main obstacle that he points to is enforcement.

Wenar goes on to offer an alternative remedy with seemingly better prospects for enforcement that I will not explore here.²⁸ Rather I would summarise Pogge’s approach

²⁵ Wenar (2009). Dependency theory stems from the Singer-Prebisch thesis described in Chapter 4.1, and holds that resources flow from a "periphery" of poor and underdeveloped states to a "core" of wealthy states, enriching the latter at the expense of the former. (http://en.wikipedia.org/wiki/Dependency_theory, accessed 28/10/12)

²⁶ Ibid

²⁷ An international panel, composed of reputable, independent jurists living abroad who understand [the country’s] constitution and political system well enough to judge whether some particular group’s acquisition and exercise of political power is or is not constitutionally legitimate. Wenar (2009)

²⁸ Wenar’s proposal uses property entitlements based on existing legitimacy standards reported by Freedom House.

as having two strands. First, there are the institutional elements - constitutional amendments and the Democracy Panel. Second, there is the long history of opinion shaping,

Pogge's greatest public impact over the past 20 years has been to force the world's rich to see the world's poor. His statistical inventories and depictions of the manifestations of poverty in powerlessness, disease, and death, have been startlingly eye-opening.²⁹

On their own, and in the face of anarchy in the international system, the institutional elements of Pogge's proposal (like Wenar's alternatives) seem unlikely to be adopted under any of the three theories of international relations discussed here. However, when combined with Pogge's recognised success in debating values, human rights and international justice over an extended period there would seem some potential for adoption under a constructivist interpretation. How successful such an approach might be may depend upon how collective values, norms and cultures evolve, particularly in response to Pogge's continuous prompting, which makes monitoring and further influencing that evolution all the more important.

8.4 Conclusion

The HRA and HDA both seem hostage to developed countries' attitudes to international cooperation.

Regarding the HRA, the intention of the Drafting Committee (of The Commission on Human Rights), as reflected in Cassin's Portico, was to produce a *self-regulating system* of rights acceptable to all nations. Subsequent covenants and committees have filled in the details omitted in the UDHR. The system was intended to be *self-regulating* in the following sense:

- Governments are required to facilitate (eventually respect, protect and fulfil) the various rights of their citizens,

²⁹ Wenar (2009)

- Governments are entitled to benefit from international cooperation in meeting their obligations,
- Governments are held to account by UN bodies, by other countries, NGOs, the media and ultimately through the voice of their citizens.
- Citizens are empowered to hold their governments to account through awareness based on initially education in human rights and duties.

However, the empirical evidence shows that the most powerful countries - the developed countries - are not held effectively to account. They face insignificant penalties from UN bodies, ineffective sanctions from other less powerful countries, and ultimately very little pressure from their citizenry, arguably because of their public's lack of awareness and engagement. The situation seems very similar when considering the HDA - the general public in developed countries is not focussed on the international obligations within MDG 8 and brings little pressure to bear on their governments.

One might respond that developed countries *do* come under pressure from NGOs such as Human Rights Watch, Amnesty International, Oxfam etc., with the aid of the media, but these efforts appear to be of limited impact without general public support. It is tempting to conclude that philosophers have the opportunity to correct the human rights *system* through a focus on the missing element of education. But some might respond, this is exactly what many philosophers and others have been doing over recent decades: identifying and publishing papers and books on the apparent problems of the international order and foreign aid. The question arises, however, whether philosophers have targeted all the relevant target audiences. If one holds that democratic outcomes are strongly influenced only by the views of elite groups then publications directed at such groups may prove effective. Alternatively, if one holds that democratic outcomes depend on, or should depend on, the views of the public at large, then philosophers might be missing an important target with their existing readership.

This uncertainty about the corrective dynamics of democracy brings us back to the concerns expressed by Deneulin (Chapter 6) and her proposals for 'thickening' the Capability Approach. Deneulin seeks to strengthen Sen's CA against the dangers of elite influence and the distortion of people's differing values. Whereas the HRA specifically includes public awareness, through the teaching and education specified in the UDHR Preamble, and the HDA implicitly includes public awareness through Sen's

endorsement of democracy as the mechanism for resolving details, neither approach appears to address the topic of public values.

Various questions arise,

- Might the HRA or HDA fail even when awareness is heightened through education?
- Is public awareness of international human rights and obligations sufficient to ensure *developed country governments* are held accountable for their actions?
- If not, might the HRA (or HDA) be fundamentally incomplete and not just poorly implemented - incomplete in the sense of not being self-regulating.
- Are Deneulin's thickening proposals sufficient to bolster the HDA?
- Are the proposals of Pogge and others for reforming the global basic structure dependent upon cultural values, and if so to what extent?

At the beginning of this chapter I listed some of the numerous contributing factors to global poverty. Many of these factors are interconnected (e.g. the global basic structure and corruption) and I know of no empirical data that reliably apportions weightings to each individual factor. However, many of these factors can be associated with either national governance or international governance, or both. I take the view that weaknesses in international governance require the closest attention not solely for their direct impact via trading arrangements and aid etc., as argued by Pogge, but also for their influence over domestic governance. This raises questions about why the most powerful developed countries governments act the way they do? Are they accountable to nobody for their actions? If the final restraint on a developed country's government is through the political actions of its populace then the cultural values of such countries may be of vital importance. The next two chapters examine in more detail how cultural values might influence such actions.

Section 4 Reframing the Approach to Global Poverty

This final Section, returns to the subject of cultural values, as surveyed and analysed by social scientists, to better understand their relevance for our chosen approaches to global poverty.

Chapter 9 summarises the major contributions in this field, extending beyond the work of Schwartz introduced in Chapter 6.

Chapter 10 considers the implications of values theories and data for Human Rights and Human Development approaches.

And, finally, Chapter 11 sets out some consequences for political philosophers addressing major societal problems in general, and specifically in tackling the challenge of global poverty.

Chapter 9 Understanding Values

The previous Section concluded that there is a problem of global poverty: there is too much poverty in too many countries and it is not going away fast enough. It suggested there are a number of factors contributing to the problem: insufficiently clear duties, the global basic structure, ODA shortfalls and misdirection, democratic shortfalls and power imbalances. Deneulin and Stewart have suggested that values may lie at the root of some of these negative influences, particularly with regard to human development, and that we might usefully focus on ‘groups’ as drivers of values.

This Chapter will suggest that an important area of values analysis, extensively described by the social scientists Ronald Inglehart, Christian Welzel, and various collaborators, has been overlooked by philosophers working in the field of rights and development. References to their work, which I describe below, are absent in the writings of Sen, Nussbaum, Deneulin, Stewart, Gasper, Crocker, and Donnelly etc. The only exception being Alkire, who makes several references. My contention is that this analysis of values by Inglehart et al is potentially significant to the understanding of human development, human rights, and social responses to poverty.

Chapter 6 noted how Schwartz had identified ten motivational value types, common to persons in all societies, using data from the European Social Survey. He attributed variances in the behaviour within separate countries to differences in the priorities their citizens assigned to the ‘universal’ values. He explained how values tend to either support or oppose others with the aid of a circular diagram emphasising the dimensions of *Self-enhancement* vs. *Self-transcendence*, and *Openness to change* vs. *Conservation* (adjacent values support, opposite values oppose).

However, Schwartz was just one of several sociologists investigating cross-cultural differences and their consequences. Notable others include Geert Hofstede, Harry C. Triandis, Samuel P. Huntington, and Ronald Inglehart. Each has used different measures, across different groups, with differing analyses, and produced different conclusions, yet with an important common core of findings. Of all this work, perhaps

that produced by Inglehart and colleagues offers the most constructive ideas for political philosophers. After outlining the Inglehart approach, and identifying key aspects, a comparison will be made with some of the mentioned alternatives, and some conclusions drawn on the social science approach to values. The following chapter will then explore the possible impact of these ideas on the human rights and human development approaches to poverty.

9.1 Inglehart and the process of human development.

Inglehart and various collaborators (including Christian Welzel, Pippa Norris, Wayne Baker, and Hans-Dieter Klingemann) base their ideas on the findings of the World Values Survey (WVS) and the European Values Study (EVS, not to be confused with the previously mentioned ESS), collected periodically (five waves), with gradually increasing scope (eventually representing 90% of the world's population), since 1981. They claim that early theories of modernisation produced by Karl Marx and Max Weber were basically correct in suggesting that economic development brings major social and cultural changes.¹ However, the rise of knowledge industries and the service sector brings further waves of changes, not explicit in the earlier theories, which move post-industrial societies in new directions. Inglehart et al, in outlining a new concept of modernisation, suggest that such changes come in phases as societies move from agrarian, through industrial to post-industrial structures.² They also conclude that modernisation, as thus understood, leads to enduring mass attitudinal changes that are conducive to democracy,³ and are themselves a major driver of human development. My interest is in considering exactly how such changes in societal values and attitudes bear on questions of human rights and human development.

In a recent paper Inglehart and Welzel summarise their findings published over the previous decade based on values surveys since 1981.⁴ For them, the surveys demonstrate that the worldviews of people living in high-income countries differ significantly from those of low-income countries. They attribute much of this difference

¹ Inglehart and Welzel (2005) *Modernization, Cultural Change, and Democracy*, p1

² E.g. in Inglehart and Welzel (2009) "Development and Democracy: What We Know about Modernization Today"

³ E.g. Inglehart and Welzel (2010) "Changing Mass Priorities: The Link between Modernization and Democracy"

⁴ Inglehart and Welzel (2009)

to their concept of modernisation consisting of several distinct phases. The first phase is the transition from agrarian to industrial society. Agrarian societies typically prioritise religion, traditional values, and respect for authority; they reject abortion and homosexuality and have high levels of national pride. The surveys suggest these characteristics change (reduce in importance) with values becoming more secular and rational as the societies industrialise. Thus the first phase of modernisation involves a shift from traditional values to secular-rational values.

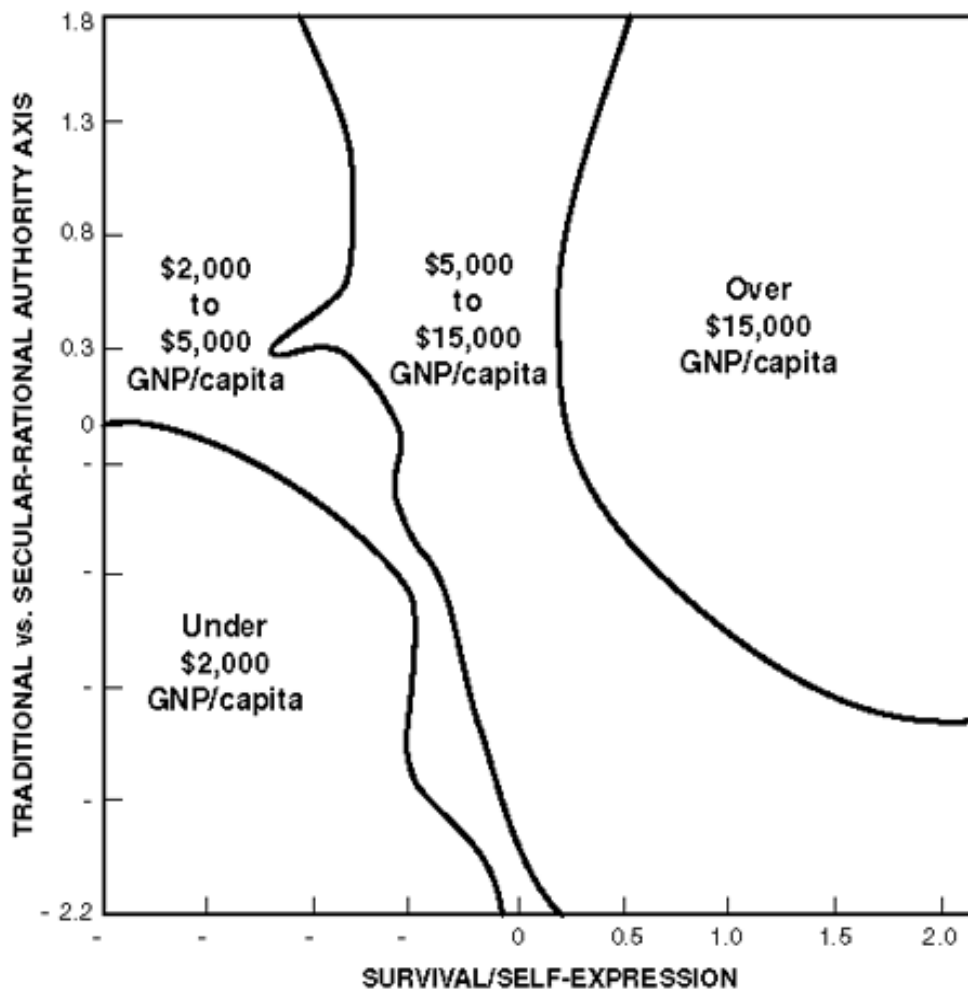
The second phase, involving a shift from survival to self-expression values, occurs as societies move from being industrial to post-industrial, service or knowledge-based. It occurs when a younger generation has grown up taking survival for granted. Survival values emphasise economic and physical security together with conservative social norms. Self-expression values emphasise “freedom of expression, participation in decision making, political activism, environmental protection, gender equality, and growing tolerance of ethnic minorities, foreigners, gays and lesbians.”⁵ As these values gain strength a culture of trust and tolerance develops in which high value is placed on individual freedom, self-expression and political activism, attributes Inglehart claims are crucial to effective and lasting democracy.⁶

The following chart reflects the relationship between economic growth and values:⁷

⁵ Inglehart and Welzel (2009) p5

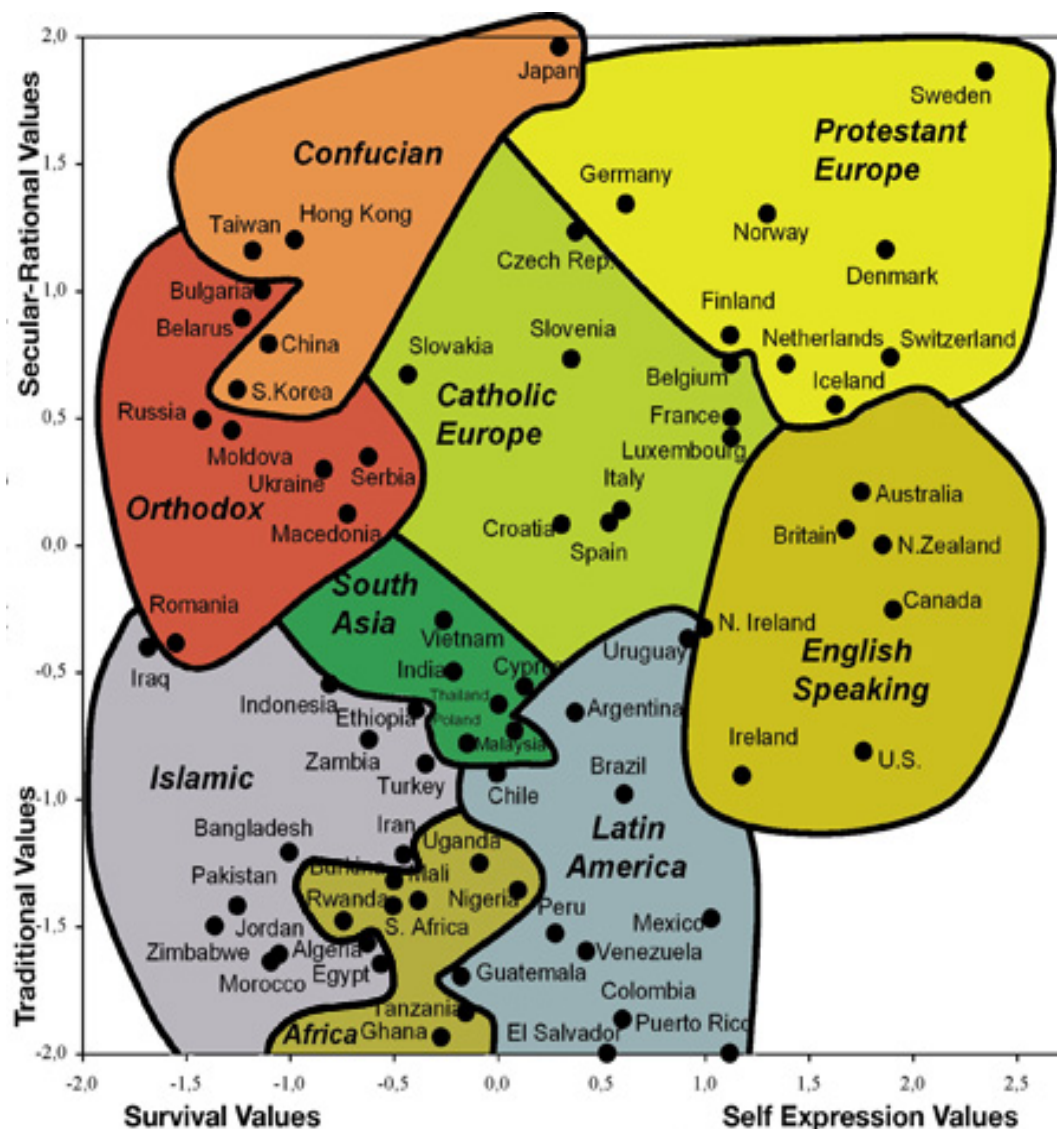
⁶ Ibid p7

⁷ Source: Inglehart and Baker, *American Sociological Review*, February, 2000, accessed 22/3/12 at http://www.worldvaluessurvey.org/wvs/articles/folder_published/article_base_56



On this basis one might expect that all societies would follow a similar path in the development of their values: from traditional to secular-rational, and from survival to self-expression. However, the surveys demonstrate that cultural history also plays an important part, ensuring that the path of development is many and varied, balancing the forces of modernisation and cultural tradition.⁸ In other words modernisation is an important force but not the sole driver of societal change. Inglehart et al have repeatedly made this point with versions of the following chart that shows distinct clusters of countries sharing similar cultural backgrounds on a grid formed by the two dimensions of value just described.

⁸ Inglehart and Welzel (2005) p5



The World Value Survey Cultural Map 2005-2008⁹

We can see that all the high-income countries lie towards the top right portion of this chart reflecting a strong emphasis on both self-expression and secular-rational values (with the US being somewhat of an out-rider), whereas all of the low-income and lower-middle income countries score relatively lowly on both dimensions, consistent with the previous chart. Inglehart and Welzel note, “To a remarkable degree, the values and beliefs of a given society reflect its level of economic development—just as modernization theory implies.”¹⁰ But the map also shows distinctive clusters of countries, representing Protestant Europe, Catholic Europe, ex-communist Europe,

⁹ Source: Ronald Inglehart and Christian Welzel, "Changing Mass Priorities: The Link Between Modernization and Democracy." *Perspectives on Politics* June 2010 (vol 8, No. 2) page 554 accessed 22/3/12 at

http://www.worldvaluessurvey.org/wvs/articles/folder_published/article_base_54

¹⁰ Inglehart and Welzel (2009) p7

English-speaking countries, Latin America, South Asian, Islamic and African cultural clusters, suggesting that values are also path-dependent.

Given the importance of this position for human rights and human development, the key elements are now examined in more detail.

9.1.2 Revised Theory of Modernisation

Inglehart and Baker first presented their revised theory of modernisation in 2000.¹¹ They noted that Marx and others had earlier argued that economic development prompts significant social and cultural changes, including the decline of religion. They also noted that Weber and others had argued that cultural values, including religious values, are persisting influences on societies. Inglehart and Baker claimed that the data from successive waves of WVS and EVS demonstrated both “massive cultural change and the persistence of distinctive cultural traditions.”

As already mentioned the key elements of the revised theory are:

- Phased, non-linear shifts in values associated with transitions from agrarian to industrial and then to post-industrial society: from traditional to secular-rational values, and from survival values to self-expression values. Economic collapse can reverse the effect leading to the re-emergence of traditional values.
- The reducing role of organised religion foreseen by the secularisation theory suggested by Marx and others is counterbalanced with growing concerns about the meaning of life. Religious beliefs persist.
- Cultural change appears, from the survey data, to be path dependent - cultural history matters.
- Modernisation is not “Westernisation” or “Americanisation.” Some of the fastest developing countries are Asian, not Western, and the US appears to be a deviant case.

¹¹ Inglehart and Baker (2000) “Modernization, Cultural Change, and the Persistence of Traditional Values.”

- Modernisation is probabilistic not deterministic. Economic development appears a major influence but other historical and contextual factors are involved.¹²

To better grasp this picture a little more detail is required on the nature of the values:

- | | |
|--------------------------------------|---|
| Traditional Values | <ul style="list-style-type: none"> - Relatively low tolerance for divorce, abortion, and homosexuality, - Male dominance in economic and political life, - Importance of family life and parental authority, - Respect for authority, - Strong emphasis on religion and religious authority,¹³ - High levels of national pride.¹⁴ |
| Secular-rational Values | <ul style="list-style-type: none"> - Reduced significance of all the above. |
| Survival Values | <ul style="list-style-type: none"> - Often presented as simply the opposite of self-expression values, sometimes as emphasising economic and physical security and conformist social norms.¹⁵ |
| Self-expression Values ¹⁶ | <ul style="list-style-type: none"> - Interpersonal trust, - Participatory orientation towards society and politics, - Gender equality, - Tolerance of foreigners, homosexuals and other out-groups, - Subjective well-being, - Political activism (demands for responsive government), and |

¹² Ibid p49

¹³ Ibid p23-24 mentions items listed to this point.

¹⁴ Appears in later works, e.g. Inglehart and Welzel (2009)

¹⁵ Inglehart and Welzel (2009) p7

¹⁶ Sometimes referred to as Emancipative Values, e.g. Welzel, Inglehart & Klingemann (2003) , and earlier as Postmodern Values, e.g. Inglehart (1997)

- Self-expression (freedom of expression),¹⁷ and sometimes
- Environmental protection.¹⁸

One might be concerned that the categories of values Inglehart and co. examine are not entirely discrete, with some apparent overlap between traditional values and survival values with regard to various forms of discrimination. This concern can be at least partially addressed by considering the full list of questions/answers contributing to each value dimension together with their various correlations.¹⁹ However, it is beyond the scope of this outline to re-examine in detail their detailed questionnaires and base data. Nevertheless, it is reasonable to conclude that self-expression values include elements not found in the secular-rational list that play an important role in Inglehart's revised modernisation theory.

9.1.3 Economic Development and Democracy

According to Inglehart and Welzel, self-expression values are more strongly correlated with democracy than any other factor, including GDP per capita. However, economic development is strongly linked with the emergence and survival of democracy through its impact on self-expression values.²⁰ Later, they expand on this stating

economic development is conducive to democracy insofar as it, first, creates a large, educated, and articulate middle class of people who are accustomed to thinking for themselves and, second, transforms people's values and motivations.²¹

They also maintain that their analysis of WVS and EVS data indicates that the causal arrow flows mainly from culture, based on self-expression values, to democratic institutions rather than in the opposite direction.²² From a theoretical standpoint they argue that:

¹⁷ E.g. Welzel and Inglehart (2008) pp129-130, and Inglehart and Baker (2000) p25

¹⁸ Inglehart and Welzel (2009) p7

¹⁹ Such detail is provided in Inglehart and Baker (2000), tables 1, 2 and 3.

²⁰ Inglehart and Welzel (2005) p4

²¹ Inglehart and Welzel (2009) p9

²² Inglehart and Welzel (2005) pp5, 9 and detailed in Chs 7 and 8

- (1) socioeconomic development brings increasingly favorable existential conditions;
- (2) this gives rise to mass self-expression values, which place a high priority on human freedom and choice:
- (3) these values mobilize social forces that seek the adoption of democracy, if it is not yet in place, and favor the survival and deepening of democracy, if it is already in place.²³

And, from an empirical position they argue:

Multivariate analysis of the data from the values surveys makes it possible to sort out the relative impact of economic, social, and cultural changes, and the results point to the conclusion that the economic development is conducive to democracy insofar as it brings specific structural changes (particularly the rise of the knowledge sector) and certain cultural changes (particularly the rise of self-expression values). Wars, depressions, institutional changes, elite decisions, and specific leaders also influence what happens—but cultural change is the major factor in the emergence and survival of democracy.²⁴

And,

Causal effects in the reverse direction, that is, from democratic institutions to self-expression values, were negligible.²⁵

Based on their findings, it appears that economic development is a major, but indirect, driver of democracy.

9.1.4 Effective Democracy

It is important for our understanding of cultural change and human development to distinguish between effective democracy and electoral democracy, and other versions of formal democracy. The holding of elections is not sufficient to count as effective democracy. Under ‘electoral democracy’ elite bargaining is key and mass preferences count for little. On the contrary, “The essence of democracy is that it empowers ordinary citizens.”²⁶ Effective democracy therefore requires not just the institution of voting, or indeed other institutions such as constitutions and political rights, but the practice of those roles and rights by all parties.

²³ Ibid p172

²⁴ Inglehart and Welzel (2009) pp9-10

²⁵ Inglehart and Welzel (2005) p208

²⁶ Welzel and Inglehart (2008) p 128, and Inglehart and Welzel (2009) p10. Similar in Welzel, Inglehart & Klingemann (2003)

There is no simple measure of effective democracy readily available but Inglehart and Welzel developed an approximate measurement they claim is sufficient for tracking and analysis purposes. It combines formal democracy, as measured by Freedom House, and elite and institutional integrity, as measured by the World Bank's anti-corruption scores. This latter element reflects the degree to which government leaders and other elites actually respect citizens' political rights.

One can establish electoral democracy almost anywhere, but it will probably not last long if it does not transfer power from the elites to the people. Effective democracy is most likely to exist alongside a relatively developed infrastructure that includes not only economic resources but also widespread participatory habits and an emphasis on autonomy.²⁷

Using their combined measure (Freedom House/World Bank) and WVS data Inglehart and Welzel conclude that:

- (1) self-expression values have a strong causal impact on the emergence of formal democracy, but
- (2) these values have an even stronger impact on the emergence of effective democracy, and
- (3) self expression values are conducive to elite integrity,²⁸ the factor that closes the gap between formal and effective democracy.... The rise of an emancipative culture brings increasing mass disapproval of favoritism and corruption²⁹

As long as authoritarian elites control the police and the army, governments can suppress the wishes of its citizens. However, it becomes increasingly difficult to protect elites' special interests and suppress democratic forces as citizens get more politically active, as evidenced in recent "Day of Rage" and "Occupy" demonstrations, in over 70 cities around the world, against global greed (anti Wall Street - anti global capitalism).

Inglehart and Welzel argue that value changes in post-industrial society are "pushing elite-centered societies toward a more people-centered model in which authorities can no longer take mass loyalty for granted and are forced to become increasingly

²⁷ Inglehart and Welzel (2009) p11

²⁸ Inglehart and Welzel (2005) p193. "The "control of corruption" scores developed by the World Bank (Kaufman et al, 2003) provide the most comprehensive and methodologically most sound measure of law-abiding and honest elite behavior, or "elite integrity.""

²⁹ Inglehart and Welzel (2005) pp208-209

responsive to mass demands.”³⁰ Self-expression values thus create pressure for effective democracy.

9.1.5 Syndrome of Human Development

In 2003, Welzel, Inglehart and Klingemann proposed a ‘syndrome of human development’ driven by socioeconomic development, emancipative values and increasingly effective democracy.³¹

Within ‘socioeconomic development’ they include urbanisation, social mobilisation, and labour differentiation that increase the complexity of society and the interconnections between individuals, as well as the more obvious income benefits. These new interconnections help “to weaken vertical authority relations and to strengthen horizontal bargaining relations, giving people greater autonomy over their resources.” The rising incomes and knowledge base that comes with these developments helps to increase citizens’ material and intellectual resources. These resources and the increasing autonomous control give people the objective means of *choice*, a central aspect of human development. By emancipative values these authors mean the self-expression values already discussed. They suggest these values contribute the motivation for *choice*. And finally, effective democracy institutionalises the legal rights that underpin people’s *choice*.

In summary they claim that:

Analysis of data from the World Values Surveys demonstrates that the linkage between individual resources, emancipative values and freedom rights is universal in its presence across nations, regions and cultural zones; that this human development syndrome is shaped by a causal effect of individual resources and emancipative values on freedom rights; and that this effect operates through its impact on *elite integrity*, as the factor which makes freedom rights effective.³²

³⁰ Ibid p296

³¹ Welzel, Inglehart & Klingemann (2003) p344

³² Ibid p341

Inglehart and Welzel subsequently present their view of human development with the following table³³:

Human Development			
	Socioeconomic Dimension	Cultural Dimension	Institutional Dimension
Processes advancing human development	Modernization	Value Change	Democratization
Components of human development	Socioeconomic resources	Self-expression values	Civil and political liberties
Contributions to human development	Enhancing people's <i>capabilities</i> to act according to their choices	Increasing people's <i>priority</i> to act according to their choices	Broadening people's <i>entitlements</i> to act according to their choices
Underlying theme	The broadening of human choice (an increasingly humanistic society)		

They also make reference to Sen's work on human development - one of the very few identifiable cross-references between the social science/social psychology and philosophical viewpoints:

³³ Source: Inglehart and Welzel (2005) p3

the concept of ‘human development’, as introduced by Anand and Sen, provides a potential conception of this focus, but this potential has not been fully exploited. **Thus far, the concept has neither included mass values nor elite integrity.**³⁴

In a similar vein, Inglehart and Welzel later claim:

We build on Sen (1999) and Anand and Sen (2000), who argue that expanding human choice is the essence of societal development. But we broaden Sen’s concept of human development to include culture, which provides the essential link between economic development and democratic freedom.³⁵

Before considering the implications of these claims for the CA to human development, or the HRA, several further questions about societal values need to be considered, including the dynamics of mass values, their relation to agency, the concern about selfishness, and various other criticisms.

9.1.6 The Dynamics of Mass Values

Inglehart and Welzel address the concern that some social scientists view mass attitudinal data as volatile and too unreliable to shape democratisation, analysing “data from almost 400 surveys to demonstrate that modernization-linked attitudes are stable attributes of given societies and are strongly linked with many important societal-level variables, ranging from civil society to democracy to gender equality.”³⁶ Whilst they accept that some survey values, such as ‘Presidential popularity’ are highly volatile, they argue that the data from successive WVS surveys supports their view that key values related to their modernisation theory are fully as stable as standard social indicators such as GDP/capita.³⁷

They also consider the concern that nationality itself may be irrelevant: maybe we should group people by education level rather than country of origin. However, their analysis suggests that nationality is an important variable, as reflected in the cultural map above.³⁸ They illustrate the point by reference to Italy that falls almost at the center of the cultural map:

³⁴ Welzel, Inglehart & Klingemann (2003) p370, (my emphasis), referring to Anand and Sen (2000) “Human Development and Economic Sustainability.”

³⁵ Ibid p286

³⁶ Inglehart and Welzel (2010) “Changing Mass Priorities: The Link between Modernization and Democracy,” p551

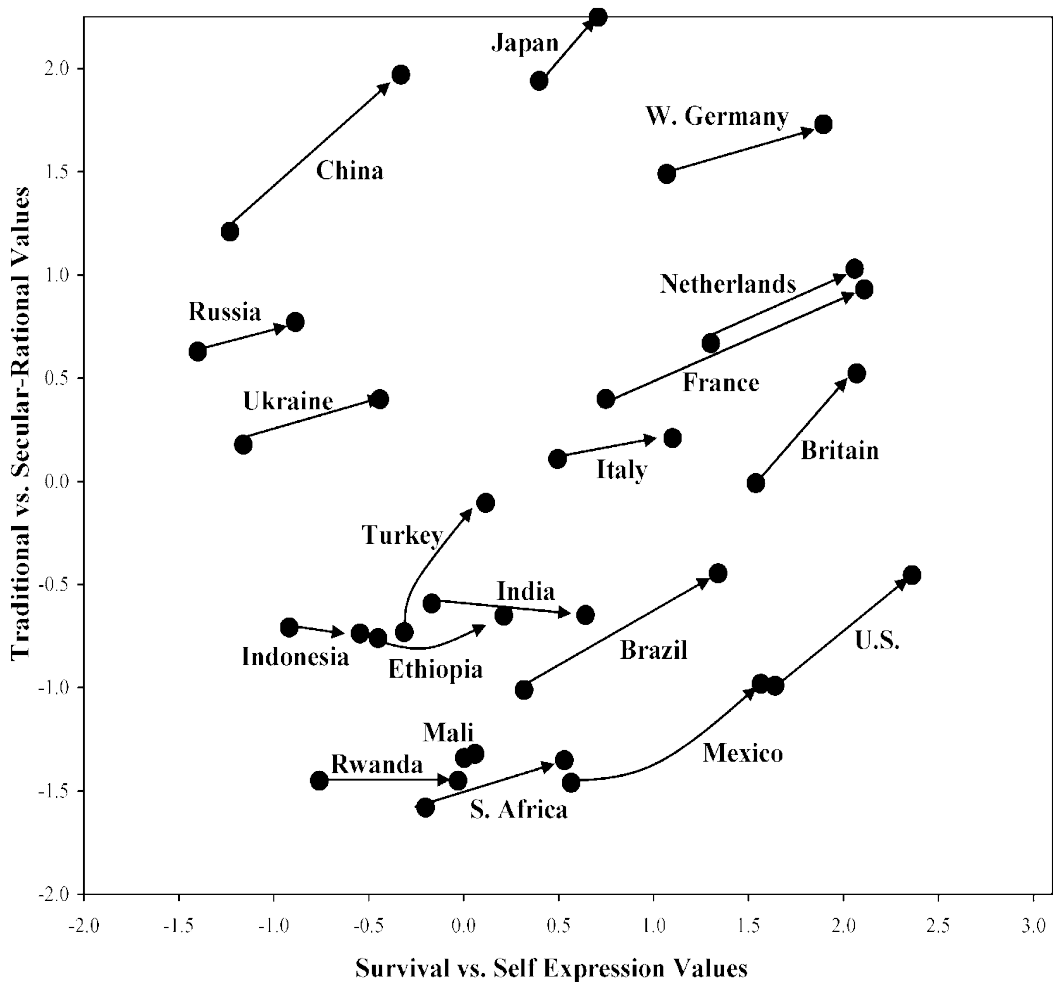
³⁷ Ibid p552-3

³⁸ Schwartz reaches a similar conclusion in Schwartz (2004) p19

Although individual Italians can fall anywhere on the map, there is surprisingly little overlap between the prevailing orientations of large groups of Italians and their peers in other countries: most nationalities are at least one or two standard deviations away from the Italians.³⁹

They explain such inter-country differences by pointing to the importance and persistence of cultural heritage.⁴⁰ They also demonstrate that differences in education level do impact on the principal modernisation values. University educated persons typically score more highly on self-expression values and secular-rational values. However, similarly educated people worldwide do not occupy the same position on the cultural map, as apparent in the following chart:

Locations of university-educated vs. rest of sample on global cultural map, 2005–2007 (arrow runs from less-educated to university-educated respondents)⁴¹



³⁹ Inglehart and Welzel (2010) p554, note Spain is close to Italy on cultural map.

⁴⁰ See also Inglehart and Baker (2000)

⁴¹ Ibid p555 including chart

Having argued for the stability and appropriateness of these national level modernisation-related values Inglehart also confirms his explanation for the mechanism of value change over time.

Inglehart first proposed his theory of intergenerational value change in 1971, based on two hypotheses:

1. A scarcity hypothesis. Virtually everyone aspires to freedom and autonomy, but people tend to place the highest value on the most pressing needs. Material sustenance and physical security are immediately linked with survival, and when they are scarce people give top priority to these 'materialistic' goals; but under conditions of prosperity, people become more likely to emphasise 'post-materialist' goals such as belonging, esteem, and aesthetic and intellectual satisfaction.
2. A socialisation hypothesis. The relationship between material conditions and value priorities is not one of immediate adjustment: to a large extent, one's basic values reflect the conditions that prevailed during one's pre-adult years and these values change mainly through intergenerational population replacement.⁴²

Inglehart's theory holds that if a young generation grows up under more secure conditions than its parents, then we should expect a measurable difference in their key values (including self-expression values), even if both generations have experienced the same improvement in social conditions (albeit at different stages of their lives). National level scores move primarily because one older cohort of participants is replaced by a younger cohort rather than as a result of everyone, on average, changing scores through time. Central to this theory is the view commonly held by social scientists that one's basic personality is formed by the time one reaches adulthood.⁴³ Inglehart used data from Eurobarometer surveys⁴⁴ and WVS covering a 35year period to support his hypothesis that intergenerational value changes were taking place linked to rising levels of existential security. Although primarily focussed on Western countries, given the availability of data over the period concerned, he argues that the phenomena applies to all countries experiencing modernisation as he describes it.

⁴² Inglehart (2008) - Changing Values among Western Publics from 1970 to 2006, p131

⁴³ Ibid p132

⁴⁴ Eurobarometer surveys have been conducted by the European Commission to track and analyse public opinion in current and potential European Member States.

One might challenge the social science view that basic personality is formed by adulthood. It seems reasonable to hold that people can go on ‘learning’ during their adult years and make meaningful adjustments to their values, in the light of personal experience and shifting group norms. This is not to deny Inglehart’s intergenerational factor but merely to suggest that other factors might also be in play that might reinforce value changes or work against them if they seem threatening. Searching for, and finding such accelerators of value change may prove important.

9.1.7 Agency

Alkire drew attention to the possible overlap between the disciplines of political philosophy/human development and social psychology/social science with her survey of value systems in *Valuing Freedoms*. Her summary includes outlines of work by Schwartz and Inglehart.⁴⁵ Her subsequent paper on Agency is a further attempt to highlight the contact points between philosophers and others working in the human development field, and sociologists working on mass values and cultures.⁴⁶

In this latter work, Alkire surveys various subjective measures of human agency, including those of Schwartz and Welzel/Inglehart and compares them to Sen’s concept of agency discussed earlier. Her aim is to show the potential contribution of work in the disciplines of social science and social psychology that appear to have been overlooked by many working in the fields of economics or development. She focusses on the similarity of Sen’s agency and Inglehart and Welzel’s “mass liberty aspirations” (a component of self-expression values), and Schwartz’ self-direction values (independent thought and action - choosing, creating, exploring). In particular, she draws attention to the methods by which information on agency freedom might be gathered directly. Rather than drawing any strong conclusions from this survey her aim is to encourage more interaction between those working in these various disciplines.

Considering agency, Welzel and Inglehart start from the Sen’s position in *Development as Freedom*:

⁴⁵ Alkire (2002) pp63-71

⁴⁶ Alkire (2005) - Subjective Quantitative studies of Human Agency

‘Human’ development is hence any development that promotes the most human trait—
agency
(Sen 1999)

And continue:

In the life course of individuals, human development is the maturation of a person’s agentic traits. Applying the same logic to the trajectory of societies, all changes that bring a larger number of people in the situation to more fully realize their agentic traits, is to be characterized as ‘human’ development (Welzel et al. 2003).⁴⁷

Because self-expression values emphasize personal autonomy, people who adopt these values should find the feeling of being agents in shaping their lives more important.⁴⁸

Having made this theoretical connection to Sen, Inglehart and Welzel analyse WVS data to demonstrate the following sequence, consistent with their modernisation theory:

- (1) in response to widening opportunities of life, people place stronger emphasis on emancipative values,
- (2) in response to a stronger emphasis on emancipative values, feelings of agency gain greater weight in shaping people’s life satisfaction,
- (3) in response to a greater impact of agency feelings on life satisfaction, the level of life satisfaction itself rises.

Further analyses show that this model is culturally universal.⁴⁹

Their position is that under an evolutionary view of human development, such as their modernisation theory, agency comes to the fore once existential conditions become adequate.

Arguably the work of Inglehart et al may prove more important for insights into how mass values evolve, and what that implies for the delivery of human rights and human development, rather than for its contribution to the methodologies for measuring agency.

⁴⁷ Welzel and Inglehart (2010) “Agency, Values, and Well-Being: A Human Development Model” p44

⁴⁸ Ibid p50

⁴⁹ Ibid p45

9.1.8 Selfishness

A concern arising in the discussion of Schwartz' self-direction values (power, achievement), and again with Inglehart's self-expression values, is that the apparent focus on 'self' may be detrimental to societal well-being - 'self' seems just too egotistic.

Welzel seeks to address this issue head-on in, "How Selfish Are Self-Expression Values? A Civicness Test." He writes:

Some declare self-expression values uncivic because they see them as indicative of egoism and weak social capital. Others ... interpret them as a sign of altruism and strong social capital.

Welzel analyses WVS data to conclude that self-expression values, although individualistic in nature, are a civic form of modern individualism.⁵⁰

Cross-cultural evidence from the World Values Surveys supports the civic view on both accounts. First, in a Schwartz value space, self-expression values are associated with altruism, especially at high levels of self-expression values. Second, in a social capital space, self-expression values go together with trust in people and peaceful collective action.

However, the conclusions are not strongly supported partly because the WVS questions do not separate close-by altruism from wide altruism.

9.1.9 The United States of America

Earlier in this chapter the US was identified as a deviant case in the field of modernisation. Its self-expression values line up with Inglehart's revised theory of modernisation, being at the high end of the scale as befits a post-industrial society. However, its high score in Traditional values (low in secular-rational values) stands out against the expectations of the Inglehart model. Economic development appears not to have produced the expected evolution of traditional values. How is this anomaly to be explained?

⁵⁰ Welzel (2009) p1

We might consider that the unexpected outcome is a product of the survey design and methodology. Perhaps the heavy concentration on questions relating to religion in the WVS produces this strong response on the Tradition scale from US respondents. However, there may be more than survey design involved, given that Schwartz also identifies the US as exceptional using completely different questions, as mentioned in Ch6.

Baker has studied America's position within the WVS Cultural Map and confirms it as exceptional, "There is no nation that is more traditional and more self-expression oriented at the same time."⁵¹ He also notes that its position on the cultural map has remained constant between 1981 and 1995, and subsequently has moved only slightly.

Baker argues that America's extraordinary cultural heritage provides the counteracting force against the normal secularising influence of economic growth. It does this both through the process that Inglehart and Baker term 'path dependence,'⁵² and as a result of traditional values being the foundation of what it is to be an American. (Note the similarities to Moravcsik's opinions reported in Chapter 8.)

The path dependence is particularly strong due to the unusual nature of the early Americans (not first Americans) and to the institutions that ensure cultural reinforcement. The 'first immigrants' were religious exiles from Europe, mainly Protestants with a deep distrust of church hierarchies and state-controlled religion.⁵³ These were later joined by economic immigrants seeking better opportunities, and together these migrants shaped American individualistic and anti-government values. Successive waves of immigrants were attracted to and bought into this American ideology. The continuation of this heritage is reinforced by the daily recital of the Pledge of Allegiance by all children in American public schools:⁵⁴

I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

⁵¹ Baker (2008) "America the Traditional" p11, also Baker (2005) *America's Crisis of Values: Reality and Perception*

⁵² E.g. Inglehart and Baker (2000) p49

⁵³ Baker (2008) p15

⁵⁴ *Ibid* p19

Baker points out that the US Congress inserted the phrase “under God” in 1952 in an effort to distinguish America’s religious heritage from “Godless communism.” But in addition to providing a link with the past, Baker argues that America’s traditional values also act as a founding glue that binds the community together. Given that America is made up of immigrants from many countries lacking common language, ancestry, religion, customs and traditions, it requires some basis around which the community can gel. That basis, Baker maintains, is its traditional values.⁵⁵

Norris and Inglehart offer an alternative rationale for America’s ‘deviant’ values that is equally appealing. They argue that the normal secularising influence of economic development is retarded in the United States because of the extraordinary level of socioeconomic inequality as suggested by Gini coefficient scores.⁵⁶ They argue that economic development normally leads to more emphasis on secular-rational values as a result of reduced insecurity. Higher income typically opens more opportunities for choice and provides a greater sense of security. However, in the United States, income inequality remains exceptionally high leaving many relatively poor and insecure. Even those with higher income face anxieties about health, schooling, and job security given the absence of the welfare state benefits enjoyed by many European countries. Norris and Inglehart attribute this condition to America’s “cultural emphasis on the values of personal responsibility, individual achievement, and mistrust of big government.”

Both these explanations of America’s exceptionalism (as well as that of Moravcsik reported earlier) appear to have merit, and may even be causally linked, emphasising the view that cultural values are complex and influenced by many factors. This would imply that revised modernisation theory of Inglehart et al is a simplified model, valuable as a guide to behaviour, but perhaps incomplete.

To better evaluate the potential contribution of social values to human rights, human development, and global poverty, it is helpful to consider the leading alternatives to Inglehart’s views, starting with some elaboration on Schwartz and then briefly the position of Hofstede.

⁵⁵ Ibid p21

⁵⁶ Norris and Inglehart (2004) p106-110. Of ‘Developed Countries’ only Hong Kong has higher Gini scores, as accessed 22/3/12 at http://www.nationmaster.com/graph/eco_gin_ind-economy-gini-index

9.2 Schwartz and Cultural Value Orientations

Schwartz' theory of ten motivational value types for individuals was introduced in Ch6. However, Schwartz went on to consider *cultural* value types. Whereas individuals' values are the criteria they use to select and justify actions and to evaluate people and events, the value emphases in a society may be the central feature of culture.⁵⁷ On Schwartz' view culture consists in a rich complex of meanings, beliefs, practices, symbols, and values. Culture thus refers to "the press to which individuals are exposed by virtue of living in particular social systems ... it influences the distribution of individual beliefs, actions, goals, and styles of thinking through the press and expectations to which people are exposed." Cultural values thereby provide a key part of the context within which individuals' values are formed.

Schwartz selects a set of three basic societal problems to derive dimensions on which to compare cultures. By considering how different cultures might respond to these problems he identifies seven cultural orientations.

The first of Schwartz' three societal problems is that of defining the boundaries between the individual and society: To what extent are people autonomous vs. embedded in their society?⁵⁸ He labels the two extremes of this dimension as *autonomy* and *embeddedness* (other theorists such as Hofstede and Triandis sometimes refer to this dimension as individualism-collectivism). However, he splits autonomy into two parts (hence 7 orientations from just 3 dimensions). Cultures emphasising *Intellectual autonomy*, encourage curiosity, creativity and the pursuit of one's own ideas, whereas those emphasising *Affective autonomy*, encourage the pursuit of positive experiences such as pleasure and an exciting life.

At the other extreme, cultures emphasising *Embeddedness* (termed *Conservatism* in Schwartz' earlier works, e.g. Schwartz (1999)) expect persons to operate through collective structures and strive for shared goals. They are expected to prioritise for the

⁵⁷ Schwartz (2008) "Cultural Value Orientations: Nature & Implications of National Differences," p4

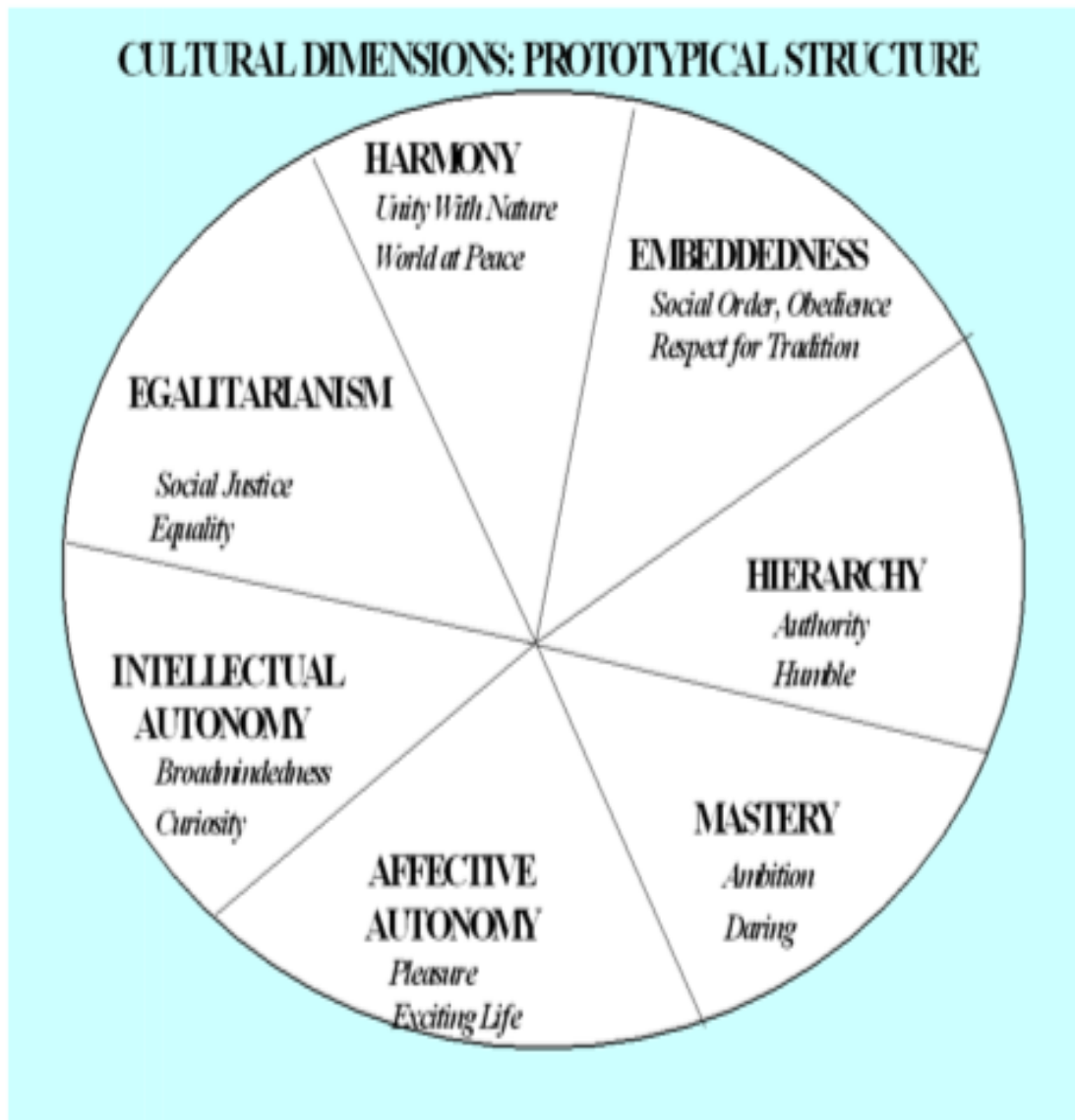
⁵⁸ Ibid p7

benefit of the community as a whole. Important values in such cultures include social order, respect for tradition, security, and obedience.

The second problem selected by Schwartz is how to guarantee that people work so as to maintain their social fabric. The two extremes he identifies as *Egalitarianism* and *Hierarchy*. Egalitarianism recognises the moral equality of persons, and such societies encourage concern for the welfare of others. Important values include equality, social justice, responsibility, help and honesty.⁵⁹ At the other extreme, hierarchal societies allocate roles to different groups to ensure responsible behaviour. Inequality is tolerated to ensure order and continuity. People are socialised to accept their position in society, whatever it is. Values in such societies include social power, authority, humility, and wealth.

Schwartz' final societal problem is how to regulate the treatment of human and natural resources. The cultural orientation of *Harmony* emphasises being in tune with the social and natural world. Key values in such a society include world peace, unity with nature, environmental protection. The opposite position on this issue is held by societies demonstrating *Mastery*. They advocate active self-assertion to direct and mould the natural and social order to serve the best ends of individuals or groups. Key values include ambition, daring, self-sufficiency, and competence.

⁵⁹ Ibid p8



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The above chart summarises Schwartz' cultural orientations. The circular presentation is intended to convey the notion that opposites conflict and adjacent positions share some features in common.

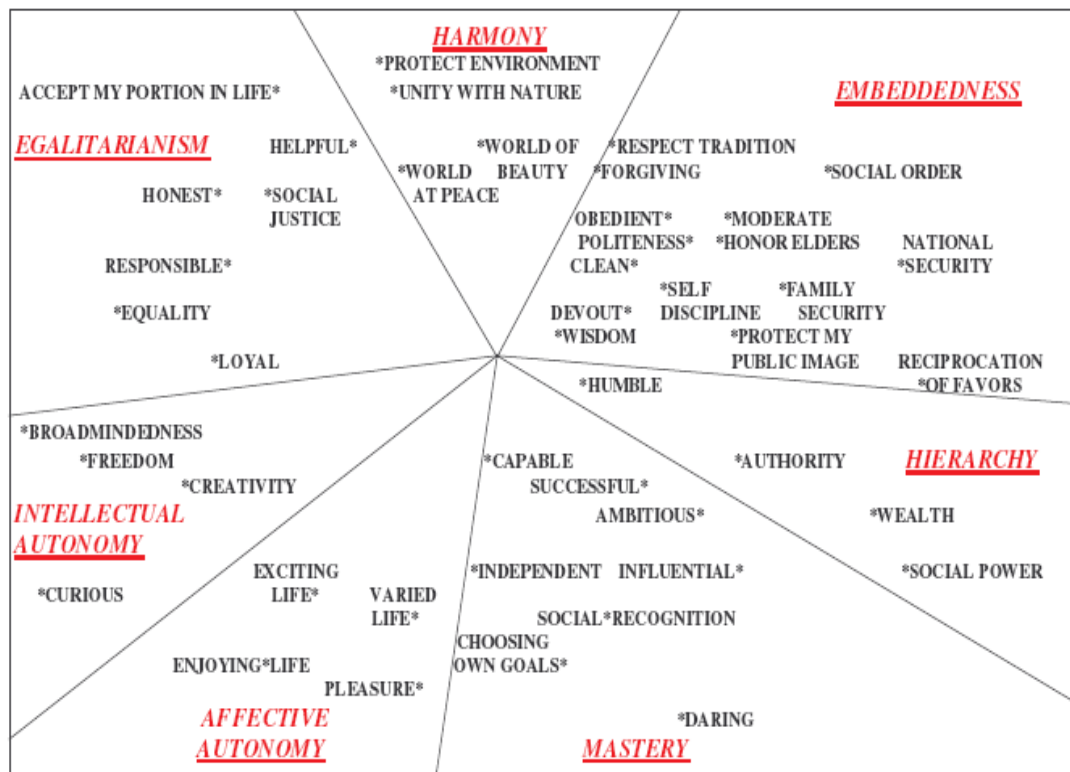
For example, egalitarianism and intellectual autonomy share the assumption that people can and should take individual responsibility for their actions and make decisions based on their own personal understanding of situations. And high egalitarianism and intellectual autonomy usually appear together, as in Western Europe. Embeddedness and hierarchy share the assumption that a person's roles in and obligations to collectivities are more important than her unique ideas and aspirations. And embeddedness and hierarchy are both high in the Southeast Asian cultures I have studied.⁶¹

⁶⁰ Ibid p9

⁶¹ Ibid p9

To measure the value priorities of individuals Schwartz uses the 56 (sometimes 57) value types listed in the Appendix to Ch6. To evaluate cross-cultural values, Schwartz selects 46 of these value types that are judged to have equivalent meanings across cultures. He groups these value types according to their fit with the 7 cultural dimensions (orientations) described above, and as shown below:

Culture Level MDS of Value Items



Source: Schwartz (2008) (MDS is multidimensional scaling)

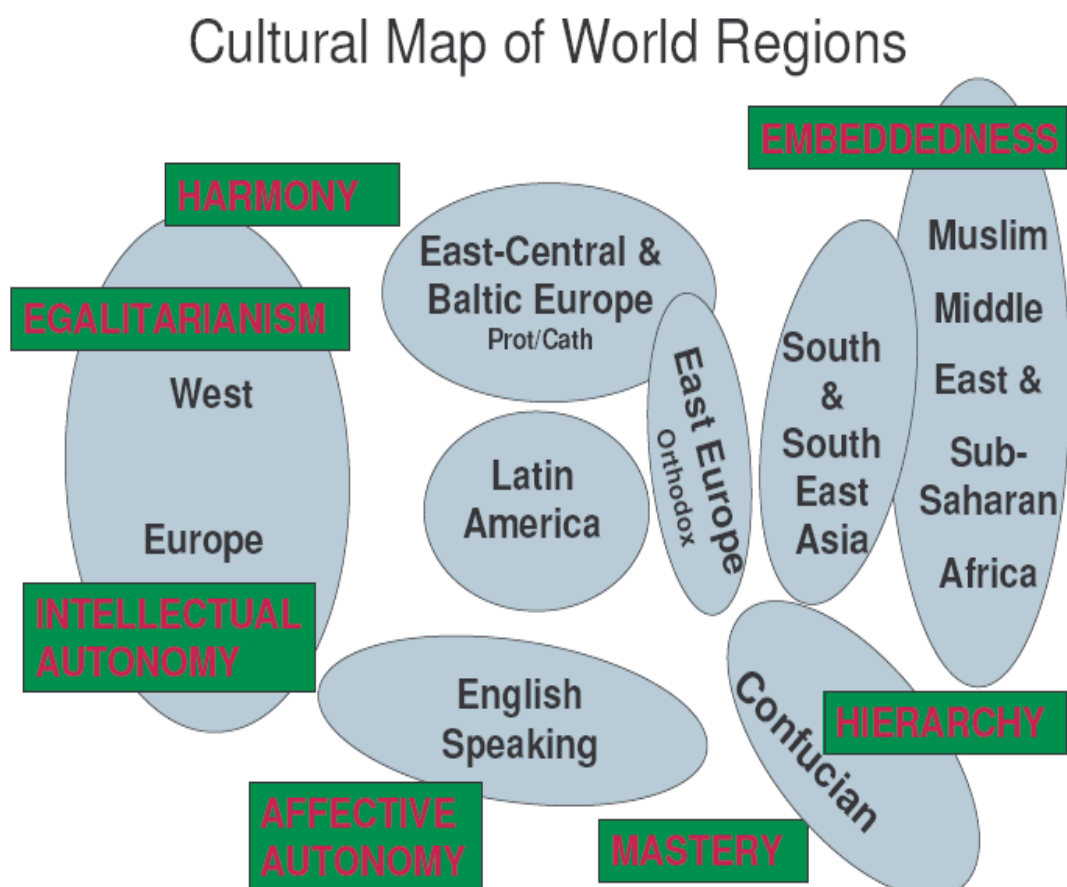
His test results are taken from 77 cultural groups of students and teachers over the period 1988-2005. He concludes that the observed results fully support his theorised content and structure, and elaborates the distinction between individuals' values and cultural orientations:

Analyses of relations among values at the individual level yield a different structure, one that fits the ten motivationally distinct values that characterize individual differences (Schwartz, 1992). For example, humility and social power correlate positively in the culture-level analysis because, in a society organized around the legitimacy of hierarchy, members must accept that they are inferior to some as well as superior to others. At the individual level, these two values correlate negatively because the simultaneous pursuit of humility and of social power are contradictory for individuals (Schwartz, 1999). This

reinforces the view that cultures and individuals are distinct entities and that different principles organize the normative cultural systems of societies and the motivational value systems of individuals.⁶²

Schwartz notes that countries are rarely homogenous with unified cultures raising doubts about their suitability for use in studies of cultural variation. However, he reports that his data confirms Inglehart's findings that countries are statistically meaningful cultural units for analysis.⁶³ He also found that cultural value orientations are quite stable, again confirming Inglehart's observations.⁶⁴ Elsewhere, he goes further stating, "The appropriate unit of analysis for assessing the validity of culture-level dimensions is the society or cultural group, not the individual person."⁶⁵

To demonstrate the cultural variation across countries Schwartz drew boundaries around culturally similar sets of countries resulting in the following diagram:



Source: Schwartz (2008)

⁶² Schwartz (2008) p13n3

⁶³ Ibid p14

⁶⁴ Ibid pp16-17

⁶⁵ Schwartz (1999) p24

Schwartz notes, “The eight cultural regions overlap almost completely with the cultural regions Inglehart and Baker (2000) identified using their two dimensions.”⁶⁶ He also recognises that both views owe something to earlier work by Huntington on cultural zones.

As examples, Schwartz notes that American culture, depicted above within the English-speaking block, tends “to emphasize mastery and affective autonomy and give little emphasis to harmony.” Contrast that with the high egalitarianism and high intellectual autonomy that typically go together in western European countries. This contrast seems consistent with Schwartz’ results for individuals’ value differences reported in Ch6. (US participants expressing more desire to get ahead personally in the social hierarchy (e.g., wealth, authority, ambitious, successful) and the low importance to values expressing social concern (e.g., social justice, equality, loyal, responsible) when compared to Spanish and Italian counterparts).

The significance of these country-level findings is contained in the suggested link between government policy and cultural value orientations. According to Schwartz:

The cultural orientations make the policies or practices that are compatible with them seem natural, provide justification for such policies and practices, and give legitimacy to attempts to block or reverse policies and practices that contradict prevailing values.⁶⁷

Schwartz considers the impact of value orientations on several key government policy areas including:

Public Expenditures:

Emphases on cultural autonomy and egalitarianism justify and promote the independence of individual societal members from the extended family, the development of their unique abilities and interests, regardless of in-group pressures, and the expectation that all will have equal opportunities in the wider society. Hence, governments in societies with such cultures are more likely to invest in health care and education for their citizens.

Cultural emphases on embeddedness and hierarchy, encourage the continued responsibility of the extended family for its members’ welfare. Such cultural orientations therefore generate less pressure on governments to invest in public health and education.⁶⁸

⁶⁶ Schwartz (2008) p19

⁶⁷ Ibid p26

⁶⁸ Ibid p28

The Social Net:

Prevailing cultural value emphases on autonomy, egalitarianism, and harmony are likely to promote and support laws that provide protection to workers against the vagaries of the labor market and that cushion the devastating effects of lost income due to aging, disability, or death.⁶⁹

Since both these policy areas bear directly on issues of poverty it is important to understand the role of cultural values in shaping government policy. It would be risky for a government that is in any way responsive to its citizens, to establish policies that are not in keeping with the prevailing culture's value orientations. This is not to deny some degree of reflexivity between culture and social structure (or circular causation as Hofstede terms it): each can influence the other over time, but change is likely to be slow and gradual. Schwartz, like Inglehart et al, sees such change as evolutionary, "as societies confront basic issues or problems in regulating human activity."⁷⁰

In summary, Schwartz has extended his earlier work on individuals' values to identify the differences in cultural values present at the country level. These cultural value orientations are amongst the most important factors pressing on individuals as they form and adjust their personal values. Schwartz maintains it is the cultural value orientations that are most relevant for considering government policy decisions. The similarities with the work of Inglehart et al are striking despite Schwartz' use of three dimensions in place of Inglehart's two.

9.3 Hofstede's Dimensions of National Cultures

The social psychologist Geert Hofstede studied differences in national cultures whilst working for IBM from the mid 1960s. His original theory of cultural dimensions,⁷¹ precedes the work of Schwartz and Inglehart, and is widely cited not least by Schwartz, Inglehart and Welzel. Hofstede's data on values comes mostly from IBM staff around the world but also from "executive students" from other companies in different countries and industries. His theory initially proposed four key dimensions, reflecting

⁶⁹ Ibid p29

⁷⁰ Schwartz (2004) p4

⁷¹ Hofstede (1980) *Cultures Consequences : International Differences in Work-Related Values (Cross Cultural Research and Methodology)*

responses to four distinct problem areas, although he later added two further dimensions. Very briefly the dimensions are:

Power Distance

This addresses the issue of power and inequality from the perspective of those at the lower end. It measures the extent to which less powerful individuals within groups, such as business organisations and families, accept and expect that power be distributed unequally.⁷² Countries scoring highly on this dimension include Latin, Asian and African countries, whereas English and German speaking countries score lowly.

Uncertainty Avoidance

This measures the extent to which culture influences individuals to feel comfortable or not in unstructured situations. It tracks a group's tolerance for uncertainty and ambiguity. Latin countries, German speaking countries and Japan score highly while Anglo, Nordic and Chinese cultures score lowly.

Individualism (vs. Collectivism)

Individualism measures the extent to which people are expected to look after themselves and their family, whereas collectivism sees people integrated into larger, more mutually supportive groups. Hofstede reports:

Individualism prevails in developed and Western countries, while collectivism prevails in less developed and Eastern countries; Japan takes a middle position on this dimension.

Masculinity (vs. Femininity)

Refers to the distribution of emotional roles between the genders:

The IBM studies revealed that (a) women's values differ less among societies than men's values; (b) men's values from one country to another contain a dimension from very assertive and competitive and maximally different from women's values on the one side, to modest and caring and similar to women's values on the other. The assertive pole has been called masculine and the modest, caring pole feminine.

⁷² Descriptions of dimensions drawn from Hofstede's website:
<http://www.geerthofstede.nl/culture/dimensions-of-national-cultures.aspx>, accessed 22/10/11.

Certain users of Hofstede's dimensions have adopted the alternative label of Quantity of Life vs. Quality of Life to avoid the gender generalisations in the original, although it is not clear how this new label adequately describes the content of the former.

Long Term Orientation (vs. Short Term)

The fifth dimension added in 1991 is another whose title fails to convey the full extent of the values involved. Hofstede summarises the dimension as follows:

Long- term oriented societies foster pragmatic virtues oriented towards future rewards, in particular saving, persistence, and adapting to changing circumstances. Short-term oriented societies foster virtues related to the past and present such as national pride, respect for tradition, preservation of "face," and fulfilling social obligations.

Indulgence versus Restraint

The final dimension, by comparison, seems fairly straightforward. "Indulgence stands for a society that allows relatively free gratification of basic and natural human drives related to enjoying life and having fun. Restraint stands for a society that suppresses gratification of needs and regulates it by means of strict social norms."

Hofstede's cultural dimensions have been extensively used in the business world and have attracted a fair degree of academic discussion, some critical and some supportive.⁷³

9.4 Comparison and Criticism of Values Analyses

One could be forgiven for feeling some discomfort on encountering Schwartz' ten motivational value types, followed by Inglehart's two dimensions, Schwartz' three dimensions and then Hofstede's six dimensions. How many values and dimensions are there? Hofstede addresses that concern directly:

⁷³ For an analysis of the critical arguments see Jones (2007) "Hofstede - Culturally questionable?" and Hofstede's own response, Hofstede (2002) "Dimensions do not exist: A reply to Brendan McSweeney"

CULTURE DOESN'T EXIST. In the same way values don't exist, dimensions don't exist. They are constructs, which have to prove their usefulness by their ability to explain and predict behavior.⁷⁴

Although responding to criticism regarding his own 'dimensions' Hofstede's point applies to all the values discussed above. They are constructs that seem useful in response to particular questions deemed important by their advocates. One might reasonably assume that if different problems were posed, different values might come to the fore. I have found no evidence that the social psychologists considered here have published on the problems of poverty or human rights.

Immediate questions include whether or not there is consistency between the various initiatives, and whether any important conclusions can be drawn from the approach in general. Various attempts at comparison have been performed and the following draws on Schwartz' own comparison.⁷⁵

Schwartz' autonomy/embeddedness dimension overlaps conceptually somewhat with Hofstede's individualism/collectivism. Both contrast an autonomous with an interdependent view of people. However, autonomy/embeddedness contrasts openness to change with maintaining the status quo whereas individualism/collectivism does not.

Autonomy/embeddedness also overlaps with the tradition/secular-rational dimension of Inglehart et al. Both concern the relation between the individual and her surrounding institutions. In Inglehart's traditional societies, peoples' ties to their religious, national, and family groups are a key source of meaning in their lives and corresponds closely to a core aspect of Schwartz' embeddedness. The weakening of these linkages in secular-rational societies enables individuals to operate more independently, reflecting Schwartz' description of autonomy.

Furthermore, autonomy/embeddedness also overlaps with Inglehart's survival/self-expression dimension. Both evaluate the freedom with which individuals can express their independence. The survival/self-expression dimension explores the degree to which people focus on economic and physical security versus quality-of-life issues or self-expression. When the latter dominates, people are typically post-industrial and well

⁷⁴ Hofstede (2002) p5

⁷⁵ Schwartz (2004)

educated. People typically enjoy more freedom of judgment, innovation, and autonomous decision-making and demonstrate higher communication and information-processing skills. Contrary to that people at the survival pole are intolerant of change and difference, whether that difference relates to ethnicity, gender or sexual persuasion. This has similarity with Schwartz' embeddedness.

Schwartz' second dimension of egalitarianism/hierarchy is also reflected in Hofstede and Inglehart. Hierarchy has some overlap with Hofstede's power distance in that both explore social inequality. However, whilst hierarchy concerns the structures that get societal tasks done it does not entail fear of authority by ordinary people, whereas power distance does assume such anxiety. At the same time the cooperative elements of egalitarianism, arising from treating all individuals as equals, are absent from low power distance.

Schwartz' egalitarianism/hierarchy also overlaps somewhat with Inglehart's tradition/secular-rational dimension in addressing deference to authority.

Schwartz' dimension also overlaps with the second of Inglehart's dimensions - survival/self-expression. Inglehart contrasts trust, tolerance, and support for the equal rights of out-groups typified by groups with high self-expression values with low trust, intolerance, and the rejection of out-groups by those in survival mode. The parallels with high and low egalitarianism are apparent.

Finally, Schwartz' harmony/mastery has some conceptual overlap with Hofstede's masculinity. Both dimensions emphasize ambition and assertiveness. Hofstede defines femininity to include tenderness, care, and concern for others, and implies that masculinity by contrast neglects or rejects the interests of others. On the other hand, Schwartz contrasts mastery to harmony (being in tune with others and the environment), suggesting mastery entails an active, potentially disruptive stance, although not necessarily selfish.

It is apparent that numerous overlaps exist between the various dimensions but that no exact match exists between any of them, suggesting that Hofstede was correct with his claim that they are all constructs. This suggests that identifying the most relevant societal problem from which dimensions were derived might best influence the choice

of dimension. However, one might also consider the criticisms of the values approach before applying its findings to fresh problems.

Criticisms fall under a number of headings that include⁷⁶

Appropriateness of surveys as a technique

Some researchers apparently object that surveys are not an appropriate means for assessing cultures in that the questions are culturally constructed and mean different things to different people.

Appropriateness of particular surveys

For example, criticism of Hofstede's dependence on IBM data, early WVS surveys' under-representation of developing countries, and the choice of individual survey questions all have influence on the reported outcomes.

National Divisions

Cultures and national borders are not always congruent, suggesting that countries might not be the best unit for cultural analysis. (Contrary to Inglehart and Schwartz' claims)

Cultural Homogeneity

Complaints that national populations are seldom homogenous, suggesting aggregated values are misleading.

Too Few Dimensions (or too many)

Criticism that 2,3,4 or 6 dimensions are too few to adequately distinguish different cultures (or lack sufficient focus for the purpose at hand).

Statistical Integrity

Such criticism has occasionally been raised but the details involved, and the seemingly adequate responses, are beyond the scope of this review.

However, the general approach to cross-cultural analysis seems to have withstood the challenges of critics. Schwartz concludes his survey of the leading techniques as follows:

⁷⁶ Drawn largely from Jones (2007)

Perhaps the most striking finding when comparing the outcomes of the research based on the Hofstede, Inglehart, and Schwartz cultural value dimensions is that they identify such similar cultural regions around the world ...The emergence of similar regions affirms the reality of the systematic cultural value differences these approaches are tapping.

9.5 Conclusion

The variation in cultural values across developed and developing countries has been studied for several decades by social psychologists and other social scientists. Results suggest national value orientations are relatively stable but distinct. Such values reflect influence from cultural heritage and from socioeconomic development, with the US appearing to be a special case. The dynamics of cultural evolution seem complex and may prove difficult to manipulate in desired directions.

The various dimensions and values of Hofstede, Schwartz and Inglehart reflect responses to different social questions, obtained by different means. They are constructs that offer simplified perspectives into complex relationships. This together with the established criticisms suggests that great care is required in extrapolating the results to fresh situations. However, the degree of consistency between the various approaches explored also suggests it would be unwise to overlook their published results.

Inglehart's modernisation theory provides a plausible view of phased development identifying different priorities at different stages. A prioritisation for agency, political action and effective democracy emerges in the post-industrial phase - providing survival or high inequality is not an issue. The theory also suggests that we cannot, like Sen, presume effective democracy in earlier phases.

The interaction between the fields of social science and political philosophy on the topic of human development appears to have been very limited: some acknowledgment of Sen's position by Inglehart, and some recognition of Schwartz and Inglehart by Alkire. However, neither connection has proved highly influential to-date. This seems surprising given (1) the apparent linkages between human development and effective democracy (Sen), and between effective democracy and cultural values (Inglehart), and (2) the consistent finding that countries and groups of countries hold significantly

different values (different priorities), implying ‘one-size-fits-all’ development policies will prove ineffective in many cases, and (3) that extensive data on values by country exists and is available for further analysis.

Chapter 10 Implications of Value Differences

Schwartz, Hofstede and Inglehart all agree that countries differ in the priorities their citizens ascribe to values. They base their views on theoretical analyses and empirical results gathered over several decades. They maintain that such value differences help explain past and future differences in country level behaviour. If this were correct, then to ignore such information would seem to impose an unnecessary handicap on efforts aimed at human development and the reduction of global poverty. This chapter explores how such findings might influence the HRA and CA to human development and poverty reduction.

The influence of values theories on development approaches (HRA and HDA) will be examined by considering three issues in turn:

- The universality of development approaches,
- The implication for poverty in poor countries,
- The implications for poverty in rich countries (both domestic and global).

10.1 The universality of development approaches

A worry generated by the values data is that of relativism. By apparently ignoring the measurable differences in cultural values, philosophers may have been mistaken when concluding that the leading development approaches involve universal norms. How can the human rights and capability approaches cope with the fact of country level value differences?

The HRA insists on extending the same rights to all persons, “as a common standard of achievement for all peoples and all nations.”¹ Human rights are thus positioned as

¹ UN Declaration of Human Rights, Preamble

universal. However, the approach also commits governments to strive for this goal through “progressive measures.” This notion of progressive measures is particularly important to economic, cultural and social rights, as discussed in Ch3, because of the frequently high costs involved in their realisation, as suggested in the following:

... while the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect.²

And,

any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned.³

The HRA, although universal in *aim*, is thus country dependent in *application*.

However, if financial resources were the only constraint on ‘progressive’ implementation one might still consider this to be a somewhat ‘universal’ approach. Fortunately, GC 3 elaborates further on ‘progressive realization’, in para. 9:

It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être*, of the Covenant which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal.

The “realities of the real world and the difficulties involved” need not be restricted to difficulties of finance. Although not specifically mentioned, the starting conditions in terms of existing values are a ‘reality’ and potentially a ‘difficulty’ to be overcome that vary with each country. Read this way, progressive realisation may take full account of the differentiated starting values observed in all countries even though the eventual aim is a single common goal.⁴ On this view, the Human Rights *application* escapes the charge of being unduly universal and can accommodate country-level value differences.

² CESCR General Comment No. 3, para. 1

³ *Ibid* para 10

⁴ GC 14 goes further than GC 3 requiring health services to be ‘culturally appropriate’, paras 12, 27 and 37.

On the other hand it is repeatedly emphasised, at various stages in General Comments, that discrimination on any of the usual grounds must not influence the implementation of various ESCRs. This would seem to present particular difficulties to those countries with strong traditional values regarding the position of women and the tolerance of difference. At face value this is a reason for such countries to reject the HRA in general because of its 'Western' (or possibly Northern) bias. Why should traditional countries accept the *aims* of post-industrial countries? How much of a problem this represents in practice may depend on the sensitivity of application of the discrimination safeguards during the country reporting cycle. Pressing too far with discrimination rights before self-expression values have had time to develop may prove counterproductive. Nevertheless, the real worry is that countries' values may never converge and that existing human rights are consequently not universal, in applying to everyone.

However, returning to the values theories we can reduce this worry in two ways. Firstly, as mentioned earlier, Schwartz maintains that all the values measured are universal - all societies recognise the values as positive: they differ only in the way they are prioritised. Secondly, and perhaps more significantly, Inglehart has shown that countries heighten their self-expression and secular-rational values with the progression of socio-economic development. Emancipative values and their corresponding rights and capabilities, typical of post-industrial societies, lie on the development path for all societies. All societies have the potential to enjoy such values, rights and capabilities, even if their current circumstances deny them. The *aims* of the HRA are thereby universal in reach, even if not universally prioritised today. What country level values data tell us is not that the idea of universal rights is mistaken but that the path to fulfillment is variable.

Turning to the HDA, Sen proposes that expanding freedoms is a benefit that all peoples can enjoy. The capability approach is universal in its aim. In *Development as Freedom*, Sen argues that the focus on the real freedoms that people enjoy "directs attention to the ends that make development important, rather than merely to some of the means that, inter alia, play a prominent part in the process."⁵ From this it should be clear that there might be more than one way to the ends within the HDA. Like human rights, the CA is universal in aim but variable in application. The 'universal' (one-size) worry is further reduced by Sen's specific reference to the significance of values:

⁵ Sen 91999) p1

Prevailing values and social mores also affect the presence or absence of corruption, and the role of trust in economic or social or political relationships. The exercise of freedom is mediated by values, but the values in turn are influenced by public discussions and social interactions, which are themselves influenced by participatory freedoms.⁶

This together with Sen's unwillingness to commit to a list of central capabilities on behalf of individual societies minimises the threat of his approach being considered overly universal in application.

Nussbaum's approach, however, with its list of ten central capabilities may seem more open to the 'one-size' criticism. However, Nussbaum apparently allows for the fact of country level value differences by proposing some flexibility of application through the setting of thresholds:

There is room for nations to elaborate capabilities differently to some extent, given their different traditions and histories.⁷

The universal, or one-size, worry thus seems resolvable from both the human rights and capabilities perspective. The *aims* of neither approach are undermined by the fact of country level value differences. However, the different priorities held in individual countries influences how peoples and their governments are motivated suggesting the need for a differentiated approach to achieving the chosen aims. The challenge for philosophers is not simply to fine-tune the aims but to flesh out and tailor the means by which those aims might be achieved. The question is whether this fleshing out of development theories can be achieved without the on-going input and benefit of the values research.

10.2 The implications of value theories for poverty in poor countries

By 'poor countries' in this context I mean (somewhat arbitrarily) those less developed countries with GNP/capita of under \$2000, i.e. those in the bottom left-hand corner of Inglehart and Baker's chart shown in Ch. 9. Such countries emphasise traditional

⁶ Ibid p9

⁷ Nussbaum (2011) p40

(versus secular-rational) and survival (versus self-expression) values, and includes many African and Islamic countries. By ‘implications’ I mean primarily the implications for the governments of such countries who bear the primary duty for addressing issues of poverty according to both HRA and HDA. How do traditional/survival values (or their counterparts in the other value theories) bear on government policy decisions, and is this a concern for established efforts addressing global poverty?

Sen thinks of poverty in terms of the deprivation of capabilities that persons “have reason to value.”⁸ Governments of ‘poor’ countries committed to reducing poverty may thus feel duty-bound, or culturally pressured, to implement policies that address such capability deprivation. The question prompted by the values theories, and by Inglehart’s views in particular, is exactly which capabilities do persons have reason to value? The worry is that people in poor countries would value different capabilities, or perhaps a more restricted list of capabilities, than those anticipated on their behalf by philosophers in rich countries. Clarity on Sen’s notion of ‘reason to value’ might help resolve this worry. What is not clear is whose ‘reasons’ are involved. Three possibilities come to mind.

The first, and arguably the most natural reading of Sen, is the assumption that a poor country’s ‘reason to value’ is based solely on its own prevailing cultural values. If these allow certain traditional discriminations and exclude emancipative values then the selected capabilities will be more restrictive than we outsiders might prefer. This is an obvious worry generated by the various values theories and empirical measurements.

Another option is that it is our rich countries’ reasons, or philosophers’ reasons that should prevail. The populations of poor countries, being of equal dignity to our own, are entitled to exactly the same capabilities as ourselves, according to our reasoning. They may not yet recognise our values and valued capabilities as their own as a consequence of adaptive preferences. People of lower caste may accept the hardships associated with their lowly position in society, even though they have a sublimated reason to value more egalitarian outcomes. Such values and capabilities are ‘theirs’ in the sense that they are entitled to them. Saying they have reason to value such capabilities can be interpreted as

⁸ Sen (1999) e.g. pp18, 87

meaning they *should* value such capabilities, or *would* value them upon adequate consideration.

Support for this interpretation can be found in Sen's claim that democracy could be viewed as a universal value,⁹ as discussed in Ch. 5. He argues that the three virtues of democracy, its intrinsic, instrumental and constructive roles, constitute such a claim, despite his recognition that not all societies attach high priority to democracy:

I would argue that universal consent is not required for something to be a universal value. Rather, the claim of a universal value is that people anywhere may have reason to see it as valuable....

Understood in this way, any claim that something is a universal value involves some counterfactual analysis--in particular, whether people might see some value in a claim that they have not yet considered adequately.¹⁰

Sen is taking what may seem a paternalistic stance to advocate the virtues of democracy for the benefit of those who have "not yet considered adequately." This demonstrates, one might argue, that Sen is open to 'value veneering' - laying values on others based on his own reasons. But elsewhere, when considering Nussbaum and others' lists of central capabilities, he is less inclined to allow such a stance:

The problem is not with listing important capabilities, but with insisting on one pre-determined canonical list of capabilities, chosen by theorists without any general social discussion or public reasoning.¹¹

There does seem a tension between Sen's rejection of others' universal capabilities given their lack of supporting public reason, and his willingness to ascribe universality to the value of democracy. The consequences of the second reading would be that capabilities are common to all societies, irrespective of their domestic values, but it is far from clear that Sen would subscribe to that view.

A third option for the reading of 'reason to value' involves public reasoning and the idea of an impartial spectator. When considering theories of justice, Sen draws heavily on Adam Smith's model of open impartiality to argue against what he sees as Rawls' closed impartiality of the Original Position. The distinction appears to be about which

⁹ Sen (1999b) "Democracy as a Universal Value"

¹⁰ Ibid p8

¹¹ Sen (2005) pp157-8, Similar wording in Sen (2004) p333 n31, as mentioned in Ch 5

views are eligible for inclusion in the contracting process. Rawls excludes outsiders, those not part of the society concerned, when seeking an impartial or fair view of justice, whereas Smith allows outsiders to be involved since they represent impartiality from afar.¹² Sen makes clear that his own views on justice are based on open impartiality.¹³

... assessment of justice demands engagement with the ‘eyes of mankind’, first, because we may variously identify with the others elsewhere and not just with our local community; second, because our choices and actions may affect the lives of others far as well as near; and third, because what they see from their perspectives of history and geography may help us to overcome our own parochialism.¹⁴

Having determined the participants (mankind near and far), Sen discusses the processes available to arrive at an understanding of justice, including the Rawlsian contractual approach based on the pursuit of *mutual benefit*.¹⁵ Under such an arrangement, with the inclusion of participants from poor countries, one might foresee that agreement on emancipative values would not be reached. Indeed, any form of public reasoning for mutual benefit involving persons from poor and rich countries might be expected to struggle to agree on capabilities other than those supporting traditional/survival values. Seen this way, Sen’s endorsement of open impartiality may imply a willingness to restrict capabilities in a given country to those supported, or at least bearable, by values currently prevailing in that country, much as in the first option above. However, Sen makes clear that reasoning based on mutual benefit (like Rawls’ justice as fairness) does not exclude other valid bases for reasoning.

... if someone has the power to make a change that he or she can see will reduce injustice in the world, then there is a strong social argument for doing just that (without his or her reasoning having to intermediate the case for action through invoking the benefits of some imagined cooperation).¹⁶

¹² Sen (2009) pp124-152

¹³ The notion of open impartiality may seem particularly important, at first glance, because of its potential to address the pervasive dilemma of relativism versus imperialism. However, I believe the process Sen describes might be better labelled ‘open public reason’. ‘Open’ because it includes outsiders in the debate. But ‘public reason’ rather than ‘impartiality’ because no observer, however near or far, can be truly impartial. Every observer interprets the world through a lens coloured by their own values and experience. A value-free individual, if such a notion is at all possible, would lack the framework to judge the merits of one position over another. Consequently, I do not think Sen’s open impartiality holds the solution to the relativism/imperialism dilemma.

¹⁴ Ibid p130

¹⁵ Ibid p202

¹⁶ Ibid pp205-7

The *obligations of power*, according to Sen, provides an alternative ground for reasonable behaviour, than that afforded by reference to mutual benefits identified via open impartiality.

From these selected comments it might seem difficult to state, in simple terms, exactly what Sen means by, “capabilities they have reason to value”. It can seem decidedly two-handed. However, his comments in *The Idea of Justice* relate to theories of justice and not specifically to the CA as it applies to poverty. Nevertheless, the concern remains that poor societies’ values may restrict the capabilities they have reason to value to the detriment of efforts to reduce poverty in its wider sense.

Whilst some doubt may remain about the range of capabilities appropriate for a country, from the perspective of full human development, or alternatively justice, Sen sidesteps this difficulty when considering the more restricted issue of extreme poverty in developing countries. Whereas he suggests poverty can be defined in terms of capability deprivation, raising the above concerns about exactly which capabilities this involves, he identifies specific basic capabilities in the context of *extreme poverty*:

... in dealing with extreme poverty in developing economies, we may be able to go a fairly long distance in terms of a relatively small number of centrally important functionings (and the corresponding basic capabilities, e.g. the ability to be well-nourished and well-sheltered, the capability of escaping avoidable morbidity and premature mortality, and so forth ...¹⁷

One could think of these ‘basic capabilities’ as medium-term survival capabilities. There is nothing on this short list that is inconsistent with the empirically observed traditional/survival values of poor societies. Consequently, we can conclude that the values theories and measurements do not impact on the selection of capabilities central to addressing extreme poverty in poor countries (my principal concern), although they may suggest some restrictions, or phasing, in the pursuit of full human development.

Turning to the topic of democracy, we already noted that Sen holds the intrinsic, instrumental and constructive virtues of democracy are sufficient to claim it as a universal value. However, Inglehart’s theory of modernisation and interpretation of

¹⁷ Sen (1992) pp44-45

values measurements argue that effective democracy is only prioritised in developed societies with high self-expression values. Inglehart does not deny Sen's claim that democracy can help shape values (the constructive role), or that democracy can aid development (the instrumental role). However, he insists that the causal direction is strongly from economic development towards effective democracy, via the phases of modernisation and the modification of values. If this is correct it somewhat deflates Sen's claim that democracy is a principal driver of development. In trying to break with the traditional development doctrine based on GDP/capita Sen may have overstated the importance of democracy for less-developed countries. His efforts to put people at the center of development may have overlooked the feedback available from poor peoples - that they don't prioritise emancipative values such as effective democracy. This raises the possibility that democracy, if introduced or imposed in the wrong circumstances, might actually be detrimental to a society's well-being. It could produce instability, if the underlying values do not sustain the democratic institutions, and such poorly sustained institutions may be less effective than the hierarchal institutions they replace. Poverty-stricken individuals may be better off under a traditional authority than within a poorly performing, fledgling democracy. Despite the widely accepted arguments explaining why GDP/capita is not an adequate measure of human development, economic development appears to remain an important constituent throughout the development cycle whereas democracy appears important in only the latter stages. This in turn does not imply that poor people's views are not important but merely that democracy is not the only way for their views to be heard or addressed. The message from Inglehart appears to be that emancipation and democracy can and do follow after survival is secured - or after extreme poverty has been avoided.

Of course, the fact that poor peoples typically do not prioritise emancipative values or democracy does not mean that they don't value democracy at all, or that democracy cannot work in the early stages of their development. Sen might point to Kerala as an example where democracy seems to be widely valued and compatible with if not the driver of development in an initially poor state. Kerala is indeed a special case, as previously mentioned, with perhaps a unique cultural history and value set that may explain its particular developmental path. However, one need only consider the numerous other Indian states to recognise that formal democracy on its own is not sufficient, and cannot be relied upon, to ensure effective or efficient development. It may be worth keeping in mind that Inglehart considers his modernisation theory to be

probabilistic and not deterministic, allowing for various contextual factors to influence outcomes.

The cultural values in poor countries would appear to influence governments not only in regards capabilities but also human rights. To the extent that such governments are responsive, as opposed to repressive, cultural values will influence the prioritisation of human rights implementation. Such governments will be under UN pressure to progressively implement *all* human rights. However, the term ‘progressively’ allows for some phasing of achievement. The values data leads us to be less than surprised that effective democracy, and by implication elite integrity, is not the highest priority for poor countries. Neither should we be surprised to find little commitment to the removal of various discriminations. Based on the currently available data, the best path to full human rights implementation in poor countries, including effective democracy and zero discrimination, may be via socio-economic development to the point where survival is no longer the main issue. This is particularly interesting in that it suggests the counter intuitive idea that, at least in some respects, ESCRs should come sequentially before CPRs. Clearly there would be many that would resist any such suggestion, and it seems unnecessary to press the issue at this point.

The case for values data being helpful in understanding development and poverty reduction issues in poor countries seems clear. However, the argument that cultural value data are essential to development thinking has yet to be made.

10.3 The implications of value theories for poverty in rich countries

By ‘rich countries’ I mean (again arbitrarily) those that figure in the top right hand corner of Inglehart and Baker’s chart in Ch. 9, i.e. those with GNP/capita of over \$15000 per annum. In limiting my comments to the two extremes of economic development, rich and poor, I do not mean to exclude the intermediate countries but merely to map out the extreme range of implications. By ‘implications’, in this case, I mean not only the potential impact on the duties of governments towards their own populations, but also on the cross-border duties towards the governments and populations of other countries, particularly poor countries.

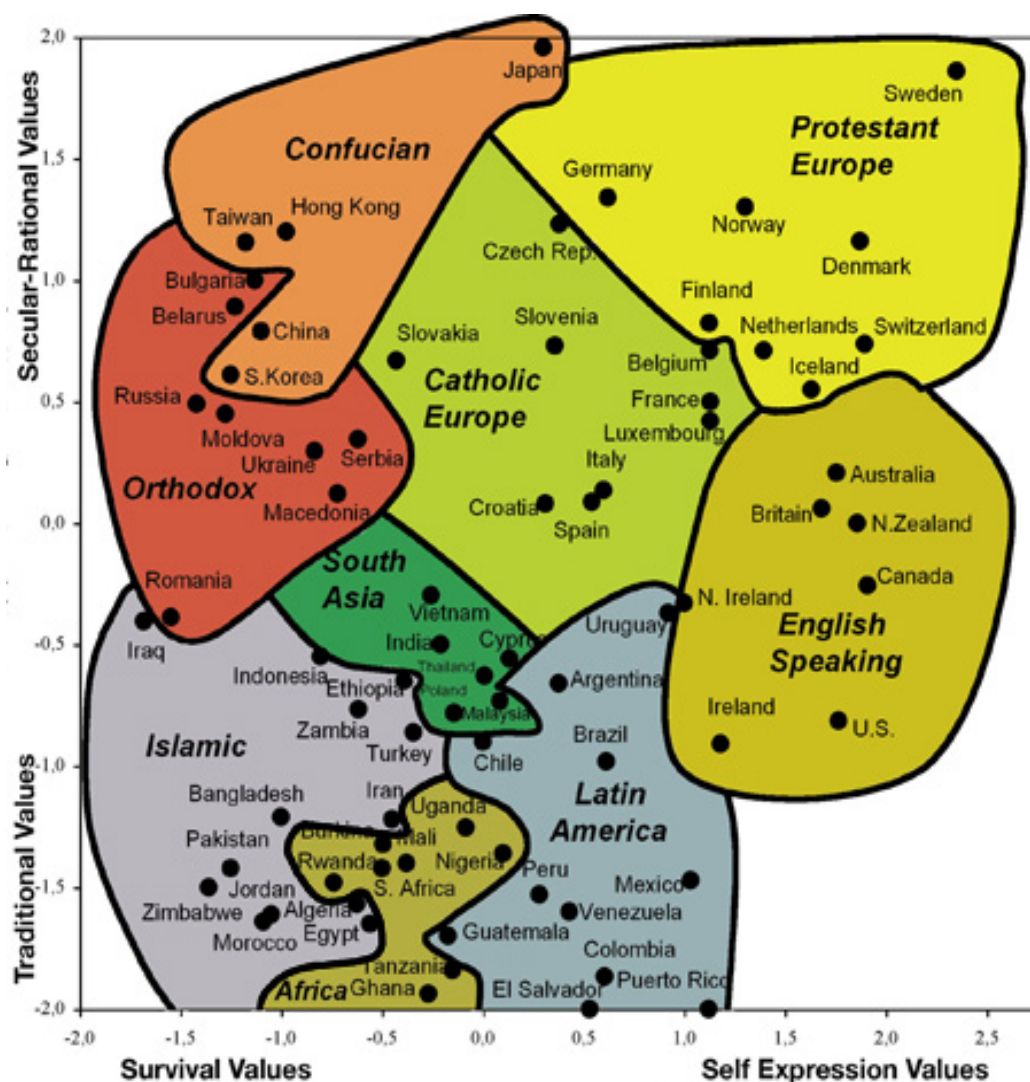
The values surveys and theories suggest that the rich countries exhibit high priority for self-expression values, and in many case for secular-rational values. These former values include concern for gender equality and a tolerance of difference. The democratic governments in rich countries are likely to respond to such cultural values by assigning significant weight to these demands, amongst others, when considering policy options. Such societies would likely recognise the full range of central capabilities foreseen by Sen, Nussbaum and others in the capabilities tradition. These societies would also tend to endorse the full range of their human rights, at least as far as they are aware of them, there being nothing in those rights that would obviously clash with self-expression values. Indeed, the higher the level of political participation and activism exhibited by a society - inherent elements of self-expression values, the higher the pressure on governments to respond to societal demands. Governments become more accountable to their peoples through such participatory democracy. All of this would suggest that under the press of self-expression values rich countries' governments would feel motivated and obliged to respect the human rights and freedoms of all their citizens. Yet, somehow this does not seem to be quite the case.

Regrettably, poverty exists even in rich countries. The safety nets intended to safeguard the less fortunate seem, in many cases, to have too large a mesh. And, inequalities (in various measures) in many of these countries have grown over recent decades leaving an ever-larger number of citizens in or near the poverty zone. If we accept that steadily growing inequality is not ideal, and some interpret the evidence to suggest that inequalities are bad for our health¹⁸ amongst other concerns, this trend might suggest that either we have not yet identified the appropriate values or that developed countries values have not yet reached an adequate level of development. Consider as an example the UK. Recent talk of fixing the 'broken society' presumably reflects growing popular concern with inequality based problems but such talk has not yet triggered decisive government action. As we have seen, the UK does not achieve the highest scores on

¹⁸ Wilkinson and Pickett (2009) *The Spirit Level*, draws on thirty years of research to argue for this view. However, the view is disputed in Snowdon (2010) *The Spirit Level Delusion: Fact-checking the Left's New Theory of Everything*, which suggests Wilkinson and Pickett conflate correlation with causation, and are selective in their choice of research data; Saunders (2010) "Beware False Prophets: Equality, the Good Society and *The Spirit Level*," which suggests the statistical claims "are spurious or invalid"; Deaton, (2003) "Health, Inequality, and Economic Development," an earlier work that concludes there is no direct link between income inequality and aggregate and individual mortality. Wilkinson and Pickett respond in detail to these and other criticisms at <http://www.equalitytrust.org.uk/docs/responses-to-all-critics.pdf>. My later conclusions do not depend on the outcome of this controversy.

either of Inglehart's value dimensions. But it should also be noted that neither secular-rational values nor self-expression values specifically require a limit to inequality.

One might argue that Inglehart's values (unlike Schwartz's) flow from analyses of survey questions that are not focussed on egalitarianism, universalism or benevolence. It might be that Inglehart's measurements do not focus on values that would tie to and explain social and economic inequalities. However, superficial examination of Gini coefficients suggests inequality does vary with the level of secular-rational values. Compare, for example, the countries shown in Inglehart and Welzel's World Value Survey Cultural Map (Ch9), repeated here for ease of reference.

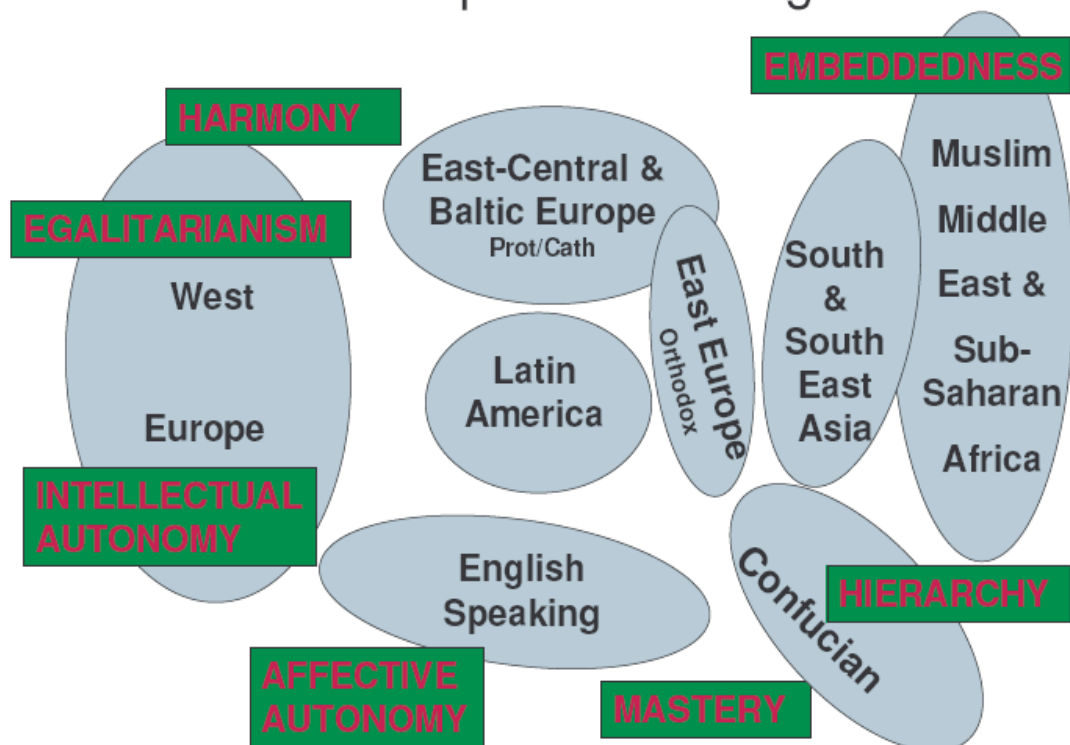


The World Value Survey Cultural Map 2005-2008¹⁹

¹⁹ Source: Ronald Inglehart and Christian Welzel, "Changing Mass Priorities: The Link Between Modernization and Democracy." Perspectives on Politics June 2010 (vol 8, No. 2) page 554 accessed 22/3/12 at http://www.worldvaluessurvey.org/wvs/articles/folder_published/article_base_54

All the countries in the ‘Protestant Europe’ group, with the exception of Switzerland, have lower Gini scores than all the countries in the ‘English Speaking’ group:²⁰ Sweden exhibiting the lowest coefficient (lowest inequality) at 25.0, and the US the highest at 40.8. Both groups are roughly equal in self-expression values but countries in the English Speaking group all have lower secular-rational values. Interestingly, the country with the highest secular-rational values according to this chart - Japan - earns an even lower Gini score than Sweden, of 24.9. On the other hand, if we consider Schwartz’ Cultural Map of World Values (Ch9 - repeated below) we get an even sharper distinction between ‘West European’ and ‘English Speaking’ countries.

Cultural Map of World Regions



As mentioned in Ch9, Schwartz values are constructed in response to particular social problems - but not including the problems of poverty. His ‘egalitarianism’ may not capture exactly the value that relates to social and economic inequality but it would seem to offer a less blurred perspective on this matter than the Inglehart secular/rational value. Taken together these two viewpoints encourage further investigation of the

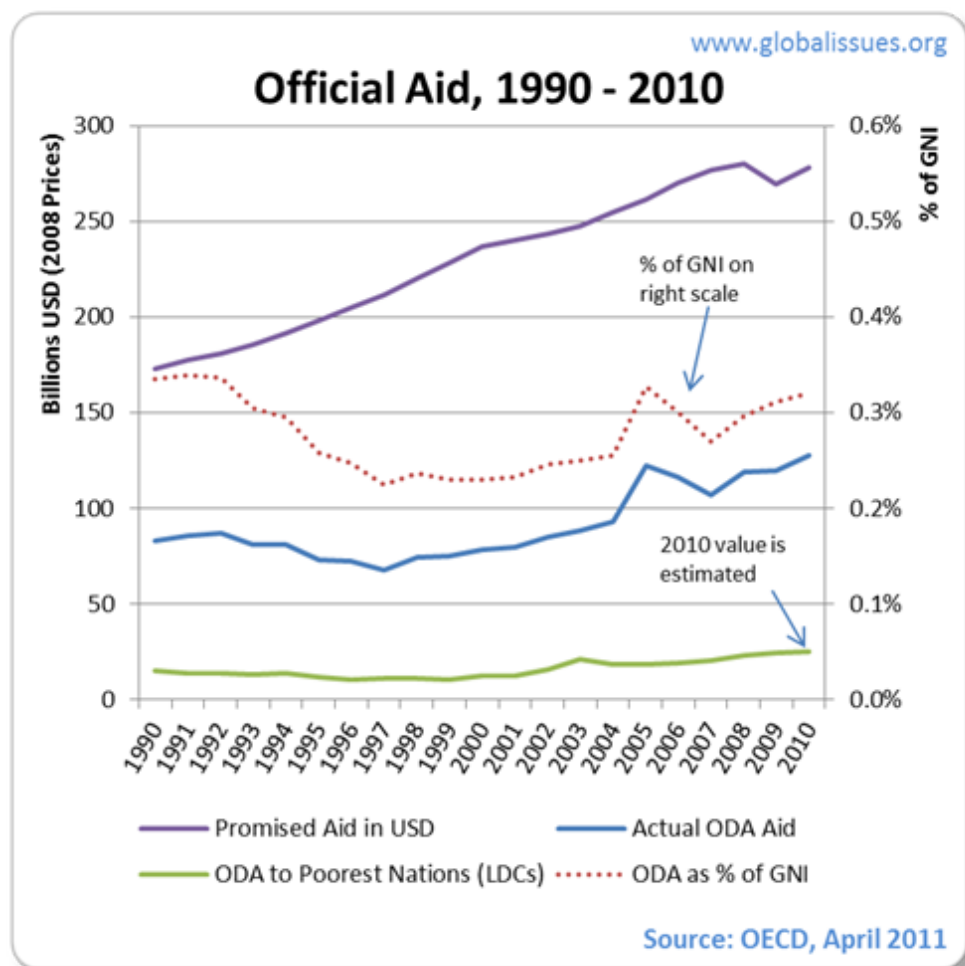
²⁰ Gini scores taken from Human Development Report 2010 p152

possible links between cultural values, social and economic inequalities, and poverty in developed countries.

These values studies also suggest the possibility that a further, as yet unrealised or perhaps unmeasured, stage of value development might include more priority for caring and/or social responsibilities (perhaps along republican or feminist lines), and a preference for moderated inequalities, alongside the achievement of social freedoms. Nothing in Inglehart's theory requires that modernisation and value development are complete with the emergence of post-industrial societies. I will return to the issue of future value development in the next chapter.

Although the problem of poverty in rich countries is very important, and that its resolution might be guided by values data, my principal focus is on the quantitatively larger problem of poverty in poor countries, and, as concluded in Chapter 8, with the implications of values for the cross-border duties of rich countries.

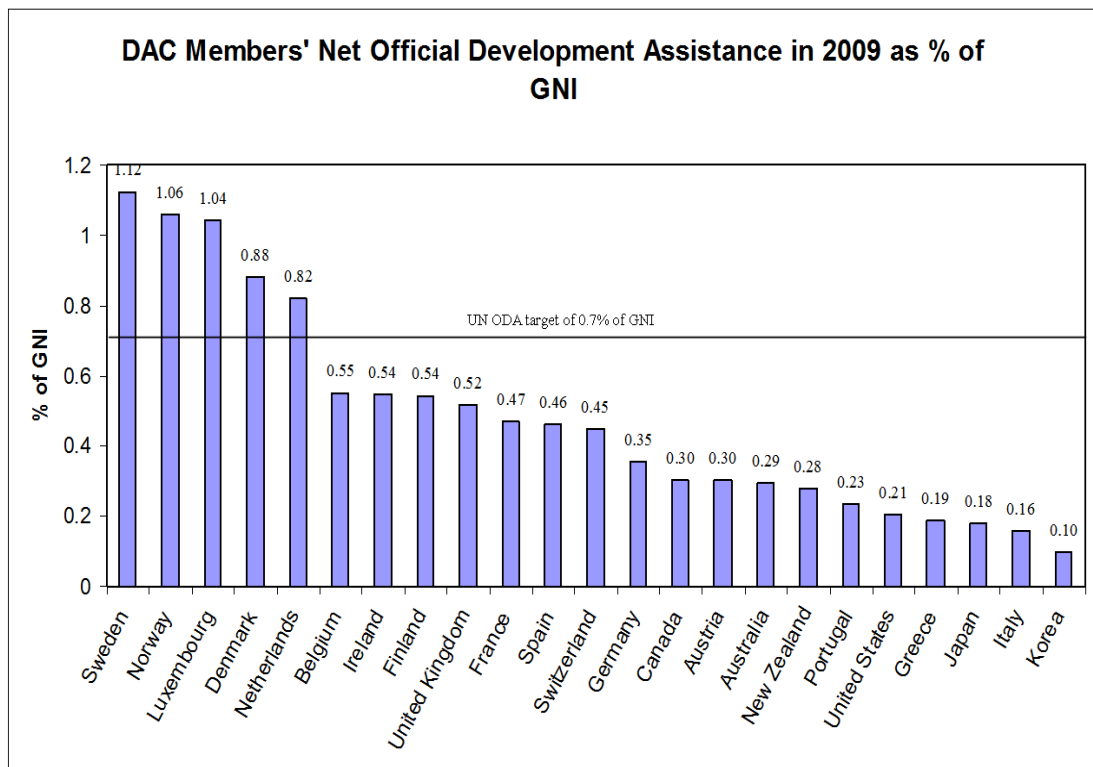
The point has been made that rich countries have large responsibilities towards poor countries in the form of ODA and the shaping of the global basic structure. This is particularly evident in the HRA but also flows from the HDA as seen in the MDGs. Developed country governments have long promised action, particularly on aid, but many have fallen short on delivery.



Arguably, the governments of rich countries have been able to perform so badly, relative to their promises, most noticeably the ODA target 0.7% GNI, without suffering adverse consequences because the issues of aid and cross-border trading fairness are not a priority for their voting populations. Arguably also, the media in these countries have failed in their democratic responsibilities to publicise and scrutinise such government failures (breaches of commitments). This lack of democratic priority may be attributable to lack of awareness, as suggested in Ch8. However, we might now suspect that cultural values also play a part. Schwartz' Cultural Map of World Regions (Ch9) indicates that English Speaking countries do not emphasise 'Egalitarianism' to the same degree as his West Europe group. However, it is not clear what the balance is between 'universalism' (concern for distant others) and 'benevolence' (towards close group members) within this egalitarianism value. Similarly, Inglehart, as also mentioned above, does not highlight egalitarianism in his survey data but does distinguish these same two cultural groups, mainly through his traditional/secular-rational value dimension. Furthermore, as summarised in Ch9, Schwartz finds some limited overlap between his egalitarianism/hierarchy dimension and Inglehart's tradition/secular-rational dimension.

The degree of democratic pressure on rich countries' governments to support the poverty reduction efforts of poor countries may be a consequence of Schwartz' egalitarianism or Inglehart's secular-rational values, or, it might be that neither of these constructs exactly ties to the cultural value driving rich countries cross-border behaviour.

Looking further at the issue of foreign aid, the best performing rich countries in terms of ODA delivery have all been from Inglehart's 'Protestant Europe' group (with the exception of Luxembourg): Sweden, Norway, Denmark and Netherlands. However, the relationship between Inglehart secular-rational values and ODA is not a simple one as indicated by the range of ODA flows from 'English Speaking' countries (Ireland and UK providing more than twice the ODA in GNI percentage terms, than the United States), or by the performance of Japan - highest secular-rational values but one of the lowest ODA scores.



ODA as a percent of GNI in 2009. Source: OECD²¹

There are several plausible conclusions from the above two tables of ODA data. Firstly, that for democratic countries, it is *feasible to meet* their freely entered commitments to

²¹ Accessed 22/3/12 at http://en.wikipedia.org/wiki/Official_development_assistance

foreign countries. Secondly, that most countries have found it *feasible to repeatedly fail* in the same respect, apparently without significant direct consequences - although the indirect consequences of such behaviour (possibly including terrorism) are hard to evaluate. Thirdly, that the difference between these two sets of behaviour may depend on underlying cultural values in the countries concerned, since different levels of widespread *duty-awareness* in developed countries is unlikely to explain the difference in levels of ODA performance. Indeed, one implication of the differences in cultural values, whether adequately measured or not, together with the poor performance of cross-border duties by most rich countries is that most societies do not prioritise what Schwartz might term ‘universal’ values (benevolence to distant others). Persons in developed countries simply do not prioritise the welfare of others in foreign countries. And, despite the significant G20/globalisation protests of recent years, most persons in developed countries do not feel obliged to level the playing field for poor countries.

Pogge offers an extreme reading of this situation.

World poverty is actively perpetuated by our governments and officials, and knowingly so.

...the global economic regime that our countries designed and impose kills more efficiently than the Nazi extermination camps: the daily suffering from poverty and disease greatly exceeds that caused by World War II in its darkest years.²²

Pogge isn't only criticising governments. He also blames citizens who are “disregarding, trivializing, and condoning these crimes in the vague belief that we are benefiting from them.” And, he adds academia and the media to the list of guilty parties for not speaking out against the political elites.²³

Why do peoples collectively and individually fail to do what is generally understood to be right? Possible responses include the lack of awareness, as suggested in Ch8, and the more challenging denial of priority suggested by the values data. Most people will proclaim sympathy for the extremely poor, and occasionally act on charitable grounds, but in general, act overwhelmingly to protect their own interests, albeit most often through inaction rather than the direct infliction of suffering. Facing such cultural values (low priority for universalism), governments of rich countries are unlikely to deviate from self-interest. On this view the main underlying cause of extreme global poverty

²² Pogge (2010a) p2 sentence order reversed.

²³ Ibid.

may be the cultural values of most developed countries, and consequently the continued tracking and interpretation of cultural value differences, by social scientists, seems essential to the effective execution of development strategies.

10.4 Conclusion

One conclusion from this and the previous chapter is that cultural values may play a significant role in practical efforts to address international governance issues impacting on global poverty.

The challenge raised by this view is not how to improve the philosophical model of what is *right*, as expressed in HRA and HDA, but to search for ways of accelerating cultural value development so that recognising and fulfilling our cross-border responsibilities is prioritised. This is an important addition to the earlier conclusions that (i) the HRA and HDA need to be strengthened by increasing the widespread awareness of the inherent duties (Ch8), and (ii) that the HDA needs to be strengthened by recognising the effect of historic cultural paths on the values of poor countries (Ch6). The values theories discussed here turn the focus of development thinking onto the values of the rich countries, particularly those of the US. Until these values evolve, or are changed, towards greater universalism (relative to self-interest) it seems that poor countries will face extreme difficulties in managing their own development and poverty reduction. The values studies prompt a switch of focus from awareness building to value development.

Without the values theories of social scientists the existing development approaches lack something essential - they do not adequately explain why many rich countries fail to meet their obligations to poor countries, or suggest what must change to enable success. The uncomfortable conclusion is that *we are the problem*²⁴: our values are

²⁴ A conclusion shared by Pogge in (2011) "Are We Violating the Human Rights of the World's Poor?" He states "Citizen attitudes clearly matter. If citizens of Western states cared about the avoidance of poverty, then so would their politicians." Pogge suggests a combination of institutional changes and compensation: "we ought to press for more careful study of these arrangements and their effect and for feasible reforms that make these arrangements more protective of the poor. Each of us should also do enough toward protecting poor people to be confident that one is fully compensating for one's fair share of the human rights deficit that we

maintaining the global basic structure, limiting aid, and perpetuating global poverty.
The question becomes, what can be done about it?

together cause." However, the question arises whether such measures are implementable without supportive citizens' attitudes.

Chapter 11 The Role of Political Philosophers

The Introduction listed three aims: to evaluate how political philosophy has responded to global poverty, to identify opportunities for further progress, and to suggest how the role of political philosophers might evolve in the light of recent developments. Chapters 1-10, concentrated on the first two of those aims, and concluded that considerable but largely unseen and ultimately disappointing progress has been made over the past 70 years. Both the main approaches examined appear to contribute positively and there seems no reason to abandon one in favour of the other. Areas for continued development have been identified but there is little to suggest that foreseeable improvements to the HRA and HDA institutions will make much difference to the projected outcomes. What progress has occurred is largely due to the constructive interaction of political philosophers with certain disciplines, particularly lawyers and economists. However, the potential benefits from interactions with other disciplines, particularly social scientists, appear untapped. It seems the outlook for global poverty will remain disappointing until the problem is prioritised in the developed countries, particularly the US, the prospect of which seems unlikely given the current cultural values within those countries.

This final chapter focuses on the third aim, concerning the evolving role of political philosophy and suggests that closer collaboration with social scientists is one largely overlooked key to accelerating progress on global poverty.

11.1 Considering the role of political philosophy

What are the implications of the HRA and HDA, and their noted shortcomings, for political philosophy? What can be learned from these efforts to address one of the world's global problems? And, what exactly is political philosophy?

Some see political philosophy as that part of philosophy that analyses institutions.¹

Political philosophy examines the institutions that can regulate societies, ranging from rules of etiquette to nation states and even the possibility of world government. Political philosophy has both an explanatory and a normative dimension. Political philosophers try to explain the origins and continued existence of the institutions that have in fact governed societies. They also argue that certain institutions should be established or reformed in order to realize a more beneficial or a more just society.

This definition, with its emphasis on institutions, seems to resonate with Rawls' *A Theory of Justice*. Rawls made institutions the primary subject of his principles of justice,² where institutions include the political constitution and the principal economic and social arrangements. His later acceptance of the importance of the different views people hold, through recognition of the fact of plurality, did not shift his focus from institutions but provided some qualification. Some differences of value were to be tolerated and others not. In *The Law of Peoples*, Rawls states

All societies undergo gradual changes, and this is no less true of decent societies than others. Liberal people should not suppose that decent societies are unable to reform themselves in their own way.³

Rawls is arguing for the due respect of other societies and against the use of any form of sanctions against societies holding decent but non-liberal views. Only 'outlaw states', those that violate human rights, would be subject to sanctions under Rawls' view. His emphasis is on getting the appropriate institutions in place and counting on 'peoples' to adopt liberal or decent values and practices through their own deliberative processes.⁴

If the works of Rawls can be read to support the above definition of political philosophy with its focus on institutions, then so too can the works of Pogge. Much of his writing seems focussed on correcting the institutions of the global basic structure, for example,

What I challenge is a common factual claim: that we are not harming the poor, that the developed countries and the global economic order they sustain are not substantial contributors to life-threatening poverty suffered by billions in the developing world.⁵

¹ A definition offered by Carnegie Mellon Department of Philosophy, accessed 15/4/12 at <http://www.hss.cmu.edu/philosophy/research-political.php>

² Rawls (1971) pp7,54

³ Rawls (1999) p 61

⁴ As suggested at Ibid p62

⁵ Pogge (2002a) *World Poverty and Human Rights*, p25

And, in the field of global health, he proposes a new global institution to motivate better pharmaceutical interventions: the center-piece of a

politically realistic reform plan that would give medical innovators stable and reliable financial incentives to address the diseases of the poor.⁶

As mentioned in Ch10, Pogge likens the problem of global poverty to that of the Nazi regime in Germany.⁷ But regimes are constituted not only by institutions but also by culture (customs, beliefs, etc.).⁸ The Nazi regime was wrong not only because of its institutions but also because of the values held at the time by the German people. The factors that had influenced those values, including the reparations dictated by the Versailles Treaty, and the propaganda of Joseph Goebbels, have been well documented, and need not concern us here. The point is that a political philosopher who seeks the explanatory and normative lessons from the Nazi regime would clearly be missing critical elements if her concentration were entirely on its institutions.

To be fair to Pogge, it must be noted that his attention is not entirely on the wrongs of institutions, and of politicians, “with their corruption and crimes against humanity.” He also targets “citizens, who are disregarding, trivializing, and condoning these crimes in the vague belief that we are benefiting from them.”⁹ It may be easy to think political philosophy is all about institutions, but this is only part of the full picture.

More comprehensive definitions of political philosophy suggest it studies:

How can we and how we ought to live together, (UCL¹⁰)

What ought to be a person’s relationship to society (IEP¹¹)

⁶ Pogge (2010b) “The Health Impact Fund: Better Pharmaceutical Innovations at Much Lower Prices”

⁷ Pogge (2010a) p2

⁸ A view expressed by Steven B. Smith in his Open Yale Course lecture “Introduction: What is Political Philosophy?” Accessed 15/4/12 at <http://academicearth.org/lectures/what-is-political-philosophy>. This view seems consistent with a constructivist interpretation of the anarchic international system.

⁹ Pogge (2010a) p2

¹⁰ Accessed 15/4/12 at <http://www.ucl.ac.uk/philosophy/LPSG/Political.htm>

¹¹ The Internet Encyclopedia of Philosophy, accessed 15/4/12 at <http://www.iep.utm.edu/polphil/>

The notion of living together in society highlights a relationship between individuals, groups and institutions. Since the ‘relationship’ involves two or more parties as well as institutions, improving the relationship is not restricted to improving the institutions. However, it seems that one side of this relationship has often been overlooked in recent years or left to other academic disciplines such as sociology. The lessons from the HRA and HDA are that without the input from sociological values studies, these initiatives may prove insufficient to address the problems of global poverty. Two proposals are offered to address this concern.

11.2 Reclaiming the scope of political philosophy

One proposal is to *reclaim* the scope of political philosophy with the intention of being more completely equipped to address problems such as global poverty. In one way this is a return to the roots of the discipline, but in another it represents a gradual evolution of the role.

Reclaiming the scope of political philosophy involves three claims:

- The role of political philosophy should be as broad as the problem requires,
- This broader role represents a return to an earlier scope,
- Political philosophers have the opportunity to act as integrator, and network all the relevant disciplines.

In the context of global poverty this broadening involves more emphasis on the values and behaviours of individuals and the relationship between persons, groups and the institutions of society. It implies the integration of the work of social scientists and others, as suggested in the previous chapters. It is labelled a *reclaiming* because it represents a return to an earlier, broader and more balanced perspective incorporating both institutions and the nature of the persons they serve.

Recognition of the need to balance the nature of persons and the functioning of institutions can be found in Rousseau’s *The Social Contract*, where he inquires of the civil order whether there can be some legitimate and sure rule of administration, “taking

men as they are, and the laws as they can be”.¹² Rousseau makes the major assumption, when searching for the best society, that human nature is relatively fixed whereas the laws, or institutions in general, are more open to change.¹³ Of course, the statistical methods of political science were not available to Rousseau, and he consequently lacked the tools to explore one side of the relationship: how human nature varies across time and cultures. Instead, as he sought to arrange society so as to be best for the individuals that make it up, much of his focus was understandably on institutions.

Tocqueville, in *Democracy in America*, studied both aspects of regimes: the institutions, and the habits and customs that make a people.¹⁴

He began with the physical geography, and examined the characteristics of the people, of all races and conditions, their social and religious sentiments, their education and tastes, their industries, their commerce, their local governments, their passions and prejudices, and their ethics and literature; leaving nothing unnoticed that might afford an argument to prove that our plan and form of government was or was not adapted especially to a peculiar people, or that it would be impracticable in any different country, or among any different people.¹⁵

His aim was to understand why “the French revolution had led to the Terror and counter-revolution, while the American revolution had brought forth liberal democracy?”¹⁶ His purpose was highly practical. Like Rousseau before him, Tocqueville sought to investigate both the institutions and the culture of a people, but lacked the tools to fully explore cultural values in any depth. Rather than statistical analysis of extensive surveys, Tocqueville relied on “hundreds of interviews” and “scores of notebooks.”¹⁷ Nevertheless, he noted the different values of those in the South from those in the North, and likened the functioning of early townships of New England to the marketplace discussions of Athens. He linked the values of these northern colonists to their emerging institutions that included provision for the poor,

¹² Rousseau (1997) *The Social Contract*, p41

¹³ This interpretation of Rousseau’s position drawn from Rosen and Wolff (1999) *Political Thought*, pp1-6

¹⁴ An observation made by Steven B. Smith in his Open Yale Course lecture “Introduction: What is Political Philosophy?” Accessed 15/4/12 at <http://academicearth.org/lectures/what-is-political-philosophy>

¹⁵ From the Special Introduction by Hon. John T. Morgan (2006) to *Democracy in America*, by Alexis De Tocqueville.

¹⁶ From the Introduction by Patrick Renshaw (1998) to *Democracy in America*.

¹⁷ Ibid

maintenance of roads, and public order.¹⁸ It is not surprising therefore, that Tocqueville is now credited with sociological insight.¹⁹ Tocqueville's enquiry was suitably broad in scope but lacked the sociological depth achieved by modern political scientists.

The proposal to interpret the role of political philosophy in this broader sense (the first claim above) is consequently a return to the earlier perspective of Rousseau, Tocqueville and others (the second claim above), but with access to the technical developments that have flowed from subsequent academic specialisation. By this view political philosophy is not restricted to the study of institutions but freed to tackle the full scope of the major problems of society armed with new competences. Understanding why people act the way they do, and how their values influence behaviour, is essential to the study of how we can and ought to live together.

Some might argue that the analysis of societal behaviour is sociology and not philosophy and that the philosopher loses focus when drifting from core competences. But this is not a drift out of philosophy into sociology, rather a return to its earlier scope. Prior to foundational thinkers such as Auguste Comte and Emile Durkheim in the 19th century, sociology did not exist as a separate discipline. Before then, questions of human social activity were addressed by philosophers such as Plato, Hobbes, Locke, and, as mentioned, above Rousseau and Tocqueville. The complexity that has followed from academic specialisation does make loss of focus a risk, but effective solutions are more likely to flow from collaboration of specialists, than from a separation of silos.

However, some might dispute the relevance or interpretation of these historic positions and press the view that practical proposals such as Pogge's Health Impact Fund are "not really philosophy, not something academic philosophers ought to be doing." Pogge has responded to this view:²⁰

My response begins by pointing out that my work is perhaps more true to the historical roots of philosophy than much of what is done today in philosophy departments. "Philosophy" means "love of wisdom"; and wisdom, one might say, is understanding what matters.

¹⁸ Ibid p19

¹⁹ Ibid pxxix

²⁰ Pogge (2010a) pp8--9

Pogge continues, with regard to the problem of world poverty, and the responsibility of governments and citizens for the continuing injustice:

An adequate treatment of this problem involves work not merely in moral or even political philosophy proper, but also in economics, health policy, political science, history, and the law – fields that produce ample data about the condition of our world as well as about causal relationships and historical-political possibilities. I do not claim to be an expert in these other fields. But I try to understand their relevant areas well enough to be able to analyze pertinent work there for errors and distortions and competently to collaborate with willing experts on the inter-disciplinary work that is needed to show what progress towards global justice would look like and how it is possible.

With these comments Pogge provides some support for the first two claims of my proposal to reclaim the scope of political philosophy. However, the fact that he feels it necessary to explain his position demonstrates that the view is not uncontested. The comparison of his work with the narrower field of “political philosophy proper” highlights the area for debate. One might suggest that political philosophers concerned primarily with normative issues may not feel the need to embrace the fields of law, economics and sociology etc. Whereas political philosophers who choose to work on practical proposals and explanatory theories, as well as normative concerns, may find more reasons to collaborate with other disciplines. My proposal is in line with this latter group.

The third claim is that the political philosopher should have the opportunity to act as integrator, and network all the relevant silos.

But why place this burden of coordination on the philosopher? Why not the sociologist, or the economist, lawyer, etc.? Are philosophers equipped to carry out this task? Philosophers typically have the analytical skills both to assess the scope of the problem and to understand the relevant disciplines, as Pogge suggests above, and may well possess the organizational skills to coordinate the relevant disciplines. The motivation to adopt this role stems from philosophy’s normative dimension. The practical philosopher may not be satisfied through the explanatory role alone, but feel further motivated to develop remedial strategies by the gap between what is and what should be. Sociology does not always place as much emphasis on the normative dimension.

Indeed the work on cultural values reviewed earlier stops short of making any recommendations. The task addressed by Inglehart, Schwartz et al, is to explain and theorise about the state of affairs. Sociologists often see their role as primarily explanatory, providing input to policy makers.

Shouldn't philosophers see their work as simply providing input to policy makers? Isn't it for policy makers to act as the coordinators, gathering the inputs from all disciplines and acting accordingly? Isn't the philosophical task complete when rights and duties are fully specified, and central capabilities clearly identified? No, not when the motivation and behaviour of policy makers are part of the problem. Rights, duties and capabilities are only part of a practical solution, motivating the right behaviour is also required. Some philosophers, notably Pogge, have sought to motivate supportive behaviour, as noted in Chapter 8 and above, but these efforts appear not to have incorporated the results of, or made reference to, the research on cultural values.

11.3 Extending the role of political philosophy

A second recommendation is to extend the role from interpretive analyses and outline proposals through to *effective solutions*, measurable in terms of their impact on the problem under consideration. In the context of global poverty, this includes building strategies for measuring, and where necessary, developing citizens' values to motivate governmental duties with regard to human rights. One might question whether or not this is really an extension, or merely the completion of the original intent, much as the Limburg Principles seek to ensure closure of UDHR drafters' intentions. However, the proposal emphasises that the task is not complete until the full solution to the problem at hand has been mapped out and executed. The fact that a problem remains unresolved is the feedback required to signal that the 'solution' might be inadequate or incomplete. To be clear, I am not suggesting that all political philosophers should extend their role in this manner but merely those who choose to focus on major practical problems such as global poverty.

This proposal to extend the role can be seen as completing the response to Marx' challenge:

The philosophers have only interpreted the world, in various ways; the point is to change it.

This quotation, famous for appearing on Marx' tombstone, is seen by some as an epitaph for philosophy. But must philosophers accept this limitation and assume that *resolving* the world's problems is a task for others?

Martin Heidegger didn't read Marx that way.

When this statement is cited and when it is followed, it is overlooked that changing the world presupposes a change in the conception of the world. A conception of the world can only be won by adequately interpreting the world.

It gives the impression that it speaks decisively against philosophy, whereas the second half of the statement presupposes, unspoken, a demand for philosophy.²¹

This suggests that political philosophers need not abdicate responsibility for understanding and contributing to effective solutions of major societal problems. Indeed philosophers have the *opportunity*, through collaboration with other fields, to tackle the broadest of global challenges.

Focusing on effective solutions, with cultural elements tracked by social scientists, means that explanatory theories become testable. Substandard outcomes will point to incomplete or incorrect theories and prompt further analysis. Without such a feedback control mechanism explanatory theories remain subject to endless debate.

However, extending the role in pursuit of effective solutions, where that might include efforts to change people's values and behaviour, may seem to contravene the philosophers' duty to respect persons and their autonomy. There is the worry of paternalism.

11.4 Support for reclaiming and extending the role

Some support for reclaiming and extending the role of political philosophy can be found in Robert Goodin's *Motivating Political Morality*. He notes that the task of motivating

²¹ Heidegger (1969) A German TV interview accessed 25/1/12 at <http://www.youtube.com/watch?v=jQsQOqa0UVc>

moral behaviour typically starts where the work of moral philosopher often ends, i.e. the identification of moral requirements. In a brief comment that captures Heidegger's view and the earlier conclusions he states that mere moralising will not be sufficient to move people:

That motivational task might be still be a philosophical one, at least in part. But it is also a sociological and political one. In understanding why people do not always do what morally they should, and how we can somehow make them do better, it simply does not pay to be overly respectful of artificial scholarly boundaries.²²

Goodin notes that “what makes the act right is one thing, and what makes people do it is quite another...”²³ It follows that revealing and motivating moral behaviour are two distinct tasks. He uses the example of Thomas Jefferson to demonstrate: Jefferson knew the moral principles regarding the keeping of slaves but did not desist from the practice.²⁴ Goodin further observes somewhat critically that philosophy focusses on just the first part: mere moralising.

His initial conclusion is that “the best way to secure morally desirable outcomes ... is by encouraging people to act on morally worthy motives.”²⁵ He considers a number of ways this might be achieved, such as arranging the tax system so that people are motivated to act morally irrespective of their individual values.²⁶ In a second approach postulating a veil of uncertainty, instead of Rawls' veil of ignorance, he considers ways to package policies as appealing to self-interest rather than altruism.²⁷ Eventually he concludes that this approach may not work and considers two other strategies for motivating moral behaviour: ratcheting up from moral intuitions, and bridging down from moral principles.²⁸ On the former one seeks to extend strong intuitions in particular cases to a general principle for guiding behaviour. The second involves showing people that their general principles commit them to specific acts in particular cases. Goodin's aim is thus to modify people's behaviour, if necessary, through the development of their values.

²² Goodin (1992) *Motivating Political Morality*, p5

²³ *Ibid* p9

²⁴ *Ibid* p4

²⁵ *Ibid* p9

²⁶ *Ibid* p28

²⁷ *Ibid* p48

²⁸ *Ibid* p151

I share Goodin's view that philosophy should embrace the sociological aim of understanding human behaviour, and the political aim motivating particular actions, and agree with his observation that

We can motivate people to act morally ... by building upon such sentiments. But all available strategies for doing so really do presuppose that those sentiments are already present...

Goodin seems concerned that not everyone holds the necessary sentiments, and it is perhaps unfortunate that he does not explore the full range of sentiments or values that might influence behaviour, but rather limits himself to the broad categories of moral and amoral beliefs. He consequently does not incorporate the supportive analyses of Inglehart and Schwartz that show that everyone holds the (fifty plus) main values, but with differing priorities - confirmation that the 'sentiments are already present.' Nevertheless, the notion of ratcheting up and bridging down may prove important when particular strategies are being considered. Where Goodin's approach supports the proposals in question is in highlighting the multi-disciplined approach open to philosophers, and in the objective of bringing about changes in behaviour, not simply evaluative commentary.

Goodin is not alone in calling for improvements in the behaviour of citizens as well as in the institutions of society. Crocker makes a similar point:

Philosophers should devote less time and energy to articulating ideals of a perfectly just society and more effort to identify and forge specific strategies to confront and reduce the world's injustices. Among those measures are not only democratic practices -- with suitable breadth, range, depth, countervailing powers, and control -- but also citizens committed to making democracy work.²⁹

Crocker like Goodin appears willing to seek the development of citizens' values but appears not to have incorporated empirically measured cultural values into his strategies for effective citizens as yet.

But the worry of paternalism re-appears in such proposals to 'correct' the values of persons, or 'develop' them in some way. Crocker thinks this danger can be avoided:³⁰

²⁹ Crocker (2010) "Sen's Ideas of Justice and Democracy," presented at the Conference of the Human Development and Capability Association Amman, Jordan, September 21-23, 2010

³⁰ Ibid

it is not paternalistic to help provide the other person with “an adequate opportunity to reason about what she really wants.”

And,

it is only through give and take with others that we become aware of our own values and beliefs and grasp alternative ways of thinking and acting.

If we take paternalism to involve interference with another person, against their will, motivated by a claim that the person interfered with will be better off or protected from harm, then we can avoid the charge.³¹ The paternalism-avoiding approach is to engage in a form of public reason - to prompt self-reflection on the part of targeted individuals. The difficult part may lie not in avoiding paternalism but in finding how best to engage the targeted persons and set-up the self-reflection.

The proposals to *reclaim* and *extend* the role of political philosophy, including the development of citizens' values where appropriate can thus be seen as building on the work of Goodin and Crocker, and in the spirit of Rousseau and Tocqueville.

11.5 Applying these proposals to the problem of global poverty

Reclaiming and extending the role of political philosophers in the context of the global poverty problem might involve the following tasks.

1. Political philosophers engaging with social scientists to broaden the scope of their analyses, and in collaboration, to *identify and press value development accelerators* for developed countries - particularly the US - since cultural value change towards greater universalism seems necessary for developed country governments to be held to account by their citizens over their collective cross-border duties regarding human rights and human development.

³¹ Based on the definition of paternalism in the Stanford Encyclopedia of Philosophy, accessed 15/4/12 at <http://plato.stanford.edu/entries/paternalism/>

But one might ask, ‘How specifically, does knowing the social science help us develop better strategies?’ This thesis has suggested that addressing global poverty is critically dependent on the performance of cross-border duties by developed countries. Both the HRA and HDA recognise the need to be self-regulating processes, and implicitly rely on electoral accountability, with citizens holding governments to account over their performance. Public awareness of governmental duties is key, but not sufficient. According to the values studies, government accountability is seemingly dependent on citizens’ values, and cultural differences by country are significant and highly influential on values, and hence behaviour. ‘Developed’ values (plus awareness) seem essential for HRA/HDA compliant government behaviour. It is perhaps too easy to blame imperialism (government action) for global poverty,³² whereas the root of the problem seemingly lies deeper in cultural values. Social science theories on US exceptionalism provide helpful diagnoses but further exploration is needed and corrective responses developed. Political philosophers seeking practical remedies could work in collaboration with social scientists to press the question, ‘is it possible to accelerate values changes, and if so how?’

Arguably the collaboration might involve several strands: research into methods for strengthening public values within different cultural groups, strategies to boost the relative priority in developed countries of the values conducive to universalism, and strategies to trigger a tipping point in behaviour. The latter might resemble the ‘Torches of Freedom’ idea that resonated with emerging public values in the 1920s and triggered a widespread shift in behaviour. Edward Bernays, the self-proclaimed father of PR, engineered this apparently massive change in US attitudes to women smoking in public by the simple process of publicising attractive young women enjoying ‘torches of freedom’. This demonstrates both that cultural value change can appear to be almost immediate, given the right stimulus, but also that it can be totally misdirected. The impact of value adjustments needs careful assessment.

But, isn’t this a hopeless task? Aren’t US values stuck, by either Baker’s analysis or Inglehart’s?

³² As, for example, in Richard Miller (2010) *Globalizing Justice*. However, Miller links American imperialism to cultural values at p 192, “To succeed in politics, American politicians must accommodate economic elites and win elections shaped by the public political culture.” He makes no reference to values studies.

“... America would not be America if its people lost their traditional values.”³³

Perhaps there is little prospect of US values being changed towards greater universalism. Pogge’s tactic of naming and shaming, although brilliantly executed, may prove ineffective with the majority of Americans.

However, other possibilities exist that are also worth exploring:

- A prudential argument that switching budgets from ‘defence’ to ‘aid’ might reduce wars and terrorism.
- A prudential argument that aid and basic structure changes could extend the markets for US business.
- An aspirational argument emphasising (albeit selectively) past and present US leadership.

Rather than confronting US civilians with their shortcomings the search would be for a trigger that is congruent with much of US values but which leads to a positive change in the benevolence/universalism factor. Social scientists are key to this effort because before we can change people’s behaviour we need to understand what motivates them, and this has long been a central concern for social scientists.

Without the requisite values, we may lack effective democracy, we may lack the pressure for governments to meet their cross border obligations, and HRA and HDA may be left incomplete, without self-regulation.

2. Political philosophers adopting the role of *public educators*, seeking to build both awareness and sentiment. It may not be sufficient for political philosophers to know or discover what is right or true, it may also be important that citizens in general come to know, or at least be adequately informed, and prioritise accordingly.

This task might involve several elements:

- (a) Building awareness of HRA/HDA duties - The public need to be aware of the background and content of these efforts made on their behalf, not limited to knowing the guiding aims, the commitments made by participating

³³ Baker (2008) p21

governments, and the meanings clarified by dedicated experts, and the performances delivered.³⁴ Possibilities include: (i) calling for awareness measures to be included in Country Reports, The Constructive Dialogue, and Days of General Discussion processes, and recommending a Rapporteur for Rights Awareness in developed countries (HRA); (ii) Developing a new performance indicator for Rights and MDG Awareness to be included in Human Development Reports (HDA); (iii) Preparing a University sponsored internet lecture series³⁵ on human rights and human development with supporting materials for new media; (iv) Collaborating with TV companies to produce documentaries for the wider public.

(b) Sentimental education - Attention to be given to what Richard Rorty calls sentimental education,³⁶ which suggests that outsiders or ‘bad people’, be viewed as deprived in security (basic needs) and sympathy. Rorty suggests, with reference to the work of Annette Baier, that we “think of trust rather than obligation,” “see the similarities between ourselves and people very unlike us as outweighing the differences.”³⁷ Baier's feminist approach holds that men typically make their moral decisions according to their idea of justice, while women typically act out of a sense of trust or caring. She, like Rorty, maintains that the role of nurture and trust in human philosophy needs further developing. Note the similarity with Wolff and De-Shalit’s republican proposal mentioned in Ch6. This move would appear to be additive, and bring balance, to the awareness of obligations contained in (a) above. Sentimental education thus conceived might also be viewed as another term for value development. Baier is distinguishing the different values prioritised by men and women and seems comfortable that such values should be adjusted as proposed in the previous point.

(c) Building awareness that inequality (relative) is bad for health, peace and progress. Philosophers could argue to a broad public the prudential case for

³⁴ Sepulveda (2003) argues for the need for public awareness of rights and duties, p8

³⁵ Much like the Yale Open series on Political Philosophy, and The Moral Foundations of Politics, the latter accessible at <http://oyc.yale.edu/political-science/plsc-118#sessions>

³⁶ Richard Rorty “Human Rights, Rationality, and Sentimentality,” in Shute and Hurley (1993) *On Human Rights: The Oxford Amnesty Lectures*, p122

³⁷ Ibid p129

limiting inequality. Notable progress has been made in recent years, as indicated below, but more remains to be done:

- i. Michael Marmot - features in a four-hour documentary series, broadcast nationally on PBS (U.S.) in spring 2008, titled “Unnatural Causes: Is Inequality Making Us Sick?” which explores how class and racism can have greater impacts on one's health outcomes than genetics or personal behavior.
- ii. Richard Wilkinson - features in a TED presentation “How economic inequality harms societies” (2011)³⁸ generating 764,128 Views between Oct 2011 and 24/1/12.

(d) Targeted and effective communication. Philosophers to consider broader target markets, not just elites, accessed by the most cost-efficient means, to enable effective democracy (an element foreseen by Crocker amongst others).³⁹ Philosophers typically communicate via books, papers and conferences, which almost invariably target educated elites rather than the wider public. Given that educated elites often act as norm setters targeting this segment can be very effective. However, there is no reason why philosophers in conjunction with others might not also target the wider public directly with a view to accelerating value development.

3. Political philosophers and their collaborators considering a realistically utopian view, for example by researching a Post-Post-Industrial Phase of development.

- exploring the dissatisfaction with the (absolute) rule of nations, and considering other communications enabled collectivities.
- Anticipating a future in which people are committed to nurture and trust not just justice.

³⁸ Accessed 22/3/12 at http://www.ted.com/talks/richard_wilkinson.html

³⁹ In Goodin (1992) he claims he is “primarily concerned to motivate moral behavior among the “masses” rather than merely among “elites.””

- Consider evolving the Four Freedoms into a Common Goal for all Societies, such as in Parfit's conclusion in *On What Matters*.⁴⁰ Pogge noted, working to eradicate global poverty "could do wonders for the moral cohesion of our societies"⁴¹

11.6 Duty Dumping?

Are these proposals any more than 'duty dumping', placing an undeserved burden on the backs of (other) political philosophers? Alan Buchanan defines 'duty dumping' as the unprincipled attribution of determinate responsibilities - a practice that is morally unjustified and likely to deflect attention from the real responsibility holders.⁴² In defence, one might claim that political philosophers, with their analytical training and focus, are uniquely placed to apply their powers, in the proposed manner, to the resolution of major problems such as global poverty. One might invoke Sen and his reflections on the "responsibility of effective power" to support that view:

If someone has the power to make a change that he or she can see will reduce injustice in the world, then there is a strong social argument for doing just that (without his or her reasoning having to intermeditate the case for action through invoking the benefits of some imagined cooperation). This obligation of effective power contrasts with the mutual obligation for cooperation, at the basic plane of motivational justification.⁴³

Or, even the Singer position, previously quoted

... if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it.⁴⁴

But a critic might point to Buchanan's warning of the dangers of too hastily adopting the "can implies ought" principle in assigning and assessing responsibility.⁴⁵

⁴⁰ Parfit (2011) "What now matters most is that we rich people give up some of our luxuries, ceasing to overheat the Earth's atmosphere, and taking care of the planet in other ways, so that it continues to support intelligent life." p419

⁴¹ Pogge (2010) 135/6

⁴² Buchanan (2009) *Justice & Health Care*, pp220-3

⁴³ Sen (2009) p205; see also pp270-71

⁴⁴ Peter Singer (1972) "Famine, Affluence, and Morality," p2 also in Singer (2000) p107, previously quoted at p118

⁴⁵ Buchanan (2009) p221

The proposals are based on the conclusion that political philosophers, in collaboration with other disciplines, *can* contribute to the faster resolution of global poverty. It is not suggested they have a perfect duty to do so, merely that they have the opportunity, an imperfect duty at best. The proposals to reclaim and extend the role of political philosophy are not original, although some of the specifics may be. They represent a return to the basics of philosophy, a broad viewpoint albeit now equipped with more powerful analytical tools such as statistical methods for value measurement.

Some might still argue that we should stick to our knitting and leave the sociology for the sociologists. However, the major problems of the world do not fit neatly within our ever-narrower academic disciplines. They typically cross many fields. Deciding which disciplines are involved in a particular problem is a challenge for the practical political philosopher; it is part of the analysis. What appears relevant after the initial investigation of a problem may need modification or extension in later phases as new insights emerge. The problem of Development was initially seen to be one of economics, before further analyses pointed to other disciplines including social science. It is the nature of the problem that determines which of our academic disciplines is relevant.

11.7 Validating the Role of Political Philosophers

The proposals offered here might also be validated by reference to another guiding influence. In his last book *Justice as Fairness: A Restatement*, based on lectures from the 1980s, Rawls draws on his experience to present the ‘Four Roles of Political Philosophy’ as the first of his ‘fundamental ideas’.

In brief, the four roles are:

1. Practical role ... “to focus on deeply disputed questions (such as the Global Basic Structure) and see whether, despite appearances, some underlying basis of philosophical and moral agreement can be uncovered.” My insertion in brackets.

2. Orientation role - “contribute to how a people think of their political and social institutions as a whole, and their basic aims and purposes as a society with a history...”
3. Reconciliation - “to calm our frustration and rage against society and its history by showing us the way in which its institutions, when properly understood from a philosophical point of view, are rational, and developed over time as they did to attain their present, rational form.”
4. Realistically Utopian - “probing the limits of practicable political possibility.” Rawls asks, “What would a just democratic regime be like under reasonably favorable but still possible historical conditions, conditions allowed by the laws and tendencies of the social world?”⁴⁶

When Rawls talks of “the tendencies of the social world” (under point 4 above), it is easy to imagine he might have meant ‘values of the social world’, as they have been discussed here. Irrespective of that, it is clear that Rawls foresees the quest for both immediate solutions (the practical role) and higher, closer to ideal, solutions (the utopian role), the latter conditioned by social realities. There is the expected mention of institutions, but also the broader term ‘regime’, together with mention of the aims and purposes of society. This statement of the roles of political philosophy is at least worth considering as a test for the current proposals.

The recommended proposals regarding global poverty might be seen to follow Rawls’ model:

Proposal 1, seeking and activating value development accelerators in collaboration with social scientists, corresponds with Rawls Practical role.

Proposal 2, positioning political philosophers as educators of the wider public, is arguably contained within Rawls’ Orientation and Reconciliation roles. However, it seems that philosophers have typically concentrated on educating the elites and the possibility exists to also address the wider public audience. And,

Proposal 3, the search for a ‘post-post-industrial phase’ can be viewed as Realistically Utopian in Rawls’ sense, but based on the networking of academic disciplines.

⁴⁶ Rawls (2001) pp1-4

This ‘validation’, though hardly decisive, does provide another viewpoint from which to assess the proposals. Where the recommended roles for political philosophers appear to differ from Rawls’ is in their essential multi-discipline nature. By my understanding philosophers cannot adequately address the major problems facing global society, such as poverty, climate change and the environment, without closer interaction with other academic disciplines.

11.8 Conclusion

Progress to-date on the practical issue of global poverty owes much to cross-discipline collaboration, as demonstrated earlier, but the future may require-even greater outreach to disciplines such as political science, marketing, communication theory, educational theory, etc. Political Philosophers can draw on Rousseau, Tocqueville, or more recently Pogge, and reclaim their lost scope. To respond fully to Marx’ challenge, political philosophers with practical intent have the opportunity to integrate all the relevant academic disciplines, broaden the range of their enquires beyond institutions to include human behaviour and its drivers, and extend the reach of their normative and explanatory efforts to culminate in effective and measurable solutions.

Appendix to Chapter 6

Values Included in Schwartz' empirical research and their meaning:

- 1 -EQUALITY (equal opportunity for all)
- 2 -INNER HARMONY (at peace with myself)
- 3 -SOCIAL POWER (control over others, dominance)
- 4 -PLEASURE (gratification of desires)
- 5 -FREEDOM (freedom of action and thought)
- 6 -A SPIRITUAL LIFE (emphasis on spiritual not material matters)
- 7 -SENSE OF BELONGING (feeling that others care about me)
- 8 -SOCIAL ORDER (stability of society)
- 9 -AN EXCITING LIFE (stimulating experiences)
- 10 -MEANING IN LIFE (a purpose in life)
- 11 - POLITENESS (courtesy, good manners)
- 12 -WEALTH (material possessions, money)
- 13 -NATIONAL SECURITY (protection of my nation from enemies)
- 14 -SELF-RESPECT (belief in one's own worth)
- 15 -RECIPROCATION OF FAVORS (avoidance of indebtedness)
- 16 -CREATIVITY (uniqueness, imagination)
- 17 -A WORLD AT PEACE (free of war and conflict)
- 18 -RESPECT FOR TRADITION (preservation of time-honored customs)
- 19 -MATURE LOVE (deep emotional and spiritual intimacy)
- 20 -SELF-DISCIPLINE (self-restraint, resistance to temptation)
- 21 -DETACHMENT (from worldly concerns)
- 22 -FAMILY SECURITY (safety for loved ones)
- 23 -SOCIAL RECOGNITION (respect, approval by others)
- 24 -UNITY WITH NATURE (fitting into nature)
- 25 -A VARIED LIFE (filled with challenge, novelty, and change)
- 26 -WISDOM (a mature understanding of life)
- 27 -AUTHORITY (the right to lead or command)
- 28 -TRUE FRIENDSHIP (close, supportive friends)
- 29 -A WORLD OF BEAUTY (beauty of nature and the arts)
- 30 -SOCIAL JUSTICE (correcting injustice, care for the weak)
- 31 -INDEPENDENT (self-reliant, self-sufficient)

- 32 -MODERATE (avoiding extremes of feeling and action)
- 33 -LOYAL (faithful to my friends, group)
- 34 -AMBITIOUS (hardworking, aspiring)
- 35 -BROAD-MINDED (tolerant of different ideas and beliefs)
- 36 -HUMBLE (modest, self-effacing)
- 37 -DARING (seeking adventure, risk)
- 38 -PROTECTING THE ENVIRONMENT (preserving nature)
- 39 -INFLUENTIAL (having an impact on people and events)
- 40 -HONORING OF PARENTS AND ELDERS (showing respect)
- 41 -CHOOSING OWN GOALS (selecting own purposes)
- 42 -HEALTHY (not being sick physically or mentally)
- 43 -CAPABLE (competent, effective, efficient)
- 44 -ACCEPTING MY PORTION IN LIFE (submitting to life's circumstances)
- 45 -HONEST (genuine, sincere)
- 46 -PRESERVING MY PUBLIC IMAGE (protecting my "face")
- 47 -OBEDIENT (dutiful, meeting obligations)
- 48 -INTELLIGENT (logical, thinking)
- 49 -HELPFUL (working for the welfare of others)
- 50 -ENJOYING LIFE (enjoying food, sex, leisure, etc.)
- 51 -DEVOUT (holding to religious faith and belief)
- 52 -RESPONSIBLE (dependable, reliable)
- 53 -CURIOUS (interested in everything, exploring)
- 54 -FORGIVING (willing to pardon others)
- 55 -SUCCESSFUL (achieving goals)
- 56 -CLEAN (neat, tidy)

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