

Righting wrongs - Human rights; A new approach to human rights.

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Human-rights campaigners are starting to lobby for economic and social rights, such as the right to health and the right to food. Will they make a success of it?

IN SHAW'S "Pygmalion", Colonel Pickering asks Alfred Doolittle whether he has no morals. "Can't afford them, governor," the philanderer replies; "Neither could you if you was as poor as me." Morals are costly to maintain. So are rights, especially the kind of "universal human rights" that become enshrined in United Nations' declarations.

International support for a core group of human rights, mainly civil and political, has been enshrined for more than half a century in the Universal Declaration of Human Rights, ratified by the United Nations in the aftermath of the second world war and the Holocaust. The declaration proved compelling as a statement of principles, but too general and vague to be useful as a legal instrument. So, during the 1960s, two more covenants were thrashed out in an effort to give the declaration some substance: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

During the cold war, enthusiasm for these covenants split along the obvious divide: capitalists were keen on civil and political rights, Communists on social and economic rights. When Western lobbyists accused the Soviet Union of violating its citizens' civil rights, the Soviet government replied that the economic and social rights of its people were more important. The division survives: today the Chinese make much the same argument.

In terms of publicity and promotion, the rights set out in the first covenant have had the benefit of human-rights advocates such as Amnesty International and Human Rights Watch (HRW). They have publicised the plight of prisoners of conscience and victims of torture. As a result, regimes that torture, unjustly imprison or disenfranchise their citizens have sometimes been pushed or shamed into changing their behaviour.

Until now, the second covenant has been used less widely to promote the rights that it enshrines--mainly to economic benefits such as housing, food, health care and fair wages. Now, though, Western human-rights groups, which have traditionally focused only on civil and political violations, are looking again at economic rights, and hope eventually to persuade governments to place the right to a house or a meal on an equal footing with the right to vote.

If this sounds foolish, human-rights veterans are used to scepticism. "Twenty-five years ago, when Amnesty started

talking about torture victims, everyone thought we were ridiculous, out of our minds," says Larry Cox, the senior programme officer for human rights at the Ford Foundation. Few people then believed, he says, that mere letter-writing and lobbying could be such powerful weapons. But a great deal more manoeuvring and persuasion will be needed to give meaning to social and economic rights than to fight torturers and censors.

Not surprisingly, the big battalions among human-rights campaigners approach the issue with some trepidation. On August 16th, several hundred representatives of Amnesty International, the first and largest such group, met in Dakar, the capital of Senegal, to discuss changes to its mandate.

At the moment, Amnesty's campaigners battle in support of civil and political rights. They define their battleground with care, supporting only the rights of individuals. If a journalist is thrown into prison, Amnesty will launch a campaign on his or her behalf. If a government bans a newspaper, however, Amnesty will remain mute, because the action harms no single individual.

Over the past four years, Amnesty's main policy committee, the Standing Committee on the Mandate, has been developing a set of resolutions that would explicitly incorporate economic and social rights into Amnesty's mandate. These will be debated and put to the vote at the Dakar meeting. Amnesty's rules, oddly enough, prevent its officials from discussing their exact wording until after the vote. But, if adopted, the resolutions will alter the character of the organisation profoundly and permanently.

The Dakar votes could go either way. And much remains to be settled. For instance, Peter Pack, the standing committee's chairman, says the organisation could well end up with a position on economic and social rights that resembles its stance on civil and political rights: only certain abuses, under certain circumstances, would fall within Amnesty's remit.

However, the main question is whether such a change would reinvigorate Amnesty's mission or splinter it. Amnesty's letters, petitions and appeals have successfully chastised torturers and despots. Would their tactics be equally effective in the greyer worlds of health, housing, and labour policy? Amnesty's representatives are already fretting about the strains on the group's time, personnel and expertise. Expanding its mandate would mean extra work. Besides, Amnesty's success rests on the efforts of its members. If a sudden change in direction perplexes or annoys Amnesty's membership, the group's core competence may be damaged with few compensating gains.

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Rights turn

Up to now Western human-rights campaigners have left economic and social concerns to humanitarians and philanthropists. When they have taken an interest in economic and social conditions, it has been merely to strengthen the case for political crusading. For example, Amartya Sen, a Nobel-prize-winning economist at Cambridge University, famously pointed out that "in the terrible history of famines in the world, no substantial famine has ever occurred in any independent and democratic country with a relatively free press". HRW took this to heart, and asserts that "the best way to prevent famine today is to secure the right to free expression--so that misguided government policies can be brought to public attention and corrected before food shortages become acute."

Now, campaigners increasingly question that view. Amnesty may be the most prominent human-rights group debating a shift of focus, but it is by no means alone. Since 1993, the charter of the Centre for Economic and Social Rights in Brooklyn, New York, has demanded that it "challenge economic injustice as a violation of international human rights law". In its strategic plan for the next three years, Oxfam, Britain's leading overseas-development charity, lays out its belief in "rights to a sustainable livelihood, and the rights and capacities to participate in societies and make positive changes to people's lives". The Ford Foundation's programme for human rights recently decided to finance a project to create a global network on the Internet that will provide an international directory of non-governmental organisations (NGOs) interested in economic, social and cultural rights, with a view to encouraging them to collaborate.

United Nations' bodies are also keen to extend the concept. Since 1998, the World Health Organisation has been asking the international community to recognise health as a human right. In "A Human Rights Approach to TB," a document issued in March, the WHO inelegantly points out the obligation of states to "provide some sort of redress that people know about and can access if they feel that their health-related rights have been impinged on". And the UN Human Rights Commission recently stated that international trade law ought to be harmonised with international human-rights law.

Why, though, are human-rights bodies so keen to broaden their remit in this way? The short answer is that they have begun to wonder whether civil and political rights are not a bit beside the point in many of the world's poorest countries. In particular, the AIDS pandemic in Africa is driving the movement to demand that economic and social goods be treated as entitlements. Michael Ignatieff, the

director of the Carr Centre of Human Rights Policy at Harvard University's Kennedy School of Government, insists that the ambit of human-rights organisations must expand: "Look at Botswana," he says. "All the gains in civil and political rights that have been made there will be wiped out by the catastrophic losses in economic and social rights. At this level of incidence of AIDS, the virus destroys the infrastructure of a society. It cuts into the defences that make civil and political rights possible."

Mr Ignatieff has a point. Botswana, like neighbouring South Africa where AIDS is also rife, is a democracy with a reasonably free press and healthy civil institutions. The fact that Botswana suffers from the world's highest incidence of AIDS, with South Africa close behind, proves that democracy and press freedom are not prophylactics. Human-rights campaigners may feel that these countries are not doing enough to staunch the spread of the disease, but they cannot blame the failure on political abuses. Nor can they tell other, less enlightened regimes that respecting civil and political rights will help to halt the spread of AIDS.

In addition, human-rights groups worry that the governments of the rich world are not responding to this catastrophe with enough vigour, and that using "rights talk" may shake them out of their torpor. "Doing something about AIDS in Africa is not about charity or public-health prevention. It is a matter of obligation," says Mr Ignatieff. "The rights argument is a way to leverage money to fulfil this obligation." Whereas calls for generosity can only pluck weakly at the sleeves of rich governments, perhaps unsubtle claims of legal obligation will twist their arms.

High risk

However, the strategy is a perilous one. Even if economic and social rights appear to have the same status on paper as civil and political rights, their philosophical grounding is often questioned. Designating a good as a universal human right means that reasonable people believe that under no jurisdiction, and under no circumstances, may that good be justly denied to anybody. Although freedom from torture certainly now falls into this category--arguably due to the efforts of groups like Amnesty--goods such as food and a decent home do not. Governments may intentionally torture their citizens; they do not usually intentionally inflict on them poverty and ill health. The moral imperative to stop poverty or disease is therefore not as convincing as the moral imperative to stop torture.

There is a further problem. In the eyes of governments today, certain human rights in the civil and political realm have attained the status of moral absolutes. Abusers of these rights face sanctions and censure, even if their

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actions are mandated by the democratic processes of a sovereign state. However, giving a similar status to economic and social rights would produce a curious outcome. Some nations would be subject to condemnation simply because of their poverty, while others would be arraigned for the policy outcomes of decisions taken democratically. The first stance would be morally distasteful, while the second would be counter-productive.

For illustration, consider the concept of a right to health, which has drawn particular attention. Last year, the UN Committee on Economic, Social and Cultural Rights stated that a government's "core obligations" include the provision of equal access to health services, enough food, potable water, sanitation and essential drugs. Yet by these criteria, says Lawrence Gostin, a fellow at the Hastings Centre for Bioethics in Garrison, New York, the United States "probably violates the right to health not because it spends too little on health care and public health, but because its resources are inequitably distributed". That seems a radical enlargement of the concept of rights.

Critics of an expanded set of human rights point to another difference between the old sort and the new. To guarantee civil and political rights is relatively cheap, whereas to guarantee economic and social rights is potentially enormously costly. The cost of ensuring the right to vote, for example, is well-defined: the nature of universal franchise is set out in a century of case law and statute, and the costs of staffing and equipping the ballot are easy to assess. Even when an election turns out to require independent observers, extended court sessions and a lot of recounting, as in Florida last November and December, it is still relatively easy for a democratic government to protect its citizens' right to vote. Endorsing a universal right to health care, by contrast, seems a sure start to an expensive ride down a slippery slope. Who is to say when a person has had enough money spent on keeping him fit?

In any case, it will be hard for human-rights campaigners to advance economic and social rights as successfully as they have promoted civil and political rights. HRW, which recently started pushing into the new field in response to AIDS, wants to provide solid evidence of links between lack of health care and human-rights abuses. It has now launched a fully fledged programme on AIDS and human rights. Some of this programme will cover familiar territory, exploring how discrimination against homosexuals, sexism and censorship encourage the spread of AIDS. The rest may be more controversial, although Kenneth Roth, the executive director of HRW, says his goal is simply "to show that certain basic necessities are appropriately treated as rights, and that the means have to be found to allow access to these necessities".

In the case of AIDS, the main question is what pharmaceutical companies should do about drug prices. Mr Roth maintains that a government cannot be said to be upholding the right to health "when it defends excessive corporate profits over the right of access to essential, life-saving medicines in cheap or generic form". HRW is currently working out the details of its position on drugs, and is hunting for a role where its investigative capabilities would be useful. But dealing with the complexities of appropriate drugs policies in poor countries requires quite different skills from fighting on the simpler issues raised by torture or unjust incarceration.

Oblivious Americans

If human-rights campaigners succeed in deploying their campaigning skills to improve health and reduce poverty, that will be a considerable gain. However, they risk alienating Western countries that have hitherto usually been their allies.

Unsurprisingly, America is at the top of that list. America has not yet ratified the International Covenant on Economic, Social and Cultural Rights. George Moose, the American ambassador to the UN Human Rights Commission (UNHRC), explained in April that his country was "concerned" about changes in international law that would "lead in the direction of the creation of legal, enforceable entitlements to economic, social, and cultural rights". Why? Because "that would mean citizens could sue their governments for enforcement of rights". At a meeting in Geneva in January to prepare for the UN summit on AIDS, the American delegation explicitly rejected a rights-based approach to stopping the disease, which it prefers to consider as a health-policy problem or, when pressed, as one of national security.

However, badgering the United States to change its attitude may be little use. After all, human-rights groups have long tried unsuccessfully to persuade America to abolish the death penalty. If such groups start offering their views on a slew of other issues, Americans may simply stop paying attention to them. Mr Ignatieff admits that human-rights groups risk becoming marginalised. Nevertheless, he argues that "the risk of not going this route is equally great: you become focused on yesterday's challenge and you miss tomorrow's challenge."

Campaigners argue that tomorrow's challenge in the United States is to convince people of the legitimacy of social and economic rights. "It is a new idea for Americans to think of themselves as having human rights as well as constitutional or statutory rights," says Mr Roth. Leonard Rubenstein, of Physicians for Human Rights, a lobbying group based in Boston, predicts that "as Americans start

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demanding rights for others around the world, they will start pressing for them at home as well." In the end, he hopes that these rights will become as uncontroversial as the civil rights Americans take for granted today. "Human rights ought not to be a partisan issue", says Mr Cox. "You could have a partisan debate on how to realise the rights to housing, health, and food. But you should not have a partisan debate on whether there are such things."

Unfortunately, extending the notion of human rights could have the opposite effect. Rather than elevating rights above the partisan fray, it could turn them into political shuttlecocks. To some extent, this has happened in Britain, where the adoption of the European Convention on Human Rights last autumn has been followed by a flood of lawsuits. The net effect has been to make these rights seem more trouble than they are worth.

Human-rights campaigners risk frittering away their hard-won political capital in the pursuit of rights that are both undefinable and undeliverable. Veteran campaigners know all too well that two wrongs don't make a right. They are about to find out that too many rights may well make a wrong.