

Work and rights

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This is a crucial moment in the history of working people across the world. The first flush of globalization is nearing its completion, and we can begin to take a scrutinized and integrated view of the challenges it poses as well as the opportunities it offers. The process of economic globalization is seen as a terrorizing prospect by many precariously placed individuals and communities, and yet it can be made efficacious and rewarding if we take an adequately broad approach to the conditions that govern our lives and work. There is need for well-deliberated action in support of social and political as well as economic changes that can transform a dreaded anticipation into a constructive reality.

This is also a historic moment for the ILO as custodian of workers' rights within the United Nations system. Its new Director-General — the first from outside the industrialized world — has chosen to lead the organization in a concerted effort to achieve decent work for all women and men who seek it across the globe (see ILO, 1999). My own close association with the ILO goes back much more than a quarter of a century. In the seventies, I had the privilege of advising the ILO, and doing some work for it (see, e.g., Sen, 1975, 1981). But my first working association with the ILO was in 1963, when I was despatched to Cairo. Already in the 1970s I was trying to persuade the ILO to take a broad approach to the idea of working rights — though admittedly what I did then was rather crude and rough. I was trying to invoke ideas not only of rights but also of metarights. So I do particularly welcome this new initiative of the ILO to achieve decent work.

What, then, is the nature of this start, and where does all this fit into the contemporary intellectual discourse on economic arrangements, social values and political realities? I should like to identify four specific features of the approach which may be especially important to examine. I shall have the opportunity of scrutinizing only two of these issues in any detail, but I shall briefly comment on the other two distinctive features.

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Objectives and goals

The first important feature in the new ILO vision is the articulation of its goal: the promotion of “opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity” (ILO, 1999, p. 3). The reach of this objective is indeed momentarily large: it includes *all* workers, wherever and in whatever sector they work; not just workers in the organized sector, nor only wage workers, but also unregulated wage workers, the self-employed, and the homeworkers. The ILO aims to respond to the terrible fact that “the world is full of overworked and unemployed people” (ILO, 1999, pp. 3, 4).

This universality of coverage, pervasiveness of concern and comprehensive conception of goals is a well-chosen alternative to acting only in the interest of *some* groups of workers, such as those in the organized sector, or those already in employment, or those already covered by explicit rules and regulations. Of course universality implies facing many difficult questions which need not arise if the domain of concern is restricted to narrower groups, such as workers in the organized sector (leaving out the unorganized sector), or even all wage workers (leaving out homeworkers), or even all people actively in work (leaving out the unemployed).

The case for choosing such a broad focus rests on the importance of a comprehensive approach. There are different parts of the working population whose fortunes do not always move together, and in furthering the interests and demands of one group, it is easy to neglect the interests and demands of others. Indeed, it has often been alleged that labour organizations sometimes confine their advocacy to very narrow groups, such as unionized workers, and that narrowness of the outlook can feed the neglect of legitimate concerns of other groups and also of the costs imposed on them (unorganized labourers, or family-based workers, or the long-term unemployed, for example). Similarly (on the other side), by focusing specifically on the interests of workers in the informal sector, it is also possible to neglect the hard-earned gains of people in organized industry, through an attempt — often recommended (if only implicitly) — to level them down to the predicament of unorganized and unprotected workers.

Working people fall into distinct groups with their own specific concerns and plights, and it behoves the ILO to pay attention simultaneously to the diverse concerns that are involved. Given the massive levels of unemployment that exist in many countries of the world today — indeed even in the rich economies of western Europe — it is right that policy attention be focused on expanding jobs and work opportunities. And yet the conditions of work are important too. It is a question of placing the diverse concerns within a comprehensive assessment, so that the curing of unemployment is not treated as a reason for doing away with reasonable conditions of work of those already employed, nor is the protection of the already-employed workers used as an excuse to keep the jobless in a state of social exclusion from the labour market and employment. The need for trade-offs is often exaggerated and is typically

based on very rudimentary reasoning. Further, even when trade-offs have to be faced, they can be more reasonably — and more justly — addressed by taking an inclusive approach, which balances competing concerns, than by simply giving full priority to just one group over another.

The aged and the unemployed

The need for a broad and inclusive approach can be well illustrated by referring to another issue — that of ageing and the dependency ratio — which is often juxtaposed, in an unexamined way, to the problem of unemployment and availability of work. There are two principles in some tension with each other that are frequently invoked simultaneously in dealing with these different issues in an intellectually autarchic way.

Addressing the growing proportion of the aged population, it is often lamented that since old people cannot work, they have to be supported by those who are young enough to work. This leads inescapably to a sharp increase in the so-called dependency ratio. As it happens, this fact itself demands more scrutiny. There is, in fact, considerable evidence that the increase in longevity that has resulted from medical achievements has also elongated the disability-free length of working lives over which a person can work (see, for example, Manton, Corder and Stallard, 1997). The possibility of elongating working lives is further reinforced by the nature of technical progress that makes less demand on physical strength.

This being the case, it is natural to suggest that one way of reducing the burden of dependency related to ageing is to raise the retirement age — or at least give people in good health the option to go on working. In resisting this proposal, it is frequently argued that if this were done, then the aged will replace the younger workers and there will be more unemployment among the young. But this argument is in real tension with the previous claim that the root of the problem lies in the fact that old people cannot work, and the young who can work have to support the old.

If health and working ability ultimately determine how much work can potentially be done (and certainly social and economic arrangements can be geared to make sure that to a great extent the potential is realized), then surely the trade-off with youthful unemployment is a real *non sequitur*. The absolute size of the working population does not, in itself, cause more unemployment; for example, it is not the case that countries with a larger working population typically have a larger proportion of unemployment (consider the United States compared to France or Italy or Spain or Belgium). There are many big issues to be faced in scrutinizing proposals for revising the retirement age, but linking unemployment to the absolute size of the working population does not enrich this discussion. Indeed, we see here a messy argument based on combining two mutually contrary gut reactions: (i) the gut reaction that the source of the problem related to an ageing population is that the old cannot work and the young must support them; and (ii) the gut reaction that the young must lose jobs if the older people do work. The combination of these unscrutinized feelings is

to produce a hopeless impasse which rides just on unexamined possibilities, based on a simple presumption of conflict that may or may not actually exist.

The practice of being driven by imagined conflicts and being led by partisan solutions is as counterproductive in dealing with issues of ageing and employment as it is in addressing the problem of working conditions on one hand and the need for employment on the other. Conflicts cannot be made to *go away* by simply ignoring them on behalf of one group or another. Nor need conflicts invariably *arise* merely because some elementary textbook reasoning suggests that they might conceivably exist, under certain hypothesized conditions. There is a need for facing empirical possibilities with open-mindedness. There is also a need for openly addressing ethical issues involving conflict, when it does arise, through balancing the interests of groups with contrary interests, rather than giving total priority to the interests of one group against another.

Child labour and its prevention

Similar questions arise in dealing with the difficult problem of child labour. It is often claimed that the abolition of child labour will harm the interests of the children themselves since they may end up starving because of a lack of family income and also because of increased neglect. It is certainly right that the fact of family poverty must be considered in dealing with this issue. But it is not at all clear why it must be presumed that the abolition of child labour will lead only to a reduction of family income and further neglect of children, without any other economic or social or educational adjustment. In fact, that would be a particularly unlikely scenario for “the worst forms of child labour” (slavery, bondage, prostitution, trafficking) which are the focus of the recently adopted Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (Convention No. 182 (1999)).

The case for a broader and more inclusive economic analysis and ethical examination is very strong in all these cases. One must not fall prey to unexamined prejudices or premature pessimism.

Rights of the working people

The second conceptual feature that needs to be stressed is the idea of rights. Along with the formulation of overall objectives, the domain of practical reasoning extends beyond the aggregative objectives to the recognition of rights of workers.

What makes this rights-based formulation particularly significant is that the rights covered are not confined only to established labour legislation, nor only to the task — important as it is — of establishing new legal rights through fresh legislation. Rather, the evaluative framework begins with acknowledging certain basic rights, whether or not they are legislated, as being a part of a

decent society.¹ The practical implications that emanate from this acknowledgement can go beyond new legislation to other types of social, political and economic actions.

The framework of rights-based thinking extends to ethical claims that transcend legal recognition. This is strongly in line with what is becoming increasingly the United Nations' general approach to practical policy through rights-based reasoning. The framework of rights-based thinking is thus extended from the pure domain of legality to the broader arena of social ethics. These rights can thus be seen as being *prior* (rather than posterior) to legal recognition. Indeed, social acknowledgement of these rights can be taken to be an invitation to the State to catch up with social ethics. But the invitation is not merely to produce fresh legislation — important as it is — since the realization of rights can also be helped by other developments, such as creation of new institutions, better working of existing ones and, last but not the least, by a general societal commitment to work for appropriate functioning of social, political and economic arrangements to facilitate widely recognized rights.²

There are really two contrasts here: one between legal rights and socially accepted principles of justice, and another between rights-based reasoning and goal-based formulations of social ethics. In scrutinizing the approach, we have to ask how well rights-based reasoning integrates with goal-based programming. These two basic precepts have sometimes been seen, especially by legal theorists, as providing alternative ethical outlooks that are in some tension with each other (see, for example, Dworkin, 1977). Are we to be guided, in case of a conflict, by the primacy of our social goals, or by the priority of individual rights? Can the two perspectives be simultaneously invoked without running into an internal contradiction? I believe that the two approaches are not really in tension with each other, provided they are appropriately formulated. However, the underlying methodological question has to be addressed, and I shall briefly examine the reasons for thinking that there is no deep conflict here.³

Rights and goals

The question that has to be faced is this: why cannot the fulfilment of rights be among the goals to be pursued? The presumption that there must be a conflict here has indeed been asserted, but the question is why we should accept this claim. There will quite possibly be a real impasse here if we want to make the fulfilment of each right a matter of absolute adherence (with no room for give and take and no possibility of acceptable trade-offs), as some libertarians do. But most rights-based reasoning in political debates, for example on human rights, need not — and indeed does not — take that form.

¹ A key instrument that reflects this is the ILO Declaration on Fundamental Principles and Rights at Work. For the full text of that 1998 Declaration and for helpful discussion, see the special issue of the *International Labour Review* on "Labour Rights, Human Rights" (Vol. 137 (1998), No. 2, pp. 253-257 and pp. 223-227 respectively).

² This and related issues are discussed in Sen, 1999a.

³ I have discussed these issues in Sen, 1982a, 1985 and forthcoming.

If the formulation is carefully done to allow trade-offs that have to be faced, then it is indeed possible to value the realization of rights as well as the fulfilment of other objectives and goals. The rights at work can be broadly integrated within the same overall framework which also demands opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. To pay attention to any of these demands does not require us to ignore — or override — all other concerns. For example, the rights of those at work can be considered along with — and not instead of — the interests of the unemployed.

Rights and obligations

There is a different type of question that is sometimes raised, focusing on the relation between rights and duties. Some have taken the view that rights can be sensibly formulated only in combination with correlated duties. Those who insist on that binary linkage tend to be very critical, in general, of any discussion of rights (for example, invoking the rhetoric of “human rights”) without specification of responsible agents and their duties to bring about the fulfilment of these rights. Demands for human rights are then seen just as loose talk. And similar scepticism is aimed at such statements as “all those who work have rights at work”.

A basic concern that motivates some of this scepticism is: how can we be sure that rights are, in fact, realizable unless they are matched by corresponding duties? Indeed, some do not see any sense in a right unless it is balanced by what Immanuel Kant called a “perfect obligation” — a specific duty of a particular agent for the actual realization of that right (Kant, 1788).

This presumption can be the basis of rejection of rights-based thinking in many areas of practical reason. Indeed, aside from general scepticism that tends to come from many lawyers, there are also distinguished philosophers who have argued in favour of the binary linkage between rights and exact duties of specified individuals or agencies (see, for example, O’Neill, 1996).

We can, however, ask: why this insistence? Why demand the absolute necessity of a co-specified perfect obligation for a potential right to qualify as a real right? Certainly, a perfect obligation would help a great deal towards the realization of rights, but why cannot there be *unrealized* rights? We do not, in any obvious sense, contradict ourselves by saying: “These people had all these rights, but alas they were not realized, because they were not institutionally grounded.” Something else has to be invoked to jump from pessimism about the *fulfilment* of rights, all the way to the *denial* of the rights themselves.

This distinction may appear to be partly a matter of language, and it might be thought that the rejection can be based on how the term “rights” functions in common discourse. But in public debates and discussion the term “rights” is used much more widely than would be permitted by the insistence on strict binary relations. Perhaps the perceived problem arises from an implicit attempt to see the use of rights in political or moral discourse through a close analogy with rights in a legal system, with its demand for specification of correlated

duties. In contrast, in normative discussions rights are often championed as entitlements or powers or immunities which it would be good for people to have. Human rights are seen as rights shared by all — irrespective of citizenship — advantages that everyone *should* have. The claims are addressed generally (and as Kant might say, “imperfectly”) to anyone who can help, even though no particular person or agency may be charged to bring about singlehandedly the fulfilment of the rights involved. Even if it is not feasible that everyone can have the fulfilment of their rights in this sense (if, for example, it is not yet possible to eliminate undernourishment altogether), credit can still be taken for the *extent* to which these alleged rights are fulfilled. The recognition of such claims as rights may not only be an ethically important statement, it can also help to focus attention on these matters, making their fulfilment that much more likely — or quicker.

This is indeed the form in which many major champions of rights-based thinking have tried to use the idea of rights, going back all the way to Tom Paine and Mary Wollstonecraft.⁴ The invoking of the idea of rights is neither in tension with a broadly goal-based ethical framework, nor ruled out by some presumed necessity of perfect obligations allegedly needed to make sense of the idea of rights. The broad approach can be defended not just in terms of good commonsense appeal, but also in terms of capturing the variety of values and concerns that tend to arise in public discussions and demands.

Social and political broadening

Another distinguishing feature of the approach is that it situates conditions of work and employment within a broad economic, political and social framework. It addresses, for example, not merely the requirements of labour legislation and practice, but also the need for an open society and the promotion of social dialogue. The lives of working people are, of course, directly affected by the rules and conventions that govern their employment and work, but they are also influenced, ultimately, by their freedoms as citizens with a voice who can influence policies and even institutional choices.

In fact, it can be shown that “protection against vulnerability and contingency” is, to a great extent, conditional on the working of democratic participation and the operation of political incentives. I have argued elsewhere that it is a remarkable fact in the history of famines that famines do not occur in democracies. Indeed, no substantial famine has ever occurred in a democratic country — no matter how poor.⁵ This is because famines are, in fact, extremely easy to prevent if the government tries to prevent them, and a government in a multi-party democracy with elections and a free media has strong political incentives to undertake famine prevention. This would indicate that political

⁴ Tom Paine’s *Rights of man* and Mary Wollstonecraft’s *A vindication of the rights of woman* were both published in 1792.

⁵ I have discussed this in Sen, 1982b and 1984; and jointly with Jean Drèze in Drèze and Sen, 1989.

freedom in the form of democratic arrangements helps to safeguard economic freedom (especially from extreme starvation) and the freedom to survive (against famine mortality).

The security provided by democracy may not be sorely missed when a country is lucky enough to be facing no serious calamity, when everything is running along smoothly. But the danger of insecurity arising from changes in economic or other circumstances (or from uncorrected mistakes of policy) can lurk solidly behind what looks like a healthy state. This is an important connection to bear in mind in examining the political aspects of the recent "Asian economic crisis".

The problems of some of the east and south-east Asian economies bring out, among other things, the penalty of undemocratic governance. This is so in two striking respects, involving the neglect of two crucial instrumental freedoms, viz. "protective security" (what we have been just discussing) and "transparency guarantee" (an issue that is closely linked with the provision of adequate incentives to economic and political agents). Both relate directly or indirectly to safeguarding decent work and to promoting decent lives.⁶

Taking the latter issue first, the development of the financial crisis in some of these economies was closely linked with the lack of transparency in business, in particular the lack of public participation in reviewing financial and business arrangements. The absence of an effective democratic forum has been consequential in this failing. The opportunity that would have been provided by democratic processes to challenge the hold of selected families or groups — in several of these countries — could have made a big difference.

The discipline of financial reform that the International Monetary Fund tried to impose on the economies in default was, to a great extent, necessitated by the lack of openness and disclosure, and the involvement of unscrupulous business linkages, that were characteristic in parts of these economies. The point here is not to comment on whether the IMF's management of the crises was exactly right, or whether the insistence on immediate reforms could have been sensibly postponed until financial confidence had returned in these economies. No matter how these adjustments would have been best done, the contribution of the lack of transparency and freedom in predisposing these economies to economic crises cannot be easily doubted.

The pattern of risk and improper investments, especially by politically influential families, could have been placed under much greater scrutiny if democratic critics had demanded this in, say, Indonesia or South Korea. But of course neither of these countries then had the democratic system that would have encouraged such demands to come from outside the government. The unchallenged power of the rulers was easily translated into an unquestioned acceptance of the lack of accountability and openness, often reinforced by strong family links between the government and the financial bosses. In the emergence of the economic crises, the undemocratic nature of the governments played an important part.

⁶ I have investigated these connections in Sen, 1999a.

Second, once the financial crisis led to a general economic recession, the protective power of democracy — not unlike that which prevents famines in democratic countries — was badly missed. The newly dispossessed did not have the hearing they needed. A fall of total gross national product of, say, even 10 per cent may not look like much, if it follows the experience of past economic growth of 5 or 10 per cent every year for some decades. And yet that decline can ruin lives and create misery for millions if the burden of contraction is not shared together but allowed to be heaped on those — the unemployed or those newly made economically redundant — who can least bear it. The vulnerable in Indonesia may not have missed democracy acutely when things went up and up, but that very lacuna kept their voice muffled and ineffective as the unequally shared crisis developed. The protective role of democracy is strongly missed when it is most needed.

The comprehensive view of society that informs the approach adopted in the ILO vision of decent work (ILO, 1999) provides a more promising understanding of the needs of institutions and policies in pursuit of the rights and interests of working people. It is not adequate to concentrate only on labour legislation since people do not live and work in a compartmentalized environment. The linkages between economic, political and social actions can be critical to the realization of rights and to the pursuit of the broad objectives of decent work and adequate living for working people.

International versus global

I turn now to the fourth and final distinctive feature of the approach under discussion. While an organization such as the ILO has to go beyond national policies (without overlooking the instrumental importance of actions by governments and societies within nations), there is a critical distinction between an “international” approach and a “global” one. An *international* approach is inescapably parasitic on the relation between nations, since it works through the intermediary of distinct countries and nations. In contrast, a truly *global* approach need not see human beings only as (or even primarily as) citizens of particular countries, nor accept that the interactions between citizens of different countries must be inevitably intermediated through the relations between distinct nations. Many global institutions, including those central to our working lives, have to go well beyond the limits of “international” relations.⁷

The beginnings of a truly global approach can be readily detected in the analysis underlying the new directions of the ILO. The increasingly globalized world economy calls for a similarly globalized approach to basic ethics and political and social procedures. The market economy itself is not merely an international system; its global connections extend well beyond the relation between nations. Capitalist ethics, with its strong as well as weak points, is a quintessentially global culture, not just an international construct. In dealing

⁷ I have discussed the distinctions involved in Sen, 1999b.

with conditions of working lives as well as the interests and rights of workers in general, there is a similar necessity to go beyond the narrow limits of international relations.

A global approach is, of course, a part of the heritage of labour movements in world history. This rich heritage — often neglected in official discussions — can indeed be fruitfully invoked in rising to the challenges of decent work in the contemporary world. A universalist understanding of work and working relations can be linked to a tradition of solidarity and commitment. The need for invoking such a global approach has never been stronger than it is now. The economically globalizing world, with all its opportunities as well as problems, calls for a similarly globalized understanding of the priority of decent work and of its manifold demands on economic, political and social arrangements. To recognize this pervasive need is itself a hopeful beginning.

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