

Economics and Law in Conversation, 2015-2016

A series of interviews with economists engaging with human rights law and the objectives that animate it. The central aim of the Economics and Law in Conversation Series is to discover and deepen existing synergies between the two fields in the interest of social justice.

An initiative of LSE's Laboratory for Advanced Research on the Global Economy (the Lab) moderated by Dr Joshua Curtis, Visiting Fellow at the Lab.

Concept Note

This initiative operates within the broad objectives of the Lab, and to those ends will investigate the challenges posed by the complexities of the global economy and their implications for human well-being. This Series will do so through an interdisciplinary methodology aimed at cross-fertilising disciplines and building constructive dialogue. It will harness ongoing scholarship in various fields to challenge the counter-productive containment of crucial insights within established domains and theoretical silos.

Economics and human rights are both central elements of the global order, yet both are presently undergoing intense critique. There is now a renewed search for the emancipatory and transformative elements in each domain, and an associated drive to discover the practical means and policy priorities through which each may effect beneficial change. However, the positive potential of both domains are inherently linked. The proper delineation of progressive elements and means within a human rights approach requires deep engagement with the dominant source of concepts and modalities for the creation of our present reality: economics. Similarly, the necessity of moving beyond the current crisis of mainstream economics requires a deeper engagement with one of the dominant sources of contemporary legitimation: human rights.

Human rights have long been viewed as marginal or irrelevant to essential decision-making processes increasingly dominated by an economic perspective, or have otherwise been actively excluded by design as potentially troublesome to vested interests and established methodologies. Whether one takes a basically benign view or whether one sees malign intent, the fact remains that economics and human rights have traditionally been separate fields of knowledge generation and activity. A full and frank conversation between the two, as equals, has fallen through numerous disciplinary, ideological, ontological and practical divisions.

The recent correspondence between these domains is no doubt due to a variety of factors, yet perhaps the most prominent is the rise of a specific development paradigm that elevates finance and markets, and demotes the human and the social. The subsequent emergence of calls for human

rights mainstreaming, the increased prominence of socio-economic rights, and the critical turn of human rights towards the field of economics, all of which began in the 1990s, may then be viewed as a reaction to the systematic marginalisation of the social that began *en masse* in the 1980s. At least in significant part, human rights have become the repository of hopes for the defence of the social and the human being from both the market and the State.

The project of building a rapport between the two fields has only recently begun, and the terms of such an engagement are now being explored, debated and formulated. Yet some key conclusions have surfaced from the debate so far.

On the human rights side:

It is now clear that economics should not be seen as a monolithic entity identified with one narrow school of thought.

Economics necessarily deals with hard choices and trade-offs, and human rights may have to shed absolutist stances and do the same.

Simplistic statements of human rights' deontological superiority and 'self-evident' ability to 'guide' policy cannot substitute for detailed engagement with specific problems and alternative economic policies and solutions.

Finally, human rights law and theory is not enough. Socio-economic rights advocates in particular might deepen their knowledge of an epistemological field and approach to the field that currently dominates almost all areas of decision-making but includes a range of heterodox and visionary alternatives to the mainstream. A proper understanding of economic theories and approaches would enable a more sophisticated, effective and technically conversant engagement with decision making processes.

On the economics side:

There are strong arguments to suggest that human rights contain the means of making, as well as the means of judging, trade-offs in practice and cannot be dismissed on the grounds of deficiency in this regard.

Human rights do not entail a displacement of economics as such, even if they require a serious rethinking of certain of its elements and a limit to its right to inform our overall value system.

The importance of power, marginalisation, class, and systemic pathologies cannot be excluded from the process of policy-making such that technical and abstract models blind us to real outcomes and bind us to manifest injustices.

And if human rights standards are applied properly certain economic policies will have to meet a high burden of proof to be viewed as publically justified, legitimate and acceptable, and some must ultimately be rejected as incommensurate with existing legal obligations.

Within this conceptualisation of a mutually beneficial dialogue between economics and law, our series of Conversations will focus on a selection of prominent scholars in the field of economics, asking them to (re)view their work from the standpoint of human rights law. These economists will be encouraged to engage with the general rationale and the central normative elements of the human rights framework. For example, they will explore the compatibility or complementarity between utilitarian and normative approaches to the same global problems. Where mainstream economists normally trade in the conceptual currencies of 'scarcity', 'welfare maximisation', 'agency' and 'opportunity cost', our contributors will be asked to explore the 'exchange rate', or indeed the basic 'transferability' of such concepts into possible analogues such as 'maximum available resources', 'progressive realisation', 'participation' and 'non-retrogression', which form the basis of transaction between human rights lawyers. We will also have heterodox economists explore the synergies of their approaches with the values that inform human rights law.

The aim of this Series is threefold: to track points of convergence in concrete terms of policy formulation and appraisal; to identify apparent and real divergences in aims, methods and understandings; and to foster a new joint discourse, bringing economics-and-law into a more humane and coherent practice that provides relevant and powerful alternatives.

The series will consist of a number of Conversations over the academic year 2015-16, to be posted on the Lab's website. In addition, there will be a final summary piece collating the lessons learned, drawing through the connective strands, and synthesising the results in relation to the search for a joint discourse.