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The Laboratory for
Advanced Research on
the Global Economy



**HUMAN
RIGHTS**

Economics and Law in Conversation

Advancing Human Rights through Economics

an interview with Professor Radhika Balakrishnan

by Joshua Curtis, Visiting Fellow at the Lab

Professor Balakrishnan is a trained economist currently holding posts as Faculty Director at the Center for Women's Global Leadership and Professor in Women's and Gender Studies at Rutgers University. She has written extensively on the intersection of human rights and economic policy. Her new book, [*Rethinking Economic Policy for Social Justice: The Radical Potential of Human Rights*](#), written with James Heintz and Diane Elson, is forthcoming with Routledge.

JC:

Much of your work is devoted specifically to the subject matter of this Series, and we are very fortunate to have your participation in this first interview. In fact, as a trained economist who now writes and advocates consistently from a human rights standpoint, it is especially helpfully to begin the Series with your views on the added-value of human rights to economic policy. Given your experience precisely in this area, I would like to begin by asking for some personal reflections.

As an economist, what was your experience of economic education, and how did you come to 'move into the human rights world'?

RB:

I started in a graduate economics program that was quite heterodox, which is why I went there. So it was early in my training that I was introduced to a broader range of economic solutions and alternative streams of economic thought, in comparison to the vast majority of economics students. Even as an undergrad, some of my teachers were heterodox and post-Keynesians. At my university there was initially a big group of heterodox economists. But sadly, only about a year after I began grad school, they were all more or less forced to leave. There was a big fight in the department between heterodox economists on the one hand, including post-Keynesians, Marxists, institutionalists and feminists, and orthodox neo-classical economists on the other.

While orthodox, mainstream or neo-classical economic theory starts from the idea that economies consist of micro-level interactions of individuals trying to maximise their own interests, heterodox economists view economies primarily from the standpoint of macro-level structures, which shape the objectives and interactions of individuals. Neo-classical economists generally believe that the most efficient outcomes, in terms of the societal allocation of goods and services, will be derived if people and businesses interact in competitive and free markets with the benefit of strong property and contractual rights. Neo-classical economics does not claim automatic equitable outcomes from the operation of free markets, indeed it usually predicts an initial increase in inequality, but it argues that there will be enough gains for winners to compensate losers, in theory. Heterodox economists, on the other hand, share an empirically based scepticism regarding the ability of competitive markets to use resources efficiently, and an appreciation that 'free' competition is often very wasteful. Heterodox theorists therefore tend to place more importance on state intervention in market systems, to correct for, or to pre-empt, distributive failures and inequitable outcomes.

I THINK THAT EARLY UNDERGRAD EXPERIENCE AND THE FIRST YEAR OF GRAD SCHOOL, STUDYING WITH HETERODOX ECONOMISTS, HAD A VERY DEEP EFFECT ON ME.

By the time I finished I was trained as a neo-classical economist. But, I think that early undergrad experience and the first year of grad school, studying with heterodox economists, had a very deep effect on me. I was also deeply interested in the history of economic thought, which is

uncommon among economists, and by its nature exposes you to alternative thinking that contrasts with the normal neo-classical content of a general economics course.

I also went to college in the 70's where I was very much a part of the activist scene. I was in feminist reading groups and was always interested in other disciplines. This gave me a broader outlook. Also, I think being deeply interested in gender issues meant that I had to be interdisciplinary, and it made me well aware of what other people were doing, ideas from diverse fields that were nonetheless highly relevant to what are initially framed as economic questions.

I started looking specifically at human rights during a research project that I had been hired to design and oversee on subcontracted workers. The donor had asked us to analyse which human rights laws were pertinent to the work we were doing. To be honest I was sceptical, but I was also intrigued and started looking more closely at human rights law.

What really changed my thinking was when I participated in a meeting at Howard University for what became the US Human Rights Network. I was with a group looking at poverty and human rights and realised that there were no economists working on the economic and social rights advocacy platform. That was what got me started in this work and as I became more involved in the human rights movement, both in the US and globally, I realised that there was a real opportunity to facilitate the engagement of heterodox economists with the existing legal framework on economic and social rights, which I was coming to see as highly valuable. Around the same time, I went to the first-ever meeting of the Economic, Social and Cultural Rights Network (ESCR Net) in Chang Mai and saw again that there were very few economists. We were in groups, talking about trade and macro-economic policies, and I felt like there was a real synchronicity in terms of our goals with respect to the processes and outcomes of economic policy making. But most of the people there were lawyers

and human rights advocates, without a good basis in economics. I began to wonder, why aren't there any economists?

I wrote a paper around this question, which I presented at a conference, and that's where a representative from the Ford Foundation heard my paper and agreed that something should be done. The Foundation supported a small meeting of heterodox economists and others working on economic and social rights. I think in terms of process and policy we have a lot in common.

This collaboration deepened following the financial crisis of 2007-2008. There were increasing numbers of economists coming together to talk about an alternative worldview with an interest in developing a critique of the current thinking that began to intersect more with human rights standards. There is a lot of synchronicity in terms of the kind of world we want but that does not necessarily mean identical visions of a certain kind of economy. There is a lot of space for debate and alternatives, both in heterodox economics, and human rights, as well as in the result of their

THERE ARE A NUMBER OF POLICY APPROACHES THAT REALLY DO FIT TOGETHER QUITE NATURALLY, FOR EXAMPLE BETWEEN HETERODOX ECONOMIC THINKING AND POLICY ANALYSIS IN TERMS OF PROGRESSIVE REALISATION OF RIGHTS AND NON-RETROGRESSION, AND, MORE SPECIFICALLY, IN TERMS OF A SHARED OPPOSITION TO AUSTERITY.

combination. But there are a number of policy approaches that really do fit together quite naturally, for example between heterodox economic thinking and policy analysis in terms of progressive realisation of rights and non-retrogression, and, more specifically, in terms of a shared opposition to austerity.

JC:

You have initiated a number of roundtables aimed specifically at furthering concrete dialogue between heterodox economists and human rights advocates. In particular, with respect to one of the first projects of its kind with the Ford Foundation, you addressed foundational issues setting out the groundwork for an integrationist approach.¹

What are the most useful conceptual points of contact between human rights and economics in your view, and what has been your approach to 'translating' between a utilitarian economic paradigm and a deontological human rights law paradigm?

RB:

The norms and standards of human rights offer heterodox economists a widely accepted ethical language in which to pose economic questions without reducing them to simple questions of economic calculus. This moral, or ethical, element is largely absent from mainstream neo-classical and neo-liberal economics. The legal and quasi-legal processes of international human rights reporting and adjudicating also offer alternative arenas in which to contest the hegemony of mainstream economic policies.

¹ Radhika Balakrishnan, 'Why MES with Human Rights? Integrating Macroeconomic Strategies with Human Rights' (2005); Radhika Balakrishnan, Diane Elson and Raj Patel, 'Rethinking Macro Economic Strategies from a Human Rights Perspective: Why MES with Human Rights II' (2009).

In terms of specific human rights standards, I would argue that there are a few that are very pertinent to economics, mostly relating to economic, social and cultural rights (ESC rights); 1) the obligation on states to devote the 'maximum of available resources' to the realization of ESC rights, 2) obligations stressing that rights must be realised 'progressively', 3) a duty on states to ensure non-retrogression with regard to rights, 4) cross-cutting obligations of non-discrimination, transparency, accountability and participation with respect to all policies and actions of the state related to the realization of rights, and 5) immediate obligations to provide a 'minimum essential' level or a baseline level of substantive human rights fulfilment. The three levels of state obligation with respect to rights are also highly relevant, whereby states must 'respect, protect and fulfill rights'. Finally, states also have obligations of conduct as well as result.

Together, these elements of human rights law provide a very powerful normative lens to evaluate how economic policy works, and to assess its ethical viability, its practical effects, and in some cases its illegality.

In regards to my approach to translating between economics and human rights, it is first and

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foremost essential to be clear that not all economics, nor economists, are the same. There is a very wide variety of economic theories and practitioners. In my work, I have deliberately sought to bring together heterodox economists who come from feminist, post-Keynesian and Marxist backgrounds, that have more in common, in a normative and ethical way, with the principles embodied in human rights standards. So we are not dealing with economics writ large. Certain sections of the economics field are far more open to

a dialogue with the imperative nature of rights.

In my work I draw on heterodox economic principles coming from these main traditions, which entail an alternative ontological worldview that stresses a deeply ethical concern and moves decidedly away from the ideal of technocratic economic policy solutions. A special ethical concern, I believe, is perhaps the bedrock of communication between human rights and heterodox economics. Another strong connection between human rights and heterodox economics is that both are aimed at broadening out possibilities for the design of economies. Both are opposed to the limiting political dynamics of mainstream economic thinking, embodied in the well-known acronym 'TINA', espousing the politically paralysing illusion that 'there is no alternative'.

JC:

Do you think that human rights are economically neutral, or do they presuppose, or demand, the institution of a certain economic paradigm, a certain range of acceptable economic policies?

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RB:

I think that human rights are not economically neutral, in that the state has a primary duty to aim for a certain outcome and process. However, human rights do not dictate a particular kind of economic

policy in terms of the public or private provision of rights. But they nevertheless require a state that is strong and charged with the duty and capacity to fulfil rights.

JC:

Do you see any problems with setting ESC rights as limitations on the prerogative of the legislature, in a sense perhaps placing undue restrictions on democratic deliberation over economic policy?

RB:

Human rights are exciting because they focus strong attention on what in our new book we have called 'TINTA' – which is the fact that 'there is no technocratic answer'. What I think we are trying to do is to actually bring the democratic process to play in economic policy making. So often human rights are considered political and aspirational whereas economics are said to be scientific and technocratic, and value neutral. But economics is not actually technocratic, it is also a political process. And so holding the method of decision making on economic policy to account through the democratic and political process, is, I think, extremely important. Sadly, we don't have enough discussion in the legislature on economic policy. We need more. I would see ESC rights as facilitating a deeper democracy, rather than restricting it.

JC:

It is increasingly observed by legal commentators, economists and UN experts that ESC rights are central to a progressive critique of mainstream economic policy and the formulation of real alternatives. However, ESC rights are also the most vulnerable within the current reality shaped by mainstream economics, where civil and political rights are routinely given greater weight and stronger enforcement.

How do we move from this present vulnerability of ESC rights to the promise of the full rights framework and its linkage with heterodox policy?

RB:

One important aspect of human rights norms is that there are institutional mechanisms in place to oversee compliance with them. We

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have seen, especially since the economic crisis of 2007-2008, that there has been a marked increase in the work of the United Nations Special Rapporteurs on human rights² in addressing economic policy issues through the lens of ESC rights. With ever greater regularity and sophistication civil society is engaging the UN Committee on Economic, Social and Cultural Rights,³ to have it pay closer attention to economic policy, especially as it relates to the requirement that states allocate their 'maximum available resources' to socio-economic rights. Other human rights committees and deliberative bodies are also starting to look at these connections. The intergovernmental Universal Periodic Review (UPR) process of the UN Human Rights Council⁴ is another arena where civil society has tried to raise these issues of economic policy, utilising ESC rights. Also, the new 2030 agenda for sustainable development has human rights language, and I think this is a place where we can really push for more robust and inclusive economic policies that have human rights at their core. Within the UN context, I would say the challenge is to get the work at the UN in Geneva to cross the Atlantic to the UN headquarters in New York, where the bulk of international development policy is formulated. We also need to continue to reach other international organizations such as the World Bank, the IMF and the WTO, in order to entrench this cross-fertilisation.

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I remember when certain colleagues and I submitted an expert paper to inform the UPR of the United States, we concentrated on the 2007-2008 crisis and the regulatory changes that resulted, and NGOs were very surprised that we would bring up economic policy at the UPR. But we actually got quite a bit of traction from some of the governments there. When we had

follow up phone calls with the US government, the US State Department even said, 'you really

In particular, the UN and other human rights bodies are important institutional settings where we can advance the ESC rights framework. From the point of view of heterodox economists, the human rights frame provides actual bodies that you can go to and argue your case, where you have an ethical normative framework that you can argue from. This creation of a space that institutionalises and legitimises these discussions is very important, and plays a crucial role in overcoming the

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² Independent experts appointed by the UN Human Rights Council with mandates to report and advise on human rights from a thematic or country-specific perspective.

³ The UN body that monitors compliance with the international treaty of the same name.

⁴ Under this mechanism each state member of the UN has its human rights record periodically assessed by its peers.

expect that the Treasury is going to talk about human rights?’ This conversation is yet to happen, but the feeling is that it is inevitable, at some stage. This is what we are working towards.

The more places we can introduce this theoretical work into practical situations, the more it can take hold. And I can say that over the last ten years of doing this work I have noticed that the reception has increased, more from the human rights world than the economics world, but there is a distinct movement. We are starting to see people actually referring to this framework as important for providing workable guiding principles for policy making. Ideas change very slowly. But we are at a time when we need new thinking, and this is widely recognised. It may sometimes feel glacial, but I certainly believe we are making progress.

With respect to ESC rights, in the academic world, as in the NGO and activist world, there has been a huge shift from the mid-1990s to now. ESC rights have now become a part of the conversation, unlike during the Cold War. And this is translating into the UN mechanisms as well. The reports of the Special Rapporteurs dealing with ESC rights has become very strong, epitomising an engagement on these issues that is increasingly literate on economic theory and evidence.

THE CITY OF SAN FRANCISCO PASSED THE CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW) AS A LOCAL ORDINANCE IN 1999. EVERY DEPARTMENT OF THE CITY MUST NOW SHOW HOW THEY ARE COMPLIANT WITH CEDAW.

Furthermore, this trend is clearly seeping down to the domestic level. South Africa is perhaps an ideal example where ESC rights are embedded in their constitution. Columbia is another. With some colleagues I went down to South Africa about a year and a half ago, to work with the national Human Rights Commission to try to get them to

think about how to look at macro-economic policy as part of their mandate. I think there is great potential to better utilise national human rights institutions in this way, especially in countries where their legislature builds in the human rights framework. There are examples in South Africa where people have used ESC rights in changing economic policy. Also in India, there are good examples. I may be less optimistic with the US, at the Federal level. However, at the local level there is more interest. For example, the city of San Francisco passed the Convention on the Elimination of Discrimination against Women (CEDAW) as a local ordinance in 1999. Every department of the city must now show how they are compliant with CEDAW. I actually worked with the Commission there to help implement the Convention in 1999. Now I am on the Commission for Gender Equity for the City of New York, and we are currently looking into how to get human rights standards enacted as law in the City. So there are numerous local level initiatives that should not be overlooked.

JC:

In one of your seminal articles in this field, written with Diane Elson, you speak of ‘auditing’ economic policy utilising the human rights framework.⁵ Furthermore, you contrast this auditing approach with that of human rights impact assessment (HRIA), which is perhaps more common and better understood.

⁵ Radhika Balakrishnan and Diane Elson, ‘Auditing Economic Policy in the Light of Obligations on Economic and Social Rights’ 5 *Essex Human Rights Review* 1 (2008).

THE TECHNICAL APPARATUS OF STUDIES THAT PURPORT TO EXAMINE IMPACT OFTEN OBSCURE THE NATURE OF THE 'GUESSTIMATES' THAT HAVE BEEN MADE IN CONSTRUCTING THE 'COUNTERFACTUALS'. MOREOVER, NO IMPACT STUDY CAN DEFINITELY ESTABLISH CAUSATION; IT CAN ONLY ESTABLISH CORRELATION AND SUGGEST PLAUSIBLE REASONS FOR INTERPRETING THIS AS EVIDENCE OF CAUSATION.

Could you please clarify the difference in approaches and the particular value of an auditing approach?

RB:

We draw a distinction between an audit and a study of policy impact, or a HRIA. The latter purports to establish a causal link between economic policies and the degree of substantive enjoyment of economic

and social rights, or the results of the policies. Impact studies require the use of quite complex mathematical models and econometric techniques, combined with assumptions about 'counterfactuals', that is, what would have happened if different economic policies had been used. The technical apparatus of studies that purport to examine impact often obscure the nature of the 'guesstimates' that have been made in constructing the 'counterfactuals'. Moreover, no impact study can definitely establish causation; it can only establish correlation and suggest plausible reasons for interpreting this as evidence of causation.

Especially with regard to ESC rights it is very difficult to make out clear causal links. How is it really possible definitively to determine these links? Take, for example, a maternal mortality increase and try linking it definitively to a drop in health expenditure. It's impossible to make that case. There are numerous other causal variables of arguably equal or greater significance.

An audit has a less ambitious aim: to examine how policy has been conducted - whether it has consisted of action reasonably calculated to realise the enjoyment of a particular right, selecting rights which might reasonably be thought to have a strong relation to the policy instrument. Such an audit can use both quantitative indicators and a qualitative examination of relevant legislation and policy processes.

Given the prohibitive causal complexity in 'proving' violations of ESC rights, auditing makes more sense. Yet auditing is not void of consequences. The point is still to hold a government to account. In our work we did not seek to hold governments to account for 'violations' of human rights. Instead,

we sought to hold them to account for obligations both of conduct and result. We analysed firstly a state's conduct, and the way it could meaningfully be connected to an observed result. If the results do not match what the conduct was supposed to achieve then there is a failure somewhere in the policy chain. Starting from a violation of a right and attempting to make the links to macro-economic policy is impossible. To better hold

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governments to account it is sometimes more productive to focus on obligations of conduct and result.

If the government has an obligation of conduct with respect to the right to food, then there is a list of things it has to do in terms of formulating and implementing policies that relate to the right to food. These may include the establishment of food programmes, for example, and assurances that there be no discrimination in the delivery of the benefits. But if the results showed that malnutrition has increased tenfold, then there is a problem. In Mexico, for example, we found that there were huge distribution problems in government programmes. There might have been increased spending on, let's say, health care but it actually didn't get to the most vulnerable people. So, despite increased spending, what we actually found were indigenous and marginalised women in the rural areas of Mexico not having access to the expected benefits, and so this is a problem of government policy. We then sought to hold Mexico to account for its obligations of conduct.

Using our work in Mexico, other governments also found our reasoning useful in a broader sense, for example to hold the IMF to account. A human rights analysis of economic policy may sometimes

A HUMAN RIGHTS ANALYSIS OF ECONOMIC POLICY MAY SOMETIMES HAVE THE EFFECT OF PROVIDING ARGUMENTS THAT ARE USEFUL IN TERMS OF RELIEVING EXTERNAL PRESSURES FROM INTERNATIONAL INSTITUTIONS AND OTHER STATES, AND THEREFORE IN SERVING TO CARVE OUT GREATER DOMESTIC POLICY AUTONOMY IN SOME AREAS.

have the effect of providing arguments that are useful in terms of relieving external pressures from international institutions and other states, and therefore in serving to carve out greater domestic policy autonomy in some areas. NAFTA forced Mexico to rewrite its constitution in order to accommodate its provisions, and much of what removed were effectively protections for ESC rights, in terms for example of rules on

communal land holding. All of this happened without any kind of public discourse. If, back then, we had properly used the human rights lens to analyse adequately and audit this trade agreement in the process of its negotiation, the outcome could have been different, and at least the public debate would have been significantly broadened.

In fact, this is one of the major advantages of the auditing approach. A certain focus on conduct and the process of policy formulation serves substantially to broaden the discussion around highly important economic policies, both domestic and international, and their accompanying legal regimes. Certain conduct of governments that might not be uncovered by a discussion on pure and provable violations, comes to light in an auditing process. Perhaps a clear example is the relative weight that is given to particular constituencies in the policy process, and the effects that specific lobbies have on actual policy outcomes. The focus on process in auditing facilitates a deeper recognition of the discussions, and relative weighting accorded to the discussants, that are ongoing behind any given policy. The focus on having to 'prove' a particular violation will often block analysis of the policy issues.

JC:

In writing on inequality you focus on the fact that the idea of a fair or just distribution of wealth is not generally considered within mainstream economic theory. In this respect you state that human rights provide 'partial guidance' with respect to the implications of widening inequalities on the

EVEN THOUGH INEQUALITY MIGHT PLAY A STRONG ROLE IN CREATING POVERTY, THE TWO SHOULD NOT BE EQUATED. SO WHAT WE DID IS TO LOOK AT WHERE IS IT THAT INEQUALITY ACTUALLY INHIBITS THE FULFILMENT OF HUMAN RIGHTS. AND THIS IS WHERE THE IDEA OF 'PARTIAL GUIDANCE' COMES IN.

realisation of rights. Yet you say that the human rights framework does not demand a *particular* distribution of income or wealth.

What is meant by the notion of 'partial guidance' and how does it conceptually and practically impact economic policy making?

RB:

In writing our forthcoming book James Heintz, Diane Elson and I started looking at inequality, in and of itself, as a human rights violation. Let's say that we have an incredibly unequal society, but the lower strata is doing quite well. They have the right to housing, for example, and there is a good social welfare state in place, but there are huge levels of inequality. That situation, by itself, would seem to be fine in terms of human rights language. Yet we found that in a lot of writing about human rights and inequality, from the human rights perspective, inequality was equated with poverty, and they are not the same.

Even though inequality might play a strong role in creating poverty, the two should not be equated. So what we did is to look at where is it that inequality actually inhibits the fulfilment of human rights. And this is where the idea of partial guidance comes in.

I can give three concrete examples; housing, health and state capture.

With respect to housing, it is instructive to look at access to housing in urban and other areas where the supply of housing is limited. In places where there were higher levels of inequality, and because the supply of housing was limited, the cost of housing for everyone went up. Therefore, access to housing was denied for people who did not have enough money. I live in New York City, which is a very good example of the way in which inequality affects access to housing. More and more people are talking about how working class people cannot afford to live in Manhattan anymore, and that is purely because of economic inequality. In my next project I would like to look at places such as Austin, where there has been a huge amount of money invested by the government to develop the city; building new hospitals, investment in universities, etc. But one of the things that has happened is that a great deal of higher income residents have moved into the city, which has increased the value of the houses, and a lot of working class people who owned homes can no longer afford the taxes because the value of the houses have gone up so much. There are now many houses that have been vacated by the working class, due to an inability to pay their taxes, which have been turned into coffee shops and places catering to relatively wealthy consumers. So, there are particular ways in which inequality affects ESC rights, housing in particular.

STUDIES HAVE ALSO SHOWN THAT HEALTH OUTCOMES ARE WORSE IN UNEQUAL SOCIETIES, REGARDLESS OF HOW RICH THEY ARE. SO THERE IS ALSO A STRONG CORRELATION BETWEEN INEQUALITY AND REDUCED PERFORMANCE IN THE BROAD-BASED FULFILMENT OF THE RIGHT TO HEALTH.

Studies have also shown that health outcomes are worse in unequal societies, regardless of how rich they are. So there is also a strong correlation between inequality and reduced performance in the broad-based fulfilment of the right to health.

IF YOU LOOK AT INDIA, THERE IS A CLEAR CORRELATION BETWEEN THE INCREASE IN THE NUMBER OF BILLIONAIRES AND REGRESSIVE CHANGES IN THE STATE'S TAX STRUCTURE.

The third example is the capture of the state. Inequality is critical in this regard. Look at the United States. The decision of the Supreme Court in Citizens United, which allows almost unrestricted scope for corporations to give money to political parties has really changed the process of democracy here. As such, inequality also affects the democratic process, which has critical knock-on effects for the equitable enjoyment of all human rights. If you look at India, there is a clear correlation between the increase in the number of billionaires and regressive changes in the state's tax structure. Government revenue then decreases and the resources available for the realisation of a range of human rights is negatively affected.

IT IS ALSO NECESSARY TO REALISE THAT ANY FRAMEWORK OR THEORY, WHETHER ECONOMIC, LEGAL OR ETHICAL, WILL ONLY EVER OFFER PARTIAL GUIDANCE TO COMPLEX PROBLEMS OF ECONOMIC POLICY. WE HAVE TO EMBRACE WHAT IS REFERRED TO IN OUR FORTHCOMING BOOK AS THE REALITY OF TINTA, THE FACT THAT 'THERE IS NO TECHNOCRATIC ANSWER'

In addition, ESC rights are tied to the obligation of progressive realisation. Yet even in the case of a relatively well functioning welfare state, vast amounts of inequality could inhibit this progression, and could lead to a stagnation at unacceptable levels of inequitable realisation. Human rights should also have something to say here, and this would also be a part of the idea of 'partial guidance'. It would point to the elements described before, particularly with respect to state capture and the

distribution of power.

So there are particular ways in which you can analyse the interaction between human rights and inequality, and this results in indications for partial guidance on economic policy. But I don't think you can say that the human rights framework gives total guidance because material inequality in and of itself is not necessarily a bad thing, and is certainly not precluded by human rights law.

It is also necessary to realise that any framework or theory, whether economic, legal or ethical, will only ever offer partial guidance to complex problems of economic policy. We have to embrace what is referred to in our forthcoming book as the reality of TINTA, the fact that 'there is no technocratic answer'. After so many years of pursuing one economic model, we are to some degree caught in an illusion that there are apolitical and objectively ideal 'answers' to economic conundrums, a framework that can give us 'total' guidance. This is simply a false construct and a dangerously misleading and illusory expectation.

JC:

As you point out, a human rights approach draws attention to the important effects of increasing inequality on the distribution of power within society, effects that are not salient in mainstream economic theory.

Could you expand a little on the interdependence and indivisibility of human rights in this context? To what extent are participatory and other civil and political rights capable of reinforcing responses from socio-economic rights to issues of inequality?

RB:

The human rights framework does not tell governments which choices are the best. Instead, the state is required to set priorities through a democratically accountable process, while ensuring that its core human rights obligations are met. Securing and protecting civil and political rights are essential for democratic processes to work.

IN RECOGNISING THE PARADOXES OF THE STATE, THE HUMAN RIGHTS APPROACH PROVIDES AN IMPORTANT CORRECTIVE TO A CONCEPTUAL AND THEORETICAL LAZINESS WITH RESPECT TO THE NATURE OF THE STATE THAT IS IMPLICIT IN MUCH ECONOMIC POLICY ANALYSIS.

Therefore, the human rights approach not only provides a normative framework but also procedures for contesting unjust policies that fail to realise rights. There is a fundamental paradox well recognised by the human rights approach. The state is the prime duty bearer for the realisation of rights but

also represents an arena of struggle, in which various interests are vying for influence, many of them opposed to the realization of human rights. A human rights approach balances faith in the state with skepticism about the state, and ensures that there are procedures to continue to hold the state accountable. In recognising the paradoxes of the state, the human rights approach provides an important corrective to a conceptual and theoretical laziness with respect to the nature of the state that is implicit in much economic policy analysis.

Participation in terms of policy making concerning ESC rights is critical. People don't often think about economic policy making as a democratic process. Much of my work, in cooperation with the Center for Women's Global Leadership and other colleagues, is centred on popular education on economic policy so that people do understand it. It's not that complicated in fact, but it is made obscure by the technocrats. I think the more people who understand how their lives are affected by economic policies the more they can make targeted and precise policy demands, and the more they can concretely affect the outcome through democratic participation. We are seeing this to an extent globally in terms of people starting to reject the overall economic paradigm that we are living in, due largely to a better understanding of the way it works. There is a developing thirst from the populace for being in control of economic policy. Perhaps, even in America, the ongoing support for Bernie Sanders' Democratic presidential nomination is indicative of this trend. The human rights framework really gives us a language for principled change. The question is how do we

THERE IS A DEVELOPING THIRST FROM THE POPULACE FOR BEING IN CONTROL OF ECONOMIC POLICY.

popularise it and make it accessible to people?

JC:

With respect to the current wave of austerity measures implemented throughout Europe and across the world, the human rights concept of non-retrogression, which erects a normative barrier to possible backsliding in terms of socio-economic benefits for the marginalised, is increasingly invoked as an important element of critique. To counter this critique, some argue that the principle of non-retrogression is simply not viable *as a rule*, and often (especially in the context of economic downturns) impractical, or even dangerous, as a guide to policy formulation because it may unduly constrain the range of policies available in times of crisis.

How would you respond to this line of argument?

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RB:

Firstly, in terms of economic downturns, we can't look at the norm of non-retrogression in isolation. We also have to look at the obligations of the state regarding the devotion of maximum available resources. There is ever the argument that there are not enough resources, and we have to cut spending on ESC rights-related policies and programmes. Yet the important questions to ask are rather, why are there not enough resources, and what were the policies that created this situation? For example, during times of surplus is

there money put away to ensure that there is no retrogression on basic rights, especially for the poor and marginalised, in hard times. If the planning is done well, that can be done. Also, it is important to question the relationship to tax policy over time and not just in the moment of crisis. Obviously in the crisis tax revenue goes down and expenditure goes up, but there needs to be a broader concern for what tax policy has been *over a period of time*. How have government revenues been affected by changes in tax policy over a certain period? In addition, what are the monetary policies, and with regard to poor countries, what are the aid policies? So, to look at one aspect in isolation from all of these other policy instruments relevant to the maintenance of a progressive realisation of rights is to miss the holistic possibilities of the human rights framework. We need to zoom out from the narrow issue of hard choices in hard times, to focus more on the larger issue of why the finances of the state are in crisis in the first place. If non-retrogression was a principle that governments had to abide by, through legislation or constitutional limits for example, there would be different governance structures and more precautionary or forward-thinking policies would be necessary.

JC:

Despite recent attempts to bring together the thinking behind economics and human rights, we are often still left with a distinct contrast between the two. Perhaps we may need to transcend both, and create a new discourse?

RB:

I think the problem especially in the academy is that we still work largely in our own silos. Not just between disciplines but even within disciplines. There are many exceptions but economics as a discipline is often inward-looking. What I have been trying to do over the last decade is to bring people together who work on ESC rights with heterodox economists so that we can learn from each other and together come up with new thinking that breaks new ground. We are not just going over the same ground from different perspectives, or simply backing up existing policy recommendations with additional evidence or argumentation from another field. There are different policies that result

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from a mutual process. Early on we may have felt from the heterodox economic viewpoint that we had already thought all this through and we just needed to put it into human rights terms. But over time it becomes clear that the results are actually different policies. I have found that multidisciplinary conversations are critical to this discovery of new ways of getting to similar shared endpoints. For

example, economists don't talk enough about process, specifically democratic process, but we came to that because of the human rights framework. However, these conversations are not encouraged enough within the academy in general.

I have tried, in all the things that I am doing, to bring together a conversation between both groups of people to understand that there are ways in which we can work together; you don't necessarily have to leave your disciplinary boundaries in order to get there. And it has worked. More and more people are working together. There is more familiarity in the conversation.

We could perhaps take the whole field of 'law and economics' as a sort of example perhaps to emulate (procedurally but not in substance). This was a highly conservative right-wing project emanating from the University of Chicago in the 1960s and 70s, in which the law came to be evaluated and structured according to economic standards of market efficiency. This project was

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very deliberate and incredibly well funded, and a new discipline was born.

What we need to do is bring together more conversations between like-minded human rights lawyers and economists, and make a deliberate investment in this process.

Investment by private foundations and public bodies in bringing these conversations to the fore would be essential. Investment is important to enable people to work through the complex details of theoretical and practical engagement. Otherwise this movement is not going to move forward at a significant rate. Sadly, right-wing donors are more precise about the ways in which they want to affect structural change on this scale.

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