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978-0-521-87055-9 - Economic Rights: Conceptual, Measurement, and Policy Issues

Edited by Shareen Hertel and Lanse Minkler

Excerpt

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## 1 Economic Rights: The Terrain

SHAREEN HERTEL AND LANSE MINKLER<sup>1</sup>

If morality is centrally concerned with harm and the intent to prevent or minimize harm, then world poverty is the great moral issue of our time. Yet with all of the attention on security and political freedoms it would not seem that way. Consider some telling comparisons. From 1998 to 2005, terrorism killed twenty thousand people globally (UNDP 2005, 151). In contrast, in one year (2001), twenty-two million people died preventable deaths due to deprivation – that is, from poverty (Commission on Human Security 2003, 6).<sup>2</sup> In that same year, almost 1.1 billion people lived on a dollar-a-day or less, and over 2.7 billion (i.e., slightly under half of the earth’s population) lived on \$2 a day or less (Chen & Ravallion 2004).<sup>3</sup> Despite this evidence of unfathomable suffering experienced by much of the world’s population, military security and political freedoms capture the most attention.<sup>4</sup> Moreover, despite recent pioneering intellectual work, economic rights remain less well articulated conceptually than civil and political rights, less accurately measured, and less consistently implemented in public policy (Steiner & Alston 1996; Kunnemann 1995). But a different kind of freedom and a new kind of security need to share center stage. For billions of people, freedom from deprivation and the kind of human security arising from that freedom are crucially important. Economic rights are perhaps the best way to secure that freedom, and new scholarship needs to emerge to lead the way.

Because economic rights are human rights, they are rights belonging to all human beings by virtue of our humanity. That means that *all* humans have an inherent

<sup>1</sup> We thank Audrey Chapman, Serena Parekh, and Richard Ashby Wilson for insightful comments that improved this chapter.

<sup>2</sup> As another comparison, Thomas Pogge (2005) estimates that the death toll from all wars, civil wars, genocides, and other government repression was two hundred million in all of the twentieth century. By his count, it took only eleven years at the end of the century for approximately the same number of deaths to result from poverty.

<sup>3</sup> This is the authoritative source on global poverty headcounts. It is true that there has been some progress; the 1.1 billion number represents a four hundred million decrease from twenty years earlier, whereas China itself saw a four hundred million decrease over that period.

<sup>4</sup> As Scott Leckie (1998, 83) laments: “[M]ost would recoil in horror at the deprivation of freedom of life when active violence is involved, but display considerably more tolerance when human suffering or death stem from preventable denials of the basic necessities of life such as food, health care or a secure place to live. Ambivalence towards violations of economic, social, and cultural rights – whether by those entrusted with their implementation or those mandated to monitor compliance with them – remains commonplace.”

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right to the resources necessary for a minimally decent life. Economic rights may mean more than that, but they surely mean at least that.<sup>5</sup> Anyone anywhere who suffers from severe poverty not of their own choosing is having their economic rights violated. If we were to actually enforce economic rights, there would be no involuntary poverty anywhere in the world.

Of course, such a claim needs extensive scrutiny; that is what this book aims to achieve. But, if true, this claim carries tremendous implications for governments, private citizens, international actors, and corporations. Typically, when considering world poverty, scholars and policy makers alike focus on poverty's elimination as a desirable social goal, not as any individual's inherent entitlement. For instance, economists have historically recommended income growth strategies as the primary means to reduce poverty. The focus has been mostly on accumulating physical and human capital and enhancing macroeconomic stability, but the "Washington Consensus" that emerged in the 1980s also included an emphasis on securing property rights and the privatization of state owned enterprises. More recently, economists have acknowledged the role of income redistribution as a way of reducing poverty, mostly by focusing on careful institutional design.<sup>6</sup> Newer policy recommendations include not only investment in social infrastructure in order to improve government accountability, openness and the business climate (i.e., legal institutions that promote investment by securing exchanges and contracts), but also credit institutions to funnel capital to the poor. Although not denying a role for international aid, most economists seem to place the responsibility for installing these institutions squarely on domestic governments.<sup>7</sup>

Some policy makers and even economists are arguing that although these approaches are important, they are insufficient to eradicate world poverty. As a result, member states of the United Nations unanimously adopted the Millennium Declaration in September 2000. After consultation with many international organizations (the World Bank and International Monetary Fund (IMF) chief among them), a roadmap emerged that includes eight important goals, accompanied by associated targets and indicators. The first goal is to eradicate extreme poverty and hunger. It sets a target of reducing by half the percentage of the world's population living under \$1 a day by the year 2015 (from the base year of 1990). The second target does the same for those who suffer from hunger. The last goal – Goal 8, to "develop a global partnership for development" – includes target 12, which entails "a commitment to good governance, development, and poverty reduction both nationally and internationally."<sup>8</sup> Indicator 32 of Goal 8 calls on OECD countries to donate 0.7%, and "lower developed countries" to donate 0.15% of their GNPs in order to achieve poverty reduction. As Sakiko Fukuda-Parr argues in this volume,

<sup>5</sup> Among the many who view economic rights primarily as assuring a minimum floor are Shue (1996), Copp (1992), and Beetham (1995).

<sup>6</sup> For a good discussion of the intellectual history and evidence of poverty reduction strategies in the economics profession, see Besley and Burgess (2003). Also, see Kimenyi's contribution in this volume.

<sup>7</sup> In addition to Besley and Burgess (2003), see Easterly (2003).

<sup>8</sup> To see the complete list of goals, targets and indicators, go to <http://www.developmentgoals.org>. Also see the 2003 Human Development Report, which is explicitly devoted to the Millennium Development Goals.

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Goal 8 is fundamentally important because it explicitly recognizes the shared duties and responsibilities that all states have to end world poverty. More generally, by moving to a human rights framework the elimination of poverty becomes more than just a desirable, charitable, or even moral policy goal. It becomes an international duty of states.

That is not to say that sound domestic economic policies and institutions that promote income growth and job creation are not crucial. Indeed, they are. For one thing, there is a clear inverse statistical relationship between the numbers of people in poverty and growth (see Besley & Burgess 2003). Moreover, those who are employed at minimally decent jobs can provide for themselves and their families, so job creation and promotion policies can play an important role in any poverty reduction agenda. But, by themselves, such policies do not go far enough to meet the obligations associated with economic rights. Economic rights require that each and every person secures the resources necessary for a minimally decent life.

To ground this notion more fully, we should clarify what we mean by “economic rights.” The principal human rights documents are the *Universal Declaration of Human Rights* (UDHR) adopted by the United Nations General Assembly in December 1948, and the associated covenants: the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) and the *International Covenant on Civil and Political Rights* (ICCPR), both of which were passed in December 1966 and entered into force in March 1976. Combined, the three documents are often referred to as the *International Bill of Human Rights*. The human rights enumerated in these documents are usually conceptually founded on notions such as autonomy, purposive agency, human need, or human dignity – the concept explicitly employed in the documents (these justifications will be discussed further in the next section).

Although there can be problems with this simplifying distinction, we may say that the first twenty-one articles of the UDHR refer primarily to civil and political human rights, whereas articles 22–30 refer to economic, social, and cultural rights.<sup>9</sup> For us, although not necessarily all the other authors in this volume, articles 23, 25, and 26 enumerate three fundamental economic rights.<sup>10</sup> First comes the most basic economic right – the right to an adequate standard of living – or as explicitly spelled

<sup>9</sup> Article 16 refers to marriage and family, and is probably best thought of referring to social rights. Article 17 refers to property rights, which may be thought of as both a political and economic right (Libertarians strongly support property rights, but not economic rights). The origin and history of such distinctions is the topic of Jack Donnelly’s chapter in this volume. No matter how one distinguishes among different human rights, Donnelly is in the camp that argues that all of the human rights recognized in the UDHR are indivisible and interdependent. Nevertheless, indivisibility and interdependence do not eliminate the necessity for conceptual distinctions. To illustrate, consider the metaphor of a game such as golf. That game requires both the conceptually distinct objects of golf clubs and golf balls. Although they are mutually reliant on each other for the task at hand, both kinds of equipment require different types of engineering. Similarly, all human rights are mutually reliant on one another, but each distinct right requires different policies and institutions so that all can best serve people in the game of life.

<sup>10</sup> We started to develop this conceptualization in Hertel (2006). As we will see in section 4, this definition corresponds to how at least some activists conceive of economic rights in their grassroots efforts. Harvey (2003) also highlights articles 23 and 25 as he distinguishes between the right to work and a conditional right to a Basic Income Guarantee. Article 22 refers to social security, which we see as mutually reinforcing of paragraph 1 of article 25. The much maligned article 24 deals with the

out in the first clause of the first paragraph of article 25: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services. . . .”<sup>11</sup> But because an adequate standard of living also requires a basic education, we include it as well, as specified in article 26.<sup>12</sup> The second economic right is the right to employment without any discrimination, and at “favourable remuneration ensuring for himself and his family an existence worthy of human dignity,” as articulated in the third paragraph of article 23. This right is protected in part by the right to join trade unions, as specified in paragraph four of article 23. The third economic right is to what is sometimes called a Basic Income Guarantee (BIG), and is referred to in the second clause of the first paragraph of Article 25: “. . . [everyone has] the right to security to in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.”

Those three basic economic rights are also included in and expanded on in the ICESCR.<sup>13</sup> Article 11 of the ICESCR covers the right to an adequate standard of living, whereas articles 12 and 13 cover rights to health and education, which are all bundled in our earlier characterization of the most basic economic right. The ICESCR refers to the second economic right in articles 6, 7, and 8, which all elaborate specific elements of employment rights (including protections for free choice of work; provisions for equal access to training, fair wages and promotion; and protection of trade union rights). And article 9 includes income protection in the form of social security and social insurance, which corresponds to BIG, the third economic right mentioned earlier.

There are several things to note about our three-part conceptualization of economic rights. First, the basic right to an adequate standard of living is quite clear as to what it implies. It explicitly refers to the level of nutrition, shelter, and medical care necessary for adequate health and well-being. It establishes a minimum floor of well-being to which each human has a right. Of course, there will be individual differences; a grown man needs significantly more calories and clean water than an infant in order to sustain an adequate level of well-being, but the requisite amount of calories and water needed is reasonably determinant in each case. Adequate shelter refers to whatever modest housing will protect one from the local elements. Adequate medical care can be more difficult to define because some individuals require a great amount of medical services in order to achieve the same well-being as someone who is otherwise fit and healthy. However, when interpreted as a minimum, the right to adequate medical care

right to rest and leisure “including periodic holidays with pay.” We see this primarily as a further requirement of the right to work – particularly as it relates to forced overtime.

<sup>11</sup> We interpret food to include water. No sustenance is possible without clean water.

<sup>12</sup> The right to education is sometimes referred to as a social right, possibly because the act of educating requires language, which is a social institution. We include it as a basic economic right because it would be virtually impossible to provide for one’s own adequate standard of living without some minimal level of education. Still, as with property rights, it is best to not just think of the right to education as one “type” of right.

<sup>13</sup> Notably, and unlike the UDHR, the ICESCR is a treaty that establishes monitoring by a specific body, the Committee on Economic, Social, and Cultural Rights.

means that everyone has the right to access to routine health care such as basic immunizations.<sup>14</sup>

How these criteria should be met is a question best answered by public discussion between technical experts, policy makers, and citizens so that technical, social, and cultural considerations could all get a fair hearing.<sup>15</sup> Although there may seem to be some arbitrary line drawing when *applying* the fundamental economic right to an adequate standard of living, this is not peculiar to such a right or its foundations. As indicated by just one example from ethics, the acceptability of “white lies” or lying to prevent great harm does not conceptually undermine the moral precept “lying is wrong” espoused by virtually all great moral traditions and religions. It just means that blurry lines can give rise to reasoned disagreement in some applications (see Bok 1978).<sup>16</sup>

Now consider the reasons for why and how we differentiate among the three economic rights. The first thing to note is that virtually all conceptual justifications for human rights apply to the basic economic right to an adequate standard of living. Suppose that any individual was not entitled to an adequate standard of living. She would not be entitled to be free from malnutrition, would not be entitled to be free from exposure to the elements, and would not be entitled to be free from crippling illness. Such an individual would not be assured of the minimal conditions necessary to be autonomous (self-legislating), or a purposeful agent because she could not fulfill her own plans or objectives, or be free from deprivation.<sup>17</sup> The claim becomes most obvious in the case of people who die from malnutrition, exposure, or sickness.

It might seem that the same could not be said for either of the other two economic rights. That is, any individual who does not have the right to employment could still be autonomous, a purposeful agent, or free from deprivation so long as they possess the other economic right, in this case to BIG, because it could secure an adequate standard of living. The same is true for those who could work for wages even if they did not have a right to BIG, but they did have a right to employment. However, it is hard to see how either just a right to employment or just a right to BIG could individually fulfill the basic right to an adequate standard of living. The right to employment provides no relief to those unable to participate in the labor

<sup>14</sup> Copp (1992) and Beetham (1995) are among the many authors that address this issue, and both recognize that meeting adequate health care needs is problematic. Copp (1992, 245) addresses the resource/obligations issue, one that we will discuss further in the next section, by proposing a “stop-loss provision” that “would specify that a state is not obligated to exceed a defined relative cost in order to enable any given person to enjoy an adequate standard of living.”

<sup>15</sup> We will discuss this political process more in sections 3 and 4.

<sup>16</sup> For instance, Kant saw *any* lie as violating the moral law, whereas (act) Utilitarians would endorse any lie so long as it prevented a greater harm. Sissela Bok (1978) argues that the best way to handle difficult cases of when it is or is not permissible to lie would be to appeal to a jury of reasonable persons.

<sup>17</sup> Similarly, Copp (1992) emphasizes the centrality of the right to an adequate standard of living as a way to meet basic needs, and also notes that basic needs fulfillment is consistent with a variety of moral theories. Unlike us, he does not consider the other economic rights – to employment or to BIG – or their relation to an adequate standard of living (or “The Right” as he calls it). Moreover, in his framework The Right is a conditional right against the state, with no role for international obligations.

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market (young, elderly, severely disabled); some kind of social security will also be required to fulfill those individuals' basic economic right to an adequate standard of living. For such people, the right to BIG instantiates that right.

But the right to BIG *by itself* also suffers from some fairly significant problems. First is the cost. One (1999) estimate for the U.S. places the cost of BIG in that country at \$1.7 trillion per year, effectively doubling federal spending (Harvey 2003). Next is the fact that even if that obstacle could be overcome for all countries of the world, BIG would still do nothing to guarantee jobs for those who want them, thereby doing nothing to remedy violations against the right to work.<sup>18</sup> Finally, a conceptual problem arises if a universal right to BIG means that there is also a right *not* to work.<sup>19</sup> The basic idea behind BIG is that everyone should get sufficient income for an adequate standard of living quite apart from wage labor. That would seem to indicate that a right to BIG is a right not to work. But if everyone enjoyed such a right, the right to an adequate standard of living would be meaningless because there would be no economic resources to distribute in the first place. Perhaps this conceptual challenge could be overcome, but it does appear problematic.

For all of these reasons, both the right to employment and the right to BIG must be used in some combination with each other in order to realize the basic economic right to an adequate standard of living. Combined, the right to employment and BIG are instrumental to that end, but taken all together the three rights are mutually constitutive. The right to an adequate standard of living defines the necessary conditions that the other economic rights must fulfill. Note, moreover, that this conceptualization allows for cultural, social, and historical differences. So long as the right to an adequate standard of living is honored, whatever combination of the other economic rights society employs is up to that society, provided the combination is nondiscriminatory.<sup>20</sup>

In the rest of this chapter, we will discuss some of the important issues surrounding economic rights in more detail. We consider conceptual, measurement, and policy issues, in turn, first by discussing some of the key points and then by briefly describing the unique contributions from the authors included in this volume. Those contributions emerged from a conference held at the University of Connecticut in October 2005 with the same title as this book. All of the scholars and invited guests at the conference had the single aim of thinking critically about

<sup>18</sup> See Harvey's chapter in this volume.

<sup>19</sup> Michael Goodhart recognizes this issue in his contribution to this volume.

<sup>20</sup> For example, most proponents of BIG do not subscribe to the kind of conditional version offered in article 25 of the UDHR. By limiting it to those who are otherwise unemployable (or limiting it in any way), a conditional vision tends to, among other things, exclude those who do valuable work in the household. Michael Goodhart offers such a critique in his chapter in this volume. It seems to us that a still conditional version of BIG could accommodate that objection for the reasons given. One virtue of the right to employment is that it creates economic resources by definition, while also enabling the rights-holder to actively participate in fulfilling their own well-being. For more on the right to employment, see Harvey Philip's chapter in this volume. Relatedly, Wiktor Osiatyński argues, in his chapter in this volume, that economic rights should be severely circumscribed because most people meet their own needs by participating in the market. In contrast, only government can provide civil and political "services," and that is why civil and political rights are enshrined as rights more readily than economic and social rights.

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the following issues. Nevertheless, the final section of this chapter addresses one important omission from both the conference and this volume, namely, the role of social movement activism in the actualization of economic rights.

## 1. CONCEPTUAL ISSUES

Philosophers, lawyers, political scientists, and others have wrestled with a wide range of conceptual human rights issues. In this section, we touch on a few of the most important with respect to economic rights, including their foundations/justifications, and obligations.

### a. Foundations

The UDHR intertwines dignity and rights in its earliest provisions. The fifth paragraph of the Preamble reads:

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

The very first article reads in full:

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

The Covenants are even more explicit about the relationship between dignity and human rights. The second paragraph in the Preamble of each reads: “Recognizing that these rights derive from the inherent dignity of the human person . . .” When it means inherent worth, dignity can be used to justify human rights in general because those rights assure and protect the intrinsic value of all human beings. However, like virtually all groundings for human rights, dignity as a foundation is contentious. For instance, Wiktor Osiatyński suggests in this volume that dignity is too vague a concept to provide a tight grounding for human rights.<sup>21</sup> In stark contrast, in Alan Gewirth’s conception of human rights (discussed later), human dignity is universal and the result of purposeful action. For Gewirth, that all human beings possess dignity is literally true in the sense of moral realism, and dignity is sufficiently precise that human rights are needed to assure and protect purposeful human action.

It is worth noting that any current contentiousness about the foundations of human rights does not derive from the absence of careful thought and consideration before the drafting of the UDHR.<sup>22</sup> The drafting body, the Commission on

<sup>21</sup> Moreover, he references Hollenbach (1982), who further suggests that this vagueness leaves the concept almost vacuous. To overcome this problem, dignity would have to be linked to particular freedoms, needs and relationships.

<sup>22</sup> That is not to say that there are not any current, valid conceptual controversies. But the bigger problem involves mustering the political will necessary to commit to the binding agreements on resources needed to fulfill human rights in general, and economic rights in particular.

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Human Rights, included international governmental representatives of considerable intellectual heft. For instance, China appointed a diplomat with a doctorate and a strong background in Confucianism. Lebanon chose a former professor of philosophy, whereas France picked a professor of international law. The commission had access to and advice from expert staff, as well as a variety of international organizations. In order to help reconcile the inevitable differences and to answer philosophical questions that arose during the its deliberations, the commission invited written comments from 150 people, including the diverse voices of Kabir and Gandhi from India, the anthropologist A. P. Elkin from Australia, and the philosopher F. S. C. Norththrop of Yale University, among others. Moreover, UNESCO convened a special Committee on the Philosophical Principles on the Rights of Man in 1947. Throughout, the goal was not to achieve consensus among the multitude of doctrines represented but, rather, common ground on which to base the UDHR.<sup>23</sup> Dignity as a concept was an important component of their choice.

More recently, scholars have sought to investigate the roles of claiming, needs, agency, autonomy, and freedoms in conceptualizations of human rights in general, and economic rights in particular. All of these conceptualizations ultimately refer to the necessity of fulfilling human needs as necessary conditions for what it is to be uniquely human. For instance, in a highly influential article, Joel Feinberg suggests that claiming is what gives rights their special moral significance and what necessitates correlative obligations from others (Feinberg 1970). Significantly, basic human needs constitute at least *prima facie* claims. Feinberg sympathizes with the view that those needs do not have to correspond to duties for anyone in particular. For him, “Natural needs are real claims if only upon hypothetical future beings not yet in existence. I accept the moral principle that to have an unfulfilled need is to have a kind of claim against the world, even if against no one in particular” (Feinberg 1970, 72). Moreover, he suggests that to think of someone as having human dignity is to think of them as a potential claims-maker.

Consider some other important foundations for human rights. Henry Shue (1996) focuses on basic rights, or the minimum reasonable demands that everyone can place on the rest of humanity. No self-respecting person would consent to lesser demands. What is distinctive about basic rights is that their enjoyment is necessary for the enjoyment of all other rights. There are two kinds of basic rights: security rights and subsistence rights. The first refers to the right to be free from murder, torture, rape, and assault; the second refers to rights to unpolluted air and water, adequate food, clothing, shelter, and health care. Security can be associated with civil and political rights, subsistence with economic rights. But for Shue, they are both basic. “Deficiencies in the means of subsistence can be just as fatal, incapacitating, or painful as violations of physical security. The resulting damage or death can at least as decisively prevent the enjoyment of any right as can the effects of security violations” (Shue 1996, 24). For Shue, then, all rights are founded on basic rights and basic rights are founded on the reasonable, minimal demands required for self-respect.

Purposeful human action provides another kind of foundation (Gewirth 1992, 1996). All agents or prospective agents freely deliberate on their ends, and those ends chosen are deemed worthy by the agents. An individual agent deems her

<sup>23</sup> This brief history comes from the excellent account offered by Lauren (1998, 219–25).



purposes worthy because she deems herself worthy, in part because of her own purposiveness. But purposeful action requires freedom and well-being. Thus, the purposive agent is entitled to the rights to those things by virtue of her necessity to actualize her own worth. Moreover, because this attribution of worth is attributable to purposiveness, the rational agent must also attribute the same worth to other active or prospective agents. Therefore, these rights, human rights, are universal. To deny the necessity of human rights is to deny the conditions necessary for purposeful action and hence one's own worth, which is a logical contradiction. As noted earlier, for Alan Gewirth, humans possess dignity because they engage in purposeful action.

Some argue that the fulfillment of basic needs is a necessary condition for human autonomy. For instance, David Copp defines basic needs as those things a person requires regardless of other goals or desires. Copp (1992) includes nutritious food and clean water, the ability to otherwise preserve the body, rest and relaxation, companionship, education, social acceptance, and self-respect. Autonomy refers to the ability to form one's own values and to live one's life accordingly. So if one is deprived of basic needs, they are deprived of both the physical and psychological integrity required for autonomy. Because the right to an adequate standard of living as described in article 25 of the UDHR and article 11 of the ICESCR goes a long way to meeting these basic needs, its ultimate justification resides in the interest each person has in assuring his or her autonomy.

A more expansive notion of freedom provides another kind of foundation. In his contemporary classic *Development as Freedom* (2001), Amartya Sen argues that the development should not focus solely on economic growth with its utilitarian foundations but, rather, on the kind of development that would promote various kinds of freedoms. Because we all have reason to value good and long lives, we should all value not only political and civil freedoms but also freedom from undernutrition, poor health, illiteracy, and economic insecurity. Recently, he more explicitly extended the idea in relation to human rights (Sen 2004). Human rights can be justified because of the freedoms they confer, and that goes for economic as well as civil and political rights. Always, which freedoms a society chooses should be the result of public discourse and deliberation.

### b. Positive versus Negative Rights and Obligations

Negative rights refer to the entitlement to be free *from* interference. Civil and political rights are often given as examples; we have the right to be free from restrictions on our speech, movements, associations, political choices, and so on. Positive rights refer to entitlements *to* something, like the provision of welfare goods. When considering human rights, sometimes civil and political rights have been referred to as negative rights, economic and social rights as positive rights.<sup>24</sup> Hopefully, the previous section will have demonstrated that such a distinction cannot rest on the justifications for any human right because any justification used applies to all human rights equally.

<sup>24</sup> Similarly, civil and political rights have been called "first-generation" rights, economic and social rights "second-generation" rights. We do not continue that terminology here because it perpetuates a false distinction.

Obligations provide another candidate for distinguishing between different human rights. Historically, it was thought that negative rights entail negative correlative obligations, whereas positive rights entail positive correlative obligations.<sup>25</sup> Negative rights merely require governments and others to refrain from interfering with an individual's plans, but positive rights obligate government and others to actually provide something to an individual. Based on this kind of a distinction, Maurice Cranston (1967) famously derided economic and social rights as debasing real human rights (civil and political) because the former depends on a government's ability to pay. A universal right cannot depend on a particular government's economic circumstances, the argument goes, because "ought implies can." Moreover, the identities of those holding negative obligations are precise: the government and everyone else has the obligation not to interfere in another's plans. The same cannot be said for positive obligations; who exactly is obligated to provide the aid required to fulfill economic rights? Furthermore, even well-off governments would have difficulty meeting the obligations associated with positive economic rights because those rights could refer to boundless aspirations (e.g., perfect health). We have already offered a definition of economic rights that emphasizes a minimum floor; although such a conceptualization addresses boundless aspirations, the objection about negative versus positive obligation warrants serious consideration.

The most compelling response first notes that *all* human rights require governments to take costly actions. In the first instance, the civil human right to be free from slavery obligates the government to not engage in slavery. However, the government is also obligated to stop others from engaging in slavery. That *does* require resources in the form of the provision of police protection, labor inspections, and so on. The right to a fair public hearing (trial) requires a costly legal system. The same goes for private property rights. The right to freely choose our political representatives is also anything but free. Therefore, it simply is not true that some human rights entail costly obligations while others do not, so that can not be a basis for distinguishing between different human rights.

Henry Shue takes the argument further by redefining the obligations associated with any basic right (1980, 52). He suggests that all basic human rights entail duties (a) to *avoid* depriving, (b) to *protect* from deprivation, and (c) to *aid* the deprived. With respect to security rights, such as the right to be free from torture, his formulation means that there are duties not to eliminate a person's security (avoid), to protect people against the deprivation of security by other people (protect), and to provide security for those unable to provide it for themselves (aid). But exactly the same taxonomy applies to subsistence rights, which are integral to economic rights. In that case, there are duties to not eliminate a person's only available means to subsistence, to protect their only means of subsistence from deprivation by other people, and to provide subsistence for those unable to provide it for themselves. Shue's formulation simultaneously blurs the purported distinction

<sup>25</sup> Philosophers are quick to point out that although rights do necessitate correlative obligations, the reverse is not true; that is, obligations do not necessitate correlative rights. For instance, deontological ethics, such as that of Immanuel Kant, specify duties without any necessary appeal to rights.