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Does Feasibility Matter?: The Case For and Against Second Generation Rights

In his essay “Elements of a Theory of Human Rights”, Amartya Sen argues that social and economic rights (or second generation rights) are exposed to a unique set of criticisms that derives from two principal objections:¹ first, it may not be “feasible to arrange the realization of [these alleged rights] for all” (Sen 347), and second, these rights depend upon “specific social institutions that may or may not exist” (317). This paper will analyze Sen’s response to the first objection, or what he calls the “feasibility critique” (346). I will first examine Sen’s response to Maurice Cranston’s assertion that social and economic rights do not pass the test of a human right because a government could conceivably be unable to enforce these rights. I will then set forth a possible counterargument to Sen’s response that Cranston would be likely to make.

Sen argues that the feasibility critique is premised upon the assumption that “recognized human rights must, of necessity, be wholly accomplishable” (347). To illustrate this assumption, Sen cites Cranston’s essay “Are There Any Human Rights?”, in which Cranston argues that a right must be enforceable in order for it to be claimed as a human right. Cranston writes, “The traditional political and civil rights are not difficult to institute. For the most part, they require governments, and other people generally, to leave a man alone” (Cranston 13). Presumably, political and civil rights pass the test of enforceability because, by their very nature, these rights require minimal interference on the part of the government.² Social and economic rights, however, require a level of government interference that is not always feasible,³ and therefore do not pass the test of a human right.

¹ “The legitimacy of including these claims within the general class of human rights has been challenged through two specific lines of reproach, which I shall call, respectively, the *institutionalization critique* and the *feasibility critique*” (Sen 346).

² “Since [political and civil rights] are largely rights against government interference, the greatest effort will be directed toward restraining the government’s own executive arm” (Cranston 13).

³ “For a government to enforce [social and economic rights], it would need to have access to great wealth, wealth that most governments of the world have no means of acquiring” (Cranston 13).

In response to Cranston's argument, Sen first restates the *objective* of human rights, which, he argues, is to work towards the realization of human rights theory. Sen writes, "The invoking of human rights tends to come mostly from those who are concerned with changing the world rather than interpreting it" (Sen 317). Human rights are *ideals*, and whether or not these ideals are currently feasible, the goal of human rights is to work towards the eventual realization of these ideals. Therefore, Sen argues, "the understanding that some rights . . . [may not be] fully realizable under present circumstances, does not, in itself, entail anything like the conclusion that these are, therefore, not rights at all" (348).

To illustrate Sen's argument, it may be helpful to consider an example of a social or economic right that is more or less infeasible, such as the right of every human being to not be hungry. The feasibility of this right is completely beside the point, Sen would argue. The only thing that concerns Sen is whether there is indeed a pressing need for human beings not to be hungry, and, if so, what could be done towards working to ensure that this human right one day become feasible? Charles Beitz sums up this argument quite succinctly: "To say something is a human right is to say that social institutions that fail to protect the right are defective" (348). The fact that some human rights cannot be feasibly enforced under current institutions simply entails that these current institutions are in need of repair.

It may be argued, in response to Sen, that the most efficient means of ultimately realizing a social or economic right may require a temporary provision of ignoring these same social or economic rights. For instance, it is not inconceivable that a newly-industrializing nation may depend upon cheap labor in order to stimulate economic growth. However, this cheap labor may be a violation of an economic right to a living wage. In responding to Sen's argument, Cranston would most likely argue that it is impractical for countries to address such rights that are not only infeasible, but potentially detrimental to the nation's continued economic or political sustainability. Cranston would thus argue that because the right is not feasible, it cannot, therefore, truly be called a right.