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HUMAN RIGHTS AND BASIC NEEDS
IN DEVELOPMENT: ARE THEY UNIVERSAL?
ARE THEY UNIVERSALISABLE?[*]

by

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Preamble

"But is there anything actually wrong with lots of children dying of malnutrition?"

At a conference at which volunteers working for VSO (Voluntary Service Overseas) were gathered near Lake Kariba, Zambia in 1992, a workshop was in progress discussing the problems of childhood malnutrition, and the possible ways in which these problems could be addressed. And it was after the topic had been discussed for some time that I asked the above question; it was followed, not surprisingly, by a deafening silence.

In my travels round the world, as English teacher, tourist and volunteer, I had become increasingly worried about the enormous assumptions that people, mainly from the West, seemed to make about other people, mainly from the developing world. Why, for instance, is the modern way better? Why is it preferable for a small number of children to be born to a family and to enjoy a long life, rather than a large number of children to be born, some of whom might die prematurely? Why should children world-wide go to school? If their future is in all likelihood to be spent in the fields, then perhaps education will do little more than provoke disappointment and bitterness in later life. Are the obsessions of death-evasion in the West universal? Where death is more common, it is more accepted. Does the West do good by dangling the promise of longevity in front of those in the developing world? Are women in Asia now happier than they were before they were made aware of their 'rights', or are they now bitter, resentful of their menfolk who, in turn, feel insecure and threatened? If development was measured in smiles per person per year, would the West be really seen as developed? These questions are clearly far from

politically correct, and I, as a westerner, share to a large extent the values that the West is promoting in the developing world. But the question has continued to trouble me: how do we know that our way is better? And even if it is better, what right do westerners have to press for change in the developing world? If the East had been the dominant power, would they not wish to 'develop' the west? What might shock them: our rejection of the extended family? our lack of respect to elders? our complete inability to contemplate death? our greed? the abuse of the rights of nightshift workers to sleep at night? our exploitative attitude to other countries? our lack of sound religious-based morality?

It was due to these anxieties that I decided to study Development Studies, and, with the basic question of 'What is development?' still not yet answered to my satisfaction, I chose to take the risk of taking on the rather large task in this dissertation paper of seeking where, if anywhere, the fundamental universality assumed in development was based. The campaign recently launched by Oxfam of the ten 'basic rights' prompted me to look at the arguments for and against using the alleged universality of human rights and basic needs as a basis of development.

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Human Rights and Basic Needs in Development:
Are they Universal? Are they Universalisable?

1. Introduction

With the falling from grace of the economic-based approach to development, in which development was seen to be virtually indistinguishable from economic growth and in which poverty was anticipated to be alleviated through the now largely discredited trickle-down effect, new approaches to development have come to the fore. Two approaches of particular current interest are the needs-based approach and the rights-based approach.

It is all too common for those involved in development, both in the field and in the academic forum, to talk of rights, needs, poverty, gender equality, trade, economic growth ... indeed, all elements of relevance to development, but to fail to address the underlying assumptions which are made: that poverty is bad, that economic growth is good, that gender equality is desirable, and so on. The aim of this paper is not so much to find *what* justifications underlie the assumptions which underpin development, but to think about *how*, if development is "change for the better", the value element of development can be determined.

One of the principle difficulties for those working in development is to justify the influencing of and intervention in development processes of one country by another. Development must be seen to have a universally based moral justific-ation, if it is to answer the relativist's challenge that the west is in some way indulging in neo-colonialism, imposing its values and standards onto other cul-

tures, and perhaps engaging in development promotion solely for non-altruistic purposes (e.g. protection of jobs at home, creating a market for western goods, obtaining primary goods and/or labour at cheap prices).

Using as a point of departure Oxfam's recently launched campaign against poverty, which includes a charter pressing government to recognise and respect ten 'basic rights'[1], the efficacy of development being measured and promoted in terms of rights and needs (as opposed simply to economic growth) will be assessed. Various reasons for Oxfam launching a rights campaign will be discussed, and particular reference will be made to the promotion, within the campaign, of the universalist angle. A brief overview of rights and human rights in theory and practice will follow, to enable an assessment of the universal validity and applicability of each of Oxfam's ten basic rights. A discussion of needs as a concept and of the Basic Needs Approach in particular will follow, and the extent to which needs may be universal will be assessed. In view of the striking similarities between rights and needs, exemplified by the gradual broadening of the definition of rights to include the 'rights' to food, water, and other basic needs, and the broadening definition of 'needs' to include non-physiologically vital elements such as autonomy, freedom, and other human rights, the nature of the relationship between rights and needs will then be discussed. Finally, the difficulty of identifying a firm base for the universalities of rights and needs will be looked at, and a way of overcoming this difficulty will be suggested.

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[1] Throughout the paper, the use of quotation marks around words or phrases indicates the author's reservations concerning the validity of such terms; in this case, for example, 'basic' has yet to be defined, and it is one of the aims of this paper to determine whether Oxfam is in fact talking about rights or needs

It is a brave, some might say foolhardy, undertaking to attempt such an immense assignment within the confines of such a short paper, but although the brevity required will entail, regrettably, that some of the discussion will necessarily lack the detail that one might like, the opportunity does arise to put in simple terms, for the benefit of the casual reader, what in essence is an immensely complex and fascinating topic. Much valuable literature exists on the subject, and much that is written is written at great length. The intention is, therefore, to elucidate and make accessible to the general reader both the opportunities and the pitfalls of discussing development either in terms of rights or in terms of needs, and then to recommend how society might avoid the pitfalls, benefit from the opportunities, and create a more accountable, justifiable and effective framework through which Development itself may 'develop'.

2. Oxfam's Campaign of Basic Rights

Oxfam enjoys great respect as an internationally renowned NGO, and its current thinking is therefore often seen as a signal of future changes in development theory and practice. It is therefore with some interest that the launch of any major new campaign is received, and its most recent is no exception: that of the ten 'basic rights' which it wishes to see recognised and respected world-wide. Coming as it does only three years before the fiftieth anniversary of the 1948 Universal Declaration of Human Rights, it is appropriate at this time to review the role of rights in development.

It is the intention, in this section, to look in some detail at each of the rights proposed by Oxfam, consider why these ten were chosen, and then to reflect on

the function of Oxfam's campaign, and its likely effectiveness. Without inside information on the processes that are at work within Oxfam's policy department, much of the following discussion will necessarily be somewhat conjectural. However, what is important is not to discover how, in fact, Oxfam arrived at its list of ten basic rights, but, through thinking about the factors that *may* have influenced Oxfam in its strategy, to try to assess the direction in which development theory may be heading. It will be interesting, then, to consider whether the direction is one which will be effective, desirable and morally justifiable.

2.1. The Ten Rights as Published

The text of the charter, which members of the public are invited to sign, is reproduced below. The reader's attention is drawn to the ten 'basic rights' listed (circled); it is upon these that attention will be focused throughout this paper.

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the Oxfam GLOBAL CHARTER for

BASIC RIGHTS

Poverty is made by people and can be defeated. It is wrong that tens of millions of people continue to live in poverty.

We call on the governments and people of the world to secure basic rights for all

Every person has a basic right to:
- equality of opportunity
- enough to eat
- protection from violence
- clean water
- a livelihood
- a home
- an education
- health care
- a safe environment
- a say in their future

Signature _____ .

Name (Block capitals please) _____ .

Address _____ .

_____

Signature _____ .

Name (Block capitals please) _____ .

Address _____ .

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2.2 The Meaning of Basic Rights

The extent to which 'basic rights' are (1) basic and (2) rights is debatable; it is also necessary to think about the function of such rights-statements as those which Oxfam are proposing; in the light of this, the reader is invited to consider just one 'basic right' from Oxfam's list, the right to clean water, and the various functions which this right-statement has:

If X, after noting that not everyone has access to clean water, says, "**Everyone has a basic right to clean water**," there are the following ways in which X's statement could, conceivably, be interpreted:

1. There is already an international law or treaty which demands that all have access to clean water, but this law or treaty is being flouted in some places.

2. There is a universally recognised and inalienable moral principle of which everyone is aware, but which in some instances appear not to be heeded, that all people should at all times have access to clean water.

3. X recommends that an international law be drafted which will guarantee the availability of clean water for all people.

4. X recommends that the world society adopt and support a (new) universal moral principle, that all people should have access to clean water at all times.

5. All governments have a moral (if not a legal) duty to ensure that all people have access to clean water at all times.

6. Those governments which already ensure availability of clean water for their people should, or have a duty to, put pressure on (and assist?) those governments which do not.

7. The people in those societies which already enjoy availability of clean water for all people have a duty to press their governments to put pressure on (and assist?) those governments which do not make clean water available to all their people.

> 8. The people without access to clean water have a right (or a duty?) to take action against their government, in order to ensure that they gain access to clean water.
>
> 9. X thinks: wouldn't it be nice if everyone had access to clean water!

The ninth, apparently flippant interpretation, is not to be ignored, and could be closer to the truth than most in the development or moral philosophy academia might like to suppose.

What is apparent from the above is that one must be clear on the following questions:

- *Are we discussing a claim* to a right which is not universally accepted as a moral right, or a claim to a right which *is* universally accepted as a right?

- If it is a claim, *what is the justification for the claim* (e.g. that the subject of the right-claim is a universal basic need, or that it is a universal desire, or a Christian ideal)?

- Does the right-claim indicate whether a universal *legal* right is sought, or solely that a universal *moral* right is recognised and respected?

- Is the right claimed a *claim-right*, i.e. does it entail a duty on the part of any other party?

- If it is a claim-right, *upon whom does or will the correlative duty rest?* On governments? On society as a whole? On NGOs?

2.3 Reasons Why Oxfam may have Launched this Campaign

There are many factors which may have influenced Oxfam in its decision to make basic rights the focus of its campaign strategy; not only will the five year

campaign (1995 - 2000) coincide with the 50th anniversary, in 1998, of the signing of the Universal Declaration of Human Rights, but it also reflects a significant shift in thinking in development. Whether or not Oxfam is a *proactive* force in this, seeking to move popular conceptions of development towards a rights-based approach, or is acting in a *reactive* way, responding to the changing standards on which western society now appears to be basing its morality, is another matter.

Several other factors may have been of significance in Oxfam's choice of a rights-based campaigning strategy: it is no longer a commonly held view that development can be brought about by (or *is*) economic growth alone. The trickle-down of wealth failed to materialise, and the impact of structural adjustment on the poor, the powerless and the vulnerable was only too apparent. Seers (1972) asks whether one can really say that a country is more developed if the number in poverty has risen, unemployment is up, and inequality has increased; and McNamara (1973, p. 11) for the World Bank notes that policies aimed at economic growth have benefited mainly the upper 40% of the population. Adelman and Morris (1973) found in a study of 43 developing countries that economic growth was actually causing a worsening of poverty for the poorest. Indeed, as Tshuma (1993, p. 227) points out, expenditure in education fell in 33% of African countries, and in health-care in 47% of countries during the 1980's. Equating development with economic growth was shown to be an oversimplification of the meaning of development; the rich became richer, but the poor became more dependent, more vulnerable, and more alone. A new direction in development thinking was clearly required.

Also, the word 'right' has an indisputable emotive force, and will clearly have a far greater impact both on the public and on governments than would a campaign based on 'should', 'ought', or 'wouldn't it be nice if...?'. To speak of a 'basic right' is to assert or claim something inherent, something inalienable, and, as shall be discussed in Chapter 3, to speak of a basic right of all people to X entails a correlative duty of some party (society or governments, perhaps) to ensure that those denied X are provided X. Furthermore, there is a growing tendency in western society to talk of rights, and this, as shall be discussed in Chapter 3, may in turn be due to the growing secularisation of society and the emergence of neo-liberalism. 'Rights', then, is a concept that many can (or think they can) understand in the late twentieth century.

It is also true that transnational actors such as Oxfam are enjoying an increase in power in today's globalising world; where once only government representatives were invited, international NGOs and multinational corporations now find themselves at the table in international conferences. The media are more than willing to hear criticism of government policy from NGOs, and the public are more informed and thus more critically aware of international affairs. Furthermore, in the increasingly competitive drive to win a share of the public's charity, launches of campaigns will, like well-publicised disasters, stimulate donations from the public. Indeed, Oxfam may have noticed how certain pressure groups have recently captured the imagination of the people in its battles with the government (e.g. the World Development Movement's victory in the courts in November 1994 concerning the Pergau Dam) and with multinational corporations (Greenpeace's recent victory against Shell concerning the Brent Spar oil platform). Although Oxfam's charity status prevents it from engaging in openly political debate, it may seek to do for

development what the Pergau Dam and Brent Spar have done for environmentalism.

There is however another factor that may be influencing Oxfam: development has been taking place for many decades now, but there is little to see for it; many parts of the world are still ravaged by poverty, malnutrition and disease, and one may hear members of the public complain that "it's not our problem" and "let them die: it's nothing to do with us," and "it's a bottomless pit - we're just throwing money away." Such talk will not only be worrying Oxfam's financial division, but also its policy department: to illustrate this point, one might consider current opinion concerning the action of the missionaries in the past, that they meant well but in many cases did the societies a disservice. They had assumed that the Truth which they were preaching, and the standards that they were teaching were universally applicable, and that their way was the only way. Culture difference was but an obstacle to be overcome. May not the same be said in future years of Oxfam? **It is vitally important for Oxfam and others in the development field to prove to society and to themselves that the ideals which they are promoting are genuinely universal, not just assumed to be so.** Whether, by launching a campaign on rights, Oxfam is seeking, perhaps subconsciously, to claim that their work is universal in character, or whether it is seeking to shift its policy towards incontrovertibly universal goals and standards is uncertain, but it is an interesting question.

The ten 'basic rights' listed are an interesting selection indeed; the right to life [2], which some might claim to be the most basic, is not included, and nor is the

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[2] To press for the right to life would be unhelpful, it could be argued; while the ten rights listed are clearly indicative of the correlative duty involved, the right to life is little more than a truism. The relationship between the right to (or need for) life and other rights (or needs) will be discussed later.

right to clothing. Ten is a round number, but, as will be apparent after reviewing the typologies of rights in common use (section 3), the basic rights proposed are a mixed bag; a variety of types (or dimensions) of right are found in Oxfam's list. The reader will be referred to *Appendix I*, where Oxfam's ten basic rights are analysed according to the various classifications discussed in the next section.

3. The Universality of Rights and Human Rights

In this section, a basic review of rights and human rights will be attempted, in order to understand better the role of human rights in development, and, more particularly, the impact that Oxfam's campaign may be expected to have on development in the Third World. After discussing why rights have grown in importance, and clarifying the various ways in which the word 'right' is used, the typology of rights will be studied, a definition of 'human rights' will be offered, and **the claim to universality of human rights will be assessed**. This assessment will be both of legal rights (as, for example, in the Universal Declaration of Human Rights of 1948), and of moral rights. This will enable a detailed analysis of Oxfam's 'basic rights' to be made: the 'rights' will be classified according to current typologies, and this will enable a more objective assessment of the universality inherent within each of the ten 'rights' to be made.

3.1 The Growing Importance of Rights: Some Reasons

Several reasons can be given for the recent surge of interest in rights, as exemplified by Oxfam's decision to base its new campaign on the concept of basic rights. Many (for example: Renteln, 1990, pp. 17-18; Nobel, 1991/2, p. 742), have attributed the heightened interest in rights in the post-war period to the wish of society never again to suffer the scourges experienced in the two world

wars, and clearly the 1948 Universal Declaration of Human Rights was at least in part a reaction to the tyrannies, cruelties and persecutions which preceded and went with the Second World War. Other suggestions of possible causes for the rise in interest in rights can be made: amongst the more intriguing of these is the increasing secularisation of western society, the growing anarchy of western society and the explosive impact of neo-liberalism in modern society.

3.1.1 *The secularisation of society*

In past centuries, many of the ethical and moral standards under which society was accustomed to work were based on the dictates of religion; one's actions were deemed to be correct or otherwise by reference to religious writings and the judgements of religious leaders. Indeed, many philosophers such as Locke have justified human rights (formerly called natural rights) in God. Now, however, with many countries in the west becoming more multi-cultural, reference to any single religion as a basis for appropriate moral standards is problematic.   More importantly, the rise in atheism has resulted in fewer people being satisfactorily guided by theologically based moral principles. It is no longer enough to quote the ten commandments to the criminally inclined, if they are not believing Christians. So it is that a basis of morality is sought which does not rely on religious teachings for its foundation.

3.1.2 *The growing anarchy of society*

There has also been an important change, it could be argued, in the way in which citizens, particularly in the West, regard their leaders; whereas in the past, the monarchy, the gentry, and, to an extent, leaders in government, enjoyed a largely unquestioned respect, on occasions verging on deification, they are now regarded as, at best, mere political leaders, or, at worst, mere

figureheads. There are now few who seek ideological or moral guidance from them (John Major's recent 'Back to Basics' concept notwithstanding), and they are rarely seen as perfect models of correct behaviour.

3.1.3 *The emergence of neo-Liberalism*

The emergence of neo-liberalist thought has led, over the last decade, to a marked increase in the talk of rights as opposed to needs. The implementation of measures based on neo-liberalist ideology has had a significant impact on the more vulnerable members of society. With the onset of neo-liberalism, where each one is expected to fend more for him/herself, the able have benefited, and the less able have lost out. As Tshuma (1993, p. 228-229) points out:

> "Neo-classical market ideology requires the state to stand back ...... The invisible hand of the market is impersonal and therefore blind to the plight of those who are marginalised by the market."

Whilst in the past, those successful in their working lives were able to salve their consciences by knowing that the government would, on their behalf, see to the needs of the less well off, the current cut-backs in government spending are hitting the poor, and neo-liberalist fervour has allowed the government to justify its cuts and reduce its citizens' legal rights to basic services and welfare payments. This is clearly true for many parts of the West, and is becoming true for many parts of the developing world. In Britain, as the legal rights of free education, free health care, income support and so on, are rescinded, those in need of support are now able to look no longer to *legal* rights as a basis for seeking assistance. As discussed above, the religious leaders are less able to

represent the views of all society, the monarchy is weak politically (at least in the UK), and so human rights have accordingly grown in importance and stature. Nor does multi-party democracy necessarily entail protection of human rights, since it does not per se give a voice to vulnerable minorities: "Democracy is three wolves and a sheep deciding what to have for supper" (anon.).

3.2 <u>Types of Rights</u>

There are many types of rights which have been proposed and discussed over the years, and many contexts in which the noun 'right' is used: a right can be a *moral* right, or a *legal* right. One can *have* a right (or the right), *claim* a right, and *lose* a right. One may speak of a right as a *human* right, a *basic* right, or even *my* right. One can speak of the right to a *thing* which one already has or to a thing which one does not have; one can similarly talk of the right to *do something* which one is already doing, or to do something which one is not doing, and even one which one is not able to do. Rights can refer to things or actions which one *desires*, and also to those which one *does not desire*. It is partly due to this enormous range of uses of the concept of right that the topic is potentially a confusing one; a brief summary of well recognised classifications of rights is therefore outlined below. Whether the 'types' given below are in fact types of rights as opposed to *dimensions* or elements of rights is an interesting question. The reader is referred to *Appendix I*, where each of Oxfam's 'basic rights' is analysed with respect to the typologies outlined below. It will be noticed that for each right, there appear to be elements of several dimensions of rights.

3.2.1 *Positive And negative rights*

While some rights require the services of others for their implementation, others do not; rights are described (Donnelly, 1985, pp. 93-95) as "positive," therefore, if they require action from outside: my right to a formal education would require that others provide me with it. Rights are said to be "negative" if they are permissive in character, requiring no more than that I am not prevented from doing something: my right to walk down the street requires no more than that I am not prevented by anyone from so doing. In the past, most discussion of human rights has concentrated on the negative rights, which are usually expressed as *the right not to be X'd*, for example the right not to be arrested without good cause, the right of free speech (or not to be silenced), and the right not to be assaulted.

It will be noticed in *Appendix I* that it is rather difficult to classify Oxfam's 'basic rights' as being either positive or negative. This might be due to there being no real dichotomy between positive and negative rights or that there is a lack of explicit detail in Oxfam's 'basic rights'.

3.2.2 *Civil and political rights and economic, social and cultural rights*

Civil and political rights tend to be negative rights, as they entail restrictions on government powers against its citizens, while economic, social and cultural rights tend to be positive, in that they require those in authority to provide a certain minimum of services to its citizens.   Amnesty International is principally interested in the former, while the latter have until recently been given little attention. This may well be one of the reasons that Oxfam has chosen to highlight the latter positive rights in its campaign.

A fact that appears to have been ignored by many is that, where enforcement is concerned, there is a very significant difference between positive and negative rights: it is far easier to prove that some person or party <u>did</u> something that they should not have done (e.g. wrongly imprisoned, tortured or arrested someone) than to prove that they <u>didn't do </u>what they should have done (e.g. that they didn't offer education to this child, or that they didn't offer food assistance to that man). As shall be discussed later, the problem of enforcement is a serious one where human rights are concerned, and so it is not surprising that international society should have chosen to prioritise negative rights.

3.2.3 *Claims, liberties, powers and immunities*

Although Hohfeld (1919) was discussing legal rights when dividing them into four types, the classifications are equally applicable to moral rights:

1. **Claim right:** (e.g. A has a right to $10 from B); B thus has the 'correlative **duty**' to pay A should A so wish it.

2. **Liberty or Privilege Right:** A has a liberty right to do X (e.g. walk in the park); the correlative of this is that any person (B) has a **no-right** to prevent A from doing X; this could, as Williams (1956, p. 1138) suggests, be better expressed in terms of A's 'no-duty' to do X.

3. **Power Right:** A has a power right against B (e.g. A can make his secretary B type a letter); the correlative of this is that B has a **liability** to A.

4. **Immunity Right:** A has immunity against B (A cannot be made by B to do Z); the correlative of this is that B is **disabled** from forcing A to do Z.

Liberty/Privilege Rights can therefore be seen as negative rights and related to many civil and political rights. Claim Rights, on the other hand, tend to be positive rights, although when discussing the positive economic, social and cultural rights, the identity of 'B', the holder of the correlative duty, is

uncertain. Often it is understood to be the government, but the contract between the citizen and the government is not as clearly defined as that between a shopper and a market-seller, or between A and his friend B, who borrowed A's $10. The interesting question, then, concerns Power and Immunity Rights - for what are they, in our topic of discussion, if not the *power* of the government to do as it likes with, for and to its people, and perhaps the *immunity* of a government from being forced by other governments to treat its citizens more kindly? These may be related to the concept, not popularly advanced by western theorists, of collective rights.

3.2.4 *Legal and moral rights*

The most common distinction which can be made, which is deceptively straightforward, is between legal and moral rights. The former are entitlements guaranteed by law; the latter are the rights whose grounding is not in the law, but in some moral principle. Regan (1986, p. 24-25) describes moral rights as universal, equal for all, inalienable (i.e. not transferable), and "natural"; legal rights, on the other hand, are not necessarily universal, they are not necessarily equally applied, they may be transferable, and are man-made (or at least, man-made confirmations of natural moral rights). The universality claim of moral rights is by no means accepted by everyone, and is of central interest, particularly where the promotion of human rights in development is concerned, for human rights are commonly understood to be inalienable, universal, equal for all and non-transferable, and therefore are more commonly seen as fundamentally moral, not legal, rights.

Many rights (such as the right not to be assaulted) appear to enjoy both moral and legal backing, but conceptually they are not the same; indeed, there are rights which are legal but not moral, and vice versa: as an example of the

former, Lyons (1970, p. 55) points out (in his discussion of rights and correlative duties) that drivers in California have the legal right to turn right at red traffic lights, whilst in other states they do not have that legal right: one cannot deduce from this that *moral* or *human rights* in California are somehow different from other states. As an example of the latter, of moral rights which are not legal rights, one can look at any contentious issue which may be the subject of popular demonstrations or the object of pressure groups, such as, in the past, the rights to be free from slavery, and the right of blacks to a voice in apartheid South Africa.   In such cases, the moral rights are clearly not deemed to be legal rights. It can be argued that in an ideal world, there should be a complete match between legal and moral rights, that all moral rights should be supported by law, and that the aim of civilised society is to attain such a match.

Legal rights and moral rights are also different empirically: in ease of enforcement, in adaptability to change of circumstance, and in the support which the international community offers to those whose rights are violated. Many of the differences between legal and moral rights will be discussed in more detail in the next section.

3.3 <u>Human Rights</u>

Human rights are popularly understood to be applicable to all people. This is what differentiates them from, for example, western ideals or Christian principles. Also, human rights is a term which can be used to differentiate the standards deemed acceptable for or required by humans from those acceptable for or required by animals. They are *rights in rem*, as opposed to *rights in personam* (Vincent, 1986, p. 9;   Jones, 1994, pp. 15-16); that is to say, they are rights for all people regardless of their identity, as opposed to contractual rights, such as the right of a particular tenant against a particular landlord.

Many definitions of human rights can be offered: legal positivists would claim that rights only exist if they are enforceable, written into law, and might otherwise doubt their existence. Others, such as the natural law theorists, would argue that human rights in their moral state are prior to any covered by legislation. Cranston (1973, p. 36) defines a human right as:

> "a universal moral right, something which all men, everywhere, at all times, ought to have, ... something which is owing to every human being simply because he is human"

Wasserstrom (1964, p. 50) argues that a right is a true human right if it is possessed by all human beings, is possessed equally by all human beings regardless of status or position, and is assertable "against the whole world."

Before looking at the moral justification for human rights, a description of human rights from a legal perspective will be offered; comments will be made on the difficulties of their enforceability, their impermanence in domestic law, the problems of attempting to formalise them in international agreements, and the relevance of these difficulties to the issue of the universality of human rights.

3.3.1 *Human rights as legal rights*

Wellman (1975, pp. 50-51) outlines the prerequisites for legal rights to be effectively guaranteed:

> "Typically, a legal right is a complex cluster of legal liberties, claims, powers and immunities, involving the first party who possesses the right,

second parties against whom the right holds, third parties who might intervene either to aid the possessor of the right or the violator, and various officials whose diverse activities make up the legal system under which first, second and third parties have their respective legal liberties, claims, powers, and immunities, and whose official activities are in turn regulated by the legal system itself."

- Domestic Law

Domestically, the enforcement of legal rights is generally not a problem, where the rights of one citizen or group of citizens are protected by domestic law from abuse by another citizen or group of citizens.

Where the abuse is of one or many citizens by *government*, however, the domestic legal system may be unable, or unwilling, to act to help the victim. If the authority constitutionally responsible for ensuring that legal rights are respected and the party that violates the right are one and the same, it is difficult for the right-abuse victim to seek redress. Commonly, an abuse of citizens' legal rights by government is termed a violation of 'human rights'. Such a claim is ambiguous, since it may suggest either that the right violated is an internationally binding *legal* right or that it is a universal *moral* right.

Another difficulty with domestic legal rights is that the government can easily rescind or retract them; clearly in practice, where these rights have been fought for and won through public protests and demonstrations, the government may be unwilling to risk the ire of the public by rescinding them; but many legal rights are *offered* by government, perhaps immediately prior to elections, or perhaps at times of economic prosperity; it is these rights which can so easily

be retracted when circumstances change, an example of which is the retraction of the right of all school children to free milk in the UK.

Rights cannot be retracted by any party other than that which created the right. Thus moral rights, unless divinely rescinded, are unretractable. But moral standards do change and moral rights, unlike legal rights, gradually evolve. This is reflected in attitude changes such as the growing acceptance of in vitro fertilisation, or of gender and race equality.

- International Law

When human rights in international law are considered, it is clear that there are shortfalls in the requirements Wellman describes (see above): although the first party (the holder of the right) may be easily identified, it can be problematic to identify the second party against whom the right holds; and most importantly, the third party who may intervene to ensure the right is upheld does not, in many cases, exist. Except where the right falls specifically within the remit of an international body (e.g. the Commission on Human Rights), there will furthermore be none of the "various officials" who make up the legal system under which the right is claimed. Where such bodies do exist, they frequently lack the power to see that their judgement is respected and acted upon. Indeed, as Higgins (1988, p. 405) put it,

> "All we need now in the area of human rights is their enforcement. We already have enough analyses, too much verbiage and an endlessly expanding list of claims being inflated to 'rights'".

3.3.2 *The Universal Declaration of Human Rights (1948)*

As was mentioned at the start of this chapter, the Universal Declaration of Human Rights (UDHR) was to some extent a reaction to the severity of the two world wars, particularly the recently ended second war. It was a historic achievement that delegates of many nations were able to sit together and agree a set of fundamental principles, the principles of human rights. It came to be seen as a model on which newly independent nations could base their constitutions, and is referred to on many occasions by those discussing human rights issues.   There has been much analysis of the UDHR (Humphrey, 1984; Lillich & Newman, 1979; Renteln, 1990; Jones, 1994), but of the questions which critics have raised, those which are most relevant to the discussion of the universality of rights are:

1. Is the UDHR a legally binding document (and if so, is it legally binding only for those who signed and ratified it, or for all nations of the world)?

2. Were all sectors of the world community fairly represented at the drafting stage and at the signing of the document?

3. Did delegates sign freely, or were they under duress?

4. Does the document seek to *establish* certain rights as universally binding, or to *affirm* that all humans do have these rights?

As to the first question, Nherere (1993, p. 118) and Best (1990, p. 7) argue that the UDHR was no more than a resolution, and therefore is not legally binding. Renteln (1990, p. 29), however, claims that the "dominant view now is that the UDHR constitutes the authoritative interpretation of the human-rights provisions of the UN Charter. As such, it is legally binding on member nations." She also notes that, since the norms of the UDHR have become

binding as part of customary international law, then these standards are applicable to all nations, whether or not they have expressed consent. As Best (1990, p. 7) points out, the UDHR, its legal force or lack of it notwithstanding, did serve two important purposes: firstly, it set a standard against which any national or international bills and treaties on human rights could be measured, and secondly, for those people for whom no other human rights cover existed, it set a standard against which they, or governments of other countries, could measure the human rights record in their countries.

As to the second question, as Renteln (1990, p. 29) points out, in 1948 many of today's nations did not exist, since many colonies had not yet gained independence. Furthermore, the UDHR has not as yet been universally ratified by those countries that did exist. At the time of signing, 48 voted in favour of its adoption, none against, eight abstained and two were absent (Cerna, 1994, p.742). There was not a single African involved in the drafting of the UDHR, and of the non-western members of the drafting committee, most had received western educations. That, as Best (1990, p.8) points out, "is by no means *ipso facto* to demean it," but it has, in fact, allowed dissenters an excuse for rejecting its universal standing.

The UDHR is not unique in this respect; there are many international rights agreements which do not demonstrate universality: for example, the 1962 Convention on Consent and Marriage, Minimum Age for Marriage and Registration of Marriages was ratified by only 35 countries (Tomasevski, 1993, p. 31), and the 1957 Convention on the Nationality of Married Women was ratified by 57 countries, well below a third of all countries (Tomasevski, 1993, p. 33).

As to the third question note must be taken of some of the pressures that some, mainly smaller, less powerful, states may be under to agree to sign

international documents. If a person signs a contract under duress, or as a result of a hefty bribe, then his signature may be found to be invalid, under British law. How much duress or financial pressure will invalidate a contract is difficult to define. One wonders how much pressure those who sign international human rights treaties may be under when they sign. Reports in the newspapers following the signing of the "Platform for Action" document at the climax in September 1995 of the UN's Fourth World Conference indicate the pressures delegates can be under:

| The 150-page *Platform for Action* document that was finally agreed seemed to satisfy both the Catholic and Islamic world on the one side, and the permissive West on the other, by combining an acknowledgement of different religious and cultural backgrounds with a strong affirmation of human rights and fundamental freedoms.

The Times, 16th September 1995, p..9 | Much to the relief of United Nations organisers, no one walked out of the room at the last minute ...

...(T)he more traditional states focused their efforts on eliminating a passage that, they charged, amounted to approval of lesbianism. Meanwhile, **the Western nations succeeded in forcing the more religious nations** to accept a passage putting "human rights and fundamental freedoms" ahead of the "sovereign responsibility of each state". (emphasis added)

The Daily Telegraph, 16th September 1995, p.16 |

Indeed, one cannot underestimate the enormous pressures that governments may be under to ratify agreements on human rights - they may fear being shunned by the international community if they fail to sign, they may fear economic reprisals and boycotts of their exports, or they may fear losing valuable friends in the international arena who would in normal circumstances come to their aid in times of difficulty. The agreement of many nations to support the boycott of the Moscow Olympic games was a clear example of countries bowing to economic pressure (principally from the United States). What is important to recognise, therefore, is that the signing of a document does not necessarily signify real agreement with what is written. And since our discussion is focusing on the extent to which ideals are *universally* held, then

reference to the number of signatures which a legal document has at its base should be approached with some caution.

As to the fourth question, Dower (1982, pp. 26-27) suggests that the Declaration both seeks to e*stablish* certain rights as universally binding at one level, and on the other it seeks to express a universal moral *affirmation* that all men people do have certain rights, whether or not the laws of countries establish them.

The purpose of the above discussion of the potential weaknesses of international agreements, such as the UDHR, has not been to identify what the weaknesses are, but to note that they do exist. One cannot assume universality of these legal human rights. Since these documents do have potential flaws, then non-conforming governments can, with some legitimacy, claim that the documents do not represent the views of all nations, that some that signed may have done so under duress, that they are not legally binding, and so on. The loop-hole exists through which authoritarian regimes can seek to excuse their behaviour.

The legal status of human rights is thus flawed and unable to claim legitimacy as a universal legal framework; but, as Jones (1994, p. 82) points out, although many human rights now enjoy a legal or semi-legal status, "the idea of human rights remains fundamentally a non-legal one." He then goes on to suggest that:

> "declarations and covenants of human rights do not 'create' or 'give' rights to human beings; they simply recognise and announce the rights that human beings have." (Jones, 1994, p. 82)

Would that life were so simple! The question remains unanswered: how do we know if the rights 'recognised and announced' are really universal moral rights, or no more than ideals appropriate to a particular region of the world?

3.3.3 *Human rights as moral rights*

Unless human rights can be shown to be well grounded, for example in a one real God, or in an identifiable fundamental permanent feature of humanhood or of nature, then their universality over place and over time must be doubted, as also must the claims that a right is anything stronger than a desire, and that human rights are distinguishable from the rights of animal and plant life. Indeed, as Singer (1979) asks, is 'speciesism' (the prejudice in favour of the human species) justifiable? One only has to suggest some examples of commonly accepted human rights in order to show the fragility of our understanding; for example, those things necessary for *survival* (water, food, air, shelter) are equally important for animals, and so if they are rights, why are they not *animal rights* - from where do humans earn the privilege of having a right to these things, when animals only have a need for them? For those things necessary for a *qualitatively improved life*, such as health, perhaps education, freedom of speech, and so on, one must find the basis for claiming these as *rights,* rather than simply *desires* of society. One must furthermore question firstly whether such desires are held universally (over time and place), and secondly whether the case for such desires being given the higher status label of 'human right' is also equally applicable to all centuries and to all peoples.

If it is true that, by human rights we mean those entities which are assertable against the *whole world*, which are acknowledged as valid by *all*

peoples at _all times_, and which _separate humanhood_ from all _other forms of life_, then one must ask: _are there in fact any human rights at all_?

There is an understandable temptation to assume that, since it _makes sense to talk_ of "the right of free speech", that this is therefore a right, and, indeed, a universal right. Even more understandable is the temptation to assume that, since the term 'human rights' is commonly spoken of, that human rights therefore can and do exist. Existence of a label, however, does not entail that the object of that label in fact exists.

3.3.4 _The foundation of human rights: in the past, or in the future?_

The difficulty of trying to identify a source of human rights does not in itself mean that it can make no sense to speak of human rights, for it is perfectly plausible to suggest that the concept of human rights has been created by humankind, and that humankind may choose to adopt certain entities as human rights.   Thus rather than thinking of human rights as having existed for ever, and that it is man's task to discover them, it may make more sense to look into the future, and see human rights as a sense of principles which are evolving, which are manmade, but which, nevertheless, may satisfy all the conditions laid out in the definitions of human rights discussed above.

Rather than ask whether such and such a thing _is_ a universal human right, it may make more sense to ask whether society will be able to _make_ such and such a thing a universal human right, that is to say, 'is it _universalisable?_'   It is in just such a vein of thought that Donnelly (1985, pp. 31-43) suggests a 'constructivist' theory of human rights. Since such decisions have to be made

by the people of the world, and that all peoples are represented by governments, then it can be seen that the line between the moral and legal aspect of human rights may be becoming clouded.

Where moral and legal human rights are seen to differ, this may be due to two things: *either* those who had the responsibility of representing their people in drawing up the legislation failed to represent them properly and fully, *or* the people do not appreciate the moral force of recognising those human rights which are agreed, on their behalf, as being universally held.

3.3.5 *The institutionalisation of moral rights as international legal rights*

Notwithstanding the past difficulties described above of justifying and enforcing human rights in a legal framework, there is a case, in view of the conceptual fusing of moral and legal human rights, for those engaged in the promotion of certain values to seek to have those values institutionalised in a human rights framework through inclusion in internationally binding agreements. This, it might be hoped, would do two things: add weight of legitimacy to the values which they seek to promote, and, more importantly and interestingly, if a right can be entered into international statute books, not only will the right hopefully be recognised and respected more widely than before, but the right would be officially recognised as applicable to all nations, that is, officially universal, that is, (hypothetically speaking) moral. Thus, although international legislation is weak and enforcement is poor, there is a clear motive for pressure groups to see rights written into the international statute books: the institutionalisation process itself would signal (if not ensure) the legal universality, and thus perhaps the moral validity, of the right.

However, the extent to which the institutionalisation (in law) of moral rights adds weight to moral rights is debatable. Clearly, the UDHR, as an institutionalised expression of rights, has enormous prescriptive, if not legal, force. Many national constitutions have been influenced by both the content and the form of the UDHR. It is questionable, however, how beneficial the institutionalising of human rights is in seeing that the rights are respected world-wide. Dower states, (1982, p. 35) that:

> "the establishment of institutional rights which reflect ... (a) moral basis is an important priority. For it is when rights are institutionalised that *there is a greater likelihood of their being implemented."* (emphasis added.)

There is, however, a cost incurred in institutionalising moral rights: the more that moral rights are formalised as legal rights, the less highly might the moral aspect of moral rights be regarded. Thus any remaining moral rights not yet in-stitu-tionalised may be seen as less-important or second-class rights and, hence, ignorable. An analogy may illustrate the point: during times of drought, the British would usually limit their water use, but if certain water authorities impose hosepipe bans, customers in *other* areas will perhaps receive the unspoken message that, since there is no ban in their area, then there cannot be any serious water shortage. Hosepipe use might *increase* nationally if hosepipe bans are introduced in one area. Similarly, once many moral rights are formalised in law, any moral right not so formalised may be respected less than would otherwise have been the case.

3.4 <u>Conclusion</u>

It is clear from the above discussion that universality of human rights is far from incontrovertibly guaranteed from either a legal or moral perspective. The important thing to note is not *what* the weaknesses are in undermining the universality of the rights, but that these weaknesses *exist*. One could have mentioned the difficulties and controversies concerning how correlative duties are identified, and, more importantly, the difficulties of identifying on whom the duty falls to ensure the rights of others. The relative strengths and weaknesses of the 'benefit' or 'interest' theory of rights and the 'choice' or 'will' theory and the relevance of these theories to the rights/duties correlativity are described by Jones (1994, pp. 26-44), and the existence of such debates serves further to threaten the already fragile universality dimension of human rights.

The principal stumbling block which theorists encounter in trying to prove the universality of human rights is the difficulty of identifying a coherent basis for this claim. One could suggest that the reason why many in society might elect to recognise the 'right' to food, water and so on, is because one cannot survive without it; or, similarly that the 'rights' of freedom of choice, freedom to travel, and so on, rest on a commonly held urge which people have to act autonomously, to move, and so on - indeed, the link between these rights and our needs is becoming apparent. Before undertaking any further discussion of the universality of rights, therefore, a look at needs, and their potential for universality, is in order.

4. The Universality of Needs

Although the shift to neo-liberalism has to an extent been a shift away from a needs-based system to a rights-based system, there is, it seems, a relationship between human rights and needs: for what distinguishes human rights from other rights is their allegedly universal character, and it is this universality which may be justified in terms of what all people need, as opposed to what many people might want; the latter being more easily determined by the market forces of neo-classical economics. A link can also be found by starting with needs: for of what use is it to talk of people's basic needs (as opposed to desires) unless society feels some form of responsibility to those whose basic needs are not met, that is to say, unless society accepts that all people 'ought' to have their needs satisfied. Such may be the justification of human rights.

Before looking in more detail at the link that may exist between rights and needs, it is appropriate to look briefly at the role of needs in development and the problems faced when attempts are made in defining what a need is, and in assessing the universality of needs. It will become apparent that many of the difficulties faced by needs-theorists closely parallel those faced by rights-theorists.

4.1 Basic Needs Paradigm

A basic needs orientated approach to development evolved in the 1970s largely as a result of the perceived failure of policies of redistribution with growth to increase the welfare of the poorest of the developing world. Although the approach may be said to have had a short lifespan and to have been superseded by monetarist policies (Porter et al, 1991, p. 98), there are still many in development who recognise the value of the approach.

In the 1976 World Employment Conference the Director-General of the ILO suggested that all countries should give priority to the meeting of basic needs, such needs being defined as including:

- the minimal consumption requirements needed for a physically healthy population (food, shelter, clothing, etc.),

- access to essential services and amenities (safe drinking water, sanitation, transport, health and education),

- access of all to adequately remunerated employment opportunities, and

- the "satisfaction of needs of a more qualitative nature: a healthy, humane environment, and popular participation in making decisions that affect the lives and livelihood of the people and individual freedoms" (ILO 1978, p.7).

The proposal that all governments should aim to achieve this goal by the year 2000 was endorsed unanimously by the delegates of all the member states of the ILO (Hunt 1989, p. 76). Two points are of particular interest. Firstly, the extent to which the 'basic needs' listed above correspond with the 'basic rights' put forward in Oxfam's campaign; and secondly, the proviso which is included in the ILO document, and recognises that universality cannot be assumed:

> "It is important to recognise that the concept of basic needs is a country-specific and dynamic concept" (ILO, 1977, p. 24).

The ILO proposal was not without its critics, as Hunt (1989, p. 266) explains: it was said to lack operational precision, to conflict with growth promotion policies, to risk locking developing countries into permanent backwardness, and to be impractical due to the resistance that landowning and bourgeois classes might have to releasing the necessary resources.

Proponents of the 'basic needs first' idea argued that good economic development should include not only economic growth but also the elimination of absolute poverty; this was not only desirable but the most effective way of creating sustained growth since the poorest would become active members in society, would provide more effective labour, and increase the number of potential consumers and savers. The way to achieve this would be to remove legal, institutional and financial impediments which discriminate against the expansion of small-scale and labour-intensive production, and to adjust policy so that small farm and industry production can be supported (Hunt, 1989, p. 78).

As was discussed earlier, equating economic growth with development is ill-advised, but it is an element of development.   It is not within the scope of this paper to discuss which form, if any, of a basic needs paradigm would best serve the interests of economic development; this is fully discussed by Hunt (1989); the general point that should be noted, however, is that due account of the reality of politics and power must be made in discussing the feasibility of a needs-based (or, indeed, a rights-based) approach to development. It would be all too easy to create a formula by which no one will be poor and all will be assured their basic needs, but the truth is that, in the real greedy world, what may be a satisfactory solution to philosophers and theoreticians may not do an ounce of good for the real poor in the real world. One is reminded of Buchman's remark:

> Suppose everybody cared enough, everybody shared enough, wouldn't everybody have enough? There is enough in the world for everyone's need, but not enough for everyone's greed. (Buchman, 1947, p. 56)

Gandhi is said to have remarked in similar vein:

Earth provides enough to satisfy every man's needs, but not for every man's greed.   (Schumacher, 1973, p. 29)

As Galtung (1980) explains, the strength of the Basic Needs Approach is that the concept of need encompasses some idea of necessity, and some of universality; although there may be few cases of needs which are accepted on an exactly identical footing in all countries,

...in one way or the other human beings everywhere and at all times have tried and will try to come to grips with (concern for these needs) in very different ways.   (Galtung, 1980, p. 59).

4.2 The concept of need

The difficulties which have troubled rights theorists are also vexing needs theorists. Problems arise in defining needs, identifying different types of need, the differentiation of the more from the less important, the source of needs, and how they are distinguished from other related concepts such as desires.

4.2.1 *Definition of 'need'*

As Doyal and Gough (1984, p. 6) said, "It is time either to defend and refine the concept of human needs or to banish it entirely from our vocabulary." Their complaint clearly indicates the confusion that troubles those involved in discussing or working in the field. When discussing 'need,' care must be taken to insure against the dangers of what Lederer (1980, p.1) describes as the "inflationary use of the term 'need'."   The reader will recognise this problem as also applicable to rights. Clearly the use of the term in trivial chat (e.g. I need a cigarette; she needs her head examined) may lead to the full force of the word being lost when speaking of, for example, the diabetic's need for insulin.

It is a common problem that emotive words such as, 'urgent,' 'starving,' and 'need' are frequently used in common language as substitutes for the less emotive but more appropriate words 'important,' 'hungry,' and 'desire.'

Several definitions of 'need' have been offered:, for instance, it has been defined as:

> "something, the satisfaction of which is inside the human being, whereas the satisfier can be outside him; a basic need is a need which, if not met, provokes the disintegration of the human being."   (Rist, 1980, p. 234)

Masini (1980, p. 227) understands needs to refer to "those human requirements calling for a response that makes human survival and development possible in a given society;" Mallmann & Marcus (1980, p. 165) define need as "an objective requirement to avoid a state of illness." There are many who do not attempt to define the term, and some who claim that it is the indefinability of the term which should lead one to conclude that the concept of need as distinct from 'want' or 'desire' is an illusion. The distinction between need and want is an interesting and important one, and this is discussed in more detail below.

4.3 Different Types of 'Needs'

Although there is rather less literature on needs than there is on rights, much of it does address the issue of types of need: Glaeser (1980, p. 314) explains that Aquinas' differentiation of 'corporeal' and 'mental' good was the precursor to the eighteenth century concepts of physical and psychic needs; in the nineteenth century, there was talk of 'basic needs' and 'secondary needs'; Marx makes a distinction between biological and human needs (Roy, 1980, p. 201).   The ILO, as mentioned above, speaks of "basic needs", while the

Brandt Report (Brandt, 1980, pp. 54-58) talks of the three "elementary needs" of health, housing and education, and later acknowledges the "most fundamental need for food." Other categories of need which have been proposed include:

- Security, Welfare, Identity and Freedom (Galtung, 1980, p. 59)
- Living, Co-living, Growth and Perfection (Mallmann and Marcus, p.166)
- Identity, Growth and Transcendence (Nudler, 1980, p.146)
- Normative, Felt, Expressed and Comparative Needs (Bradshaw, 1972, p. 640)
- Self-Preservation, Self-Socialisation, Self-Affirmation, Self-Education and Self-Realisation (Bestuva-Lada, 1973)
- Physiological Needs, Safety Needs, Belongingness & Love Needs, Esteem Needs, and Self-Actualisation Needs (Maslow, 1960)
- Physical Survival Needs, Social Belongingness Needs and Individual Subjectivity Needs (Bay, 1979)
- Needs whose satisfiers are material or non-material, periodic or once-and-for-all, actively or passively obtained (Friedman, 1980, p. 146)

4.3.1 *The difference between needs and wants*

The distinction between needs and wants is a contentious issue; there are arguments both as to whether there is any distinction between the two, and also as to what, if there is one, the distinction is. Macpherson (1977, p. 27) notes that the same word for 'wants' and 'needs' (as nouns) is used in both French ('besoins') and German ('Bedürfnisse'), and Lederer (1980, p. 8) similarly notes the lack of any word for 'needs' in Japanese. Doubt is therefore being cast upon there being any inherent or natural distinction between the two concepts. Nor does the confusion rest on language difficulties alone;

Fitzgerald (1977, p. 38) argues that Maslow (1960), for instance, when discussing his proposed hierarchy of needs, failed clearly to differentiate 'needs' from 'wants', 'desires', drives', and 'propensities'.

Several definitions of *needs* in terms of *wants* and vice versa have been offered: Bay (1968, p. 242) describes a want as "a perceived or felt need which may or may not overlap with a real need"; Meyer (1974, p. 203) defines needs as wants which have become the subject of judgement and evaluation; and Maslow (1954, p. 56) suggests that, "conscious desires are to be taken as symptoms, as surface indications of more basic needs."
One possible way of distinguishing wants from needs is to note that wants tend to apply to *individuals*, while needs are believed to apply to *all people*, either within a society or world-wide, depending on whether needs are regarded as universal or not. A want may be the desire of an individual to satisfy one's needs, but not necessarily; one may want to do something that one does not need to do (e.g. to play tennis), or even that one needs *not* to do (e.g. to smoke a cigarette); a want may therefore reflect an impulse, or be a hunger for need-satisfaction. One cannot want something without knowing that one wants it, for wanting is a private thing. One may, however, need something without being aware of it; for example the patient may not know that he needs medicine, and it is possible that a life-long slave may not know that he needs freedom. No one can *know* what another person wants (although they may well guess). However, the doctor may know what his patient needs. A summary of the distinction is tabulated below.

	Wants	**Needs**
Are they universal, i.e. identical for all individuals within a society (or possibly	No - except where they are expression of universally shared needs.	Yes - except where 'need' is used in the weak sense of an individual's chosen

world-wide)?		strategy (I need some batteries) for satisfying a goal (to listen to the radio)
Are they necessarily recognised by the holder of the want or need?	Yes	No
Can they be known (with 100% certainty) by others than the holders of the want or need?	No	Yes

One may be tempted, in this world of neo-classical economics, to attempt to differentiate wants from needs by looking at the varying demand elasticities of the market place; if demand for good X drops substantially when there is a small price rise, one might be tempted to infer that X is not a need, but a desire, something which one can do without; similarly, if the demand remains virtually unaltered, then one might infer that it is a need, something which one cannot do without, whatever the price. The problem with this is firstly, that many 'needs' are not to be bought and sold: life, air, water, autonomy, and so on; secondly, that elasticities depend greatly on substitutability: one cannot say that tobacco is a need simply on the basis of there being no substitute which will satisfy the thirst for a smoke; thirdly, demand elasticity varies along a continuum, while needs and wants are assumed to be a dichotomy. Unless 'need' is to be understood as 'something you want more', and 'want' as 'something you need less', then there is no room for a market-forces-based definition of needs and wants.

4.4 <u>Goal-Needs and Strategy-Needs</u>

Doyal & Gough (1984, p. 11) argue that there are two common categories of need: the first is where the need refers to a *goal* of all people regardless of culture or individual preferences.   This need is contrasted to want; they illustrate the difference with a rather unfortunate choice of example:

I want a cigarette but I really need to stop smoking.

The want refers to an (illogical) impulse, and the need to a goal of all people, regardless of culture or individual differences, to stay healthy and cancer-free.

The example is unfortunate, however, because one might equally hear a person say:

I *need* a cigarette but I really *want* to stop smoking.

Here, in fact, the word 'need' is used (wrongly, perhaps) to express strong desire, and the word want expresses a personal goal.

The second category of need that Doyal & Gough suggest is where the need refers to a *strategy* which may provide a route to the achievement of a goal, whether that goal is a want or a need. "I need a car" may be said by someone wanting to go to the beach at weekends (a want-goal), or by someone whose wife is dying and should be taken to hospital (a need-goal). The difficulty which they acknowledge (Doyal & Gough, 1984, p. 13) is that of defining whether a 'need' is a goal or a strategy: is a need for clothing a goal in itself or is it a means to achieving a goal (that of warmth)?

It might make our discussion more simple if *needs-as-strategies to achieve want-goals* are distinguished clearly from *needs-as-strategies to achieve need-goals*; that is to say, the 'need' element of the former case (e.g. of needing 50p

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to buy an ice lolly, a want-goal) is different to that of the latter case (e.g. of needing £5 to buy a bag of maizemeal for a starving family). Although in both cases one might justifiably use the word 'need', since there is no alternative way in which one can obtain a lolly or a bag of maizemeal, the need of 50p is for a want-goal, and hence of less seriousness than the need of £5 which is for a need-goal. The want-goal (of a lolly) is itself a strategy to achieve a further goal, the want-goal to cool the tongue; and the need-goal (of maizemeal) is itself a strategy to achieve a further goal, the need-goal to keep the family alive. One is reminded of the story of the battle that was lost for the want (or need?) of a horse-shoe nail;

A is wanted in order to achieve B, which is wanted in order to achieve C, and so on. L is needed in order to achieve M, which is needed in order to achieve N, and so on. The word 'needed' should be used if there is only one strategy available, and 'wanted' if there are many; thus, for example, £5 might be *needed* to obtain rice, which might be *wanted* in preference to maizemeal as a means to feed the family, which is *needed* so that they do not die.

As discussed above, many goals are but means to achieve further goals; but the ultimate need-goal, arguably, is to live, to exist. Of potential 'strategies' to achieve this goal of survival, many might be accepted as universally necessary strategies (in which one has no choice but to use these strategies): to be physically healthy, to be mentally healthy, for example. Down a further layer, the strategies of eating food and drinking water may be *commonly* used strategies for attaining the goal of physical well-being, which itself is a necessary strategy for being, but they may not be *necessary* strategies. Even at this level, it is possible to live without drinking water (cow's blood and milk will suffice). Indeed, it is not logically inconceivable that some centuries

hence, food will not be necessary for the energy needs of humans. Future man may plug himself into the mains electricity supply for his energy. In the meantime, however, there is nothing wrong with humankind noting any universalities of his strategies, and seeking to agree standards through which these may most effectively be guaranteed.

A simple illustration of the above is given in the following table. A more complex system will be discussed shortly and illustrated in *Appendix II*.

Ist Level	Need to exist	Right to Life
2nd Level	Need for physical and mental health: *NO OPTION*	Right to physical and mental health
3rd Level	Need for e.g. Food: *NO OPTION (at present)*	Right to e.g. food
4th Level	(Need for vitamins, etc.): *NO OPTION (at present)*	(Right to vitamins, etc.)
5th Level	Need for ONE of carrots, peas, etc.: which one chosen is a DESIRE: *OPTION*	Right to ONE of carrots, peas, etc.: which one chosen is a right-satisfier
6th Level	Need for land (to cultivate) or money (to buy) carrot *OPTION*	Right to land (to cultivate) or money (to buy) carrot
7th Level	Need for a livelihood (to get land or buy carrot): *NO OPTION*	Right to a livelihood (to get land or buy carrot)
etc.	etc.	etc.

4.4.1 *Needs as strategies*[3]

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[3] There has been much work on strategies people use to overcome severe poverty (see, for example, Kabeer, 1994, pp. 236-245); this is *not* the focus of discussion here. The word

Given the assumption that humans 'need' to live (the assumption is not unreasonable, but it is an assumption), there are certain strategies which human beings *must* adopt in order to satisfy that need: to eat, to drink, to breathe, to maintain one's body temperature are examples. Food, liquid, air and protection from cold are thus *strategy needs*, that is to say, *unavoidable* ways to achieve the satisfaction of those needs. Chicken or beef, water or milk, oxygen cylinder[4] or open air, clothes or shelter are pairs of *alternative* items which may satisfy these needs, and, since neither of each pair is necessary, then the individual has a choice (between beef and chicken, etc.), and so whatever is chosen is not a need; it is a desire.

Needs, need-strategies, and desires thus form a hierarchy (not in Maslow's sense) and the lines of hierarchy form a complex web: just as any need may be satisfied by one of a choice of satisfiers, so a single satisfier (for example, clothing) may serve to satisfy several needs or need strategies (warmth, social respect, self-esteem, etc.). An illustration of the complex web of linkages that can be drawn to represent the choices and needs of people is given in *Appendix II*. The reader is invited to see this web as an example of the structure; the items included are for illustrative use only, and it should not be inferred that the

'strategies' in the context of our discussion describes those apparent needs (such as food, clothes or money) which are sought in order to satisfy higher, more fundamental needs (such as the need to be physically alive and healthy).

[4] The non-availability of oxygen cylinders to the general public entails that an individual may best be enabled to breathe by providing him with access to air; society has the choice of how the individual's needs are met, and unless society is prepared to provide all its members with unlimited supplies of oxygen cylinders, then it will have to ensure that the individual's need to breathe is satisfied by providing him with access to natural air. Access to natural air then becomes a need (and a right) for most people (deep-sea divers while underwater, and certain patients in coma being the exception: unable to breathe natural air due to their situation, they thus have the need [and the right] to access to oxygen cylinders).

author is claiming any or all of the items included should be there, nor that no other items could not be added.

The fact that in many societies clothes are used both for warmth and for earning respect does not mean that people in warmer climates must also satisfy their need for respect in society by wearing clothes; they may be unembarrassedly naked, and maintain their social dignity through their gait, their hunting style or their house-decorations.

It may be noted that the above-mentioned difficulty of identifying the <u>real</u> need, is comparable to that of identifying the <u>basic</u> human right: are the most fundamental needs the physiologically required ones without which death will occur, for example, minimum food and water requirements and air? Or is the fundamental need that of guaranteeing the maintenance of life itself? Or one can go further, is the most fundamental need that of guaranteeing the need which guarantees life? And the same goes for rights: are water, food etc. the basic human rights, or are they lesser rights than the most basic: the right to life. *Is there a right to the right of life?* This may seem like philosophical buckpassing, but the confusion is evident in some of the rights claims found in the literature; for example, the Government of India's (1992, pp. 2-3) National Plan of Action for the SAARC Decade of the Girl Child states:

> "There is an urgent need to reduce the existing disparities and ensure
> equality for the development of the girl child/adolescent girl. To achieve this
> equality, we will have to ensure[5] that:

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[5] In passing, one might note the use of the word 'ensure' rather than other words which might have been used, e.g. 'accept' (what is already known to be true); or 'declare' (what is not yet a

*   She has the right to survive;

*   She has the right to be free from poverty, hunger, ignorance and

     exploitation;

*   She has the right to equality, dignity, freedom, opportunity, care,

     protection and development;   and finally

*   *She has the right to enjoy the above rights."*   (emphasis added.)

One wonders if one can similarly speak of the need to have one's needs satisfied, or even the need to have the need satisfied that one's needs are satisfied. A further example showing how difficult people find it to talk about rights is given in Appendix III: in this, one can see the variety of phraseologies with which rights were introduced in the Convention on the Rights of the Child adopted by the General Assembly of the UN in 1989.

4.4.2 The creatability of 'needs'[6]

The 'needs' of today are not the same as those of previous times. Items which a century ago were considered luxuries (such as, in Britain, the indoor toilet) are now considered needs. While some 'needs' may be thought of as evolving (for example, the need for suncream in view of the heightened awareness of the dangers of skin cancer and, perhaps, the thinning of the ozone layer), many of today's needs appear to have been created. It is this ease with which businesses, for example, can create needs that I shall call the 'creatability' of

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right); or 'claim' (what may or may not yet be right, but which will hopefully be accepted as one). The issue of the function of statements concerning rights was discussed in section 2.

[6] The reader is reminded of the reason for the use of quotation marks: they indicate that the word is being used in its loose, popular sense; for 'needs' one should read: 'needs *or* necessary strategies for achieving need-goals *or even* strong desires'.

needs. Indeed, it is through this creatability of needs that advertisers are able to promote and sell their wares. The Saturday newspapers are full of ingenious devices for enabling one to do those things which one had never felt an inclination, let alone a need, to do before - the device that cleans the inside of a teapot spout is but one example. Indeed, Klineberg has noted that many perceived needs of children are sourced in their peer groups, and that 'in' hairstyles and clothes and games are as important a need to children to enable them to fit in with their peer group, as a respectable house, for instance, is a need for adults in order not to be ostracised by neighbours. Television advertisements testify to the ease with which brand-name goods can become needs. Klineberg's recommendation, with regards to adults assessing the needs of children, may be equally applicable to westerners who hope to assess the needs of people in the developing world: he suggests that researchers should take into account "how children themselves see their needs, rather than relying entirely upon parents or professionals to decide what those needs really are - or ought to be." (Klineberg, 1980, p. 28) The corollary of this in third world development is that those from the west who are involved in development programmes, may be well advised to talk to the people themselves, rather than relying entirely upon, to use parallel examples, third world governments or development experts.

Roberts (1981) illustrates the creatability of need with a fable, based on fact, from Janus (1970), which relates how "Experts" provided a fishing community with modern nets. Rather than catch more fish per week and sell the surplus, as they were now able to do, the fishermen chose to fish for two days a week, and party the other five.

And then the Project Director had a brilliant idea.... These lazy fisherfolk were not actually lazy: they were simply weak on motivation.... They had not discovered their needs. He bribed a villager to buy a motorbike....

The story explains how every young man soon wanted a bike to race, and so they had a motive to catch more fish. The local city now got the fish it needed, and the fishermen fished on, because .... they had discovered a need.

One is led to wonder how much the presence of foreign aid workers in developing countries serves to help the local community satisfy its needs, and how much the presence creates need: after all, few will not envy the aid worker's four-wheel drive, his handsome clothes and his hi-fi. Although they may not need to travel to town or to listen to music, and they may be warm enough in the clothes they wear, they will be tempted by these material pleasures - of which most, sadly, will be imported.

This creatability of 'needs' as illustrated above will cause some concern to those who resist the relativist argument that needs (and rights) will vary with place and time. Although the relativist challenge, so simply put, is not impossible to face, the universalist is forced to admit that only 'real' needs are universal; it is the need-satisfiers and the need-strategies, which vary. This is still something of a worry, if the *only* real, universal needs are found to be the need to exist and, to stretch the definition of a 'real need', the necessary need-strategies of food, water, warmth, and air (on the physical side), and perhaps autonomy, and self-esteem (on the other).

4.5 Conclusion

By looking in some detail at types of needs and how they are defined, it has become apparent that there is no strong evidence that a large number of universal needs exist. In the strictest sense, the only universal need is the need to exist, but this is unhelpful since 'need' was defined in terms of those things required by all (existing) people. It has been argued that all people need physical and mental well-being as a means to existence, and that there is no real choice over the fundamental satisfiers of food, water, air, protection from cold, and possibly autonomy, self-esteem, and so on. The jump from claiming these as universal needs to claiming their satisfiers (types of food, housing, clothes, free speech, and so on) to be universal in nature is, however, unjustified. If society elects to recognise clothes as a need, then so be it; clothes may thus become a universally accepted requirement or 'need' (in the looser sense of the word) - but it will be universal only for the society that recognises clothes as a need. For that society to impose its values on other societies cannot be justified on the basis of "needs are universal". Whether one society is justified in imposing any rules, customs, ideologies on another through military, economic, religious or other superiority is another question which cannot be discussed here. All that has been deduced from this section is that a very limited number of needs are truly universal, and some need-satisfiers (or 'needs') may be *universalisable*; that is, all societies may elect to recognise these 'needs' as needs.

The next section will look at the link between needs and rights, and assess the principle issues in the universalist/relativist debate over the two concepts.

5. The Universalisability of Needs and Rights

5.1 <u>The Relationship Between Needs and Rights</u>

As was mentioned earlier, the items included in Oxfam's list of 'basic rights' may be seen as being rights or needs. Several writers have recognised that there is a relationship between the two, but there is disagreement over the nature of that relationship.

5.1.1 *Rights defined in terms of needs*

Some define human rights in terms of needs: for example, Christian Bay (1979) defines human rights as claims "that ought to have legal and moral protection to make sure that basic human needs will be met", although the basis for the 'ought' itself raises further questions. Renteln (1990, p. 49) observes that, "Increasingly, justification for human rights is coming to depend less on human nature and rationality and more on the concepts of basic human needs and human dignity."

Donnelly (1985, p. 29), however, suggests that the difficulties faced in identifying needs beyond those scientifically validated needs for survival of "food energy, protein, water and other nutrients, shelter, and perhaps companionship" entails that needs are "obviously inadequate as the source of human rights since they are concerned almost entirely with the maintenance of life, rather than its quality." This difficulty will be discussed further below.

5.1.2 *Needs defined in terms of rights*

McHale and McHale (1979, p. 16), on the other hand, have defined needs in terms of rights: "we can ... define human needs, in a minimal sense, as that amount of food, clean water, adequate shelter, access to health services, and educational opportunities to which every person is entitled by virtue of being born" One might note, in passing, how similar their list is to Oxfam's 'basic rights'.

Vincent (1986, p. 2), although appreciating the merits of a basic needs strategy in development, also argues that rights come first: "it is not basic needs that produce basic rights. (...) The needs have to be met because of the right, not the right because of the needs." Vincent then expresses support for Shue's interpretation of basic rights being those rights which are essential to the enjoyment of other rights, and goes on to argue, somewhat perplexingly:

> Rights ... are not needs-based, despite the references to
> what is essential and necessary - for the appeal is to what
> is essential or necessary for a properly human life, not for
> the fulfilment of basic needs. (Vincent, 1986, p. 14)

This is an interesting statement, for even if those things essential or necessary for a properly human life were not basic needs (itself a contentious statement), one cannot thereby deduce that rights are not needs-based, only that they are not 'basic-needs'-based. Clearly, confusion over the meaning of needs, basic needs and rights continues to cloud the debate.

5.1.3 *Human rights and basic needs: two sides of the same coin*

Clearly, there is a strong link between human rights and basic needs; indeed, Renteln (1990, p. 49) suggests that, "Rights and duties are in fact flip sides of

the same coin".   However, although they are not unconnected, they are far from identical concepts, for to speak of A's right (to food) is to speak of A's need for food *and* the duty of B to ensure that A receives enough food. To speak of access to sufficient food being a human right is similarly to speak of the (universal) need of human beings for food *and* the duty or responsibility of B (society? government?) to see that all human beings within B's responsibility have access to food. Or, to express the nature of the difference in another way, if I say that I *need* X, I may only be expressing regret that I do not have it. If I say I *have a right* to X, then I am making a claim, or even a demand that I be provided access to it. **Thus, it could be argued, a basic right is only an *assertion of* or a *claim to* a basic need,** and that the concept of need is therefore logically prior to that of right.

So, do I have a right to water because it is a need, or is it understood to be a need in view of the fact that I have a right to it? *Rather than talking of which causes which, it maybe more useful to see the two concepts (needs and rights) as alternative ways to describe the wish of society to satisfy human potential to the maximum.* It matters not whether one thinks of, for example, the hot iron being on the silk shirt, or of the shirt being under the iron. What is important is to correct the situation and remove the iron (or the shirt!) before damage is done.

5.2 <u>Needs as Human Rights</u>

Donnelly's comment above, that needs are inadequate as a source of rights since it is only the physiological needs of which we are aware, is no more than an empirical statement concerning the limitations of scientists' knowledge in the twentieth century.   It is true that twentieth century scientists have been

unable as yet to measure how important *psychological* factors (companionship, for example) are to a qualitative human existence in as much detail as they now understand the *physiological* requirements for human existence. And it is for this reason that, when we talk of basic needs, we tend to refer to the scientists' knowledge of, for example, how many days one can survive without water, and how many calories are required daily for normal growth. The fact that scientists have not been able to quantify the amount of autonomy, companionship, love, freedom, and so on, that a person requires as a minimum for a qualitatively acceptable human existence *does not entail that these things are not basic needs*. One might, indeed, infer from the fact that society now regards it a basic human right that all people should be provided their physiological needs, that there is a link between the two, *and* that one might be able to infer from society's other human rights (to freedom of speech, to marry, etc.) what the other basic needs are, that scientists have yet to measure.

Where Donnelly may have gone wrong is to infer from the fact that the link between needs and rights cannot, in this primitive twentieth century setting, be identified, that there is therefore no such link.

A parallel may help: let us consider the link between the physiological condition of a person and how that person feels. One can imagine the nineteenth century sceptic saying that there is no link, for although there may be an apparent link between a reported pain in the foot and the blood that is coming out of it, and the link between the report of a toothache and the swelling visible, there is no such visible sign of a stomach-ache, and absolutely no detectable physiological change which necessarily occurs when jealousy, hatred, or anger are reported. Modern glass fibre technology, however, allows the doctor of the 1990s to see inside the stomach and hence detect the cause of

the ache, and neurologists are finding ways to look at certain areas of the brain, and the transmission of certain chemicals and electrical signals in the brain which seem to be clearly related to (either as causes of, or effects of) the moods reported. It would be foolish to declare now that no link exists, however rational it may have appeared to do so in the past.

Whether depression causes a change in electrical and chemical activity in the brain, or whether a change in electrical and chemical activity in the brain causes depression, or whether depression *is* a change in electrical and chemical activity in the brain, is of less significance than the fact that there is a link between the two. The neurosurgeon, seeking to reduce the occurrence of depression in an oft-depressed patient, would likely focus his attention on the electrical and chemical activities in the brain; the psychiatrist would focus on the depression as it appears on the outside. Neither approach should be seen as more right than the other, and if one approach does not yield the results required, for example if the neurosurgeon cannot identify the problem, the problem can be re-examined using the other approach, that of the psychiatrist.

The issue of needs and rights is no different. *Whether rights are the basis of needs, or needs are the basis of rights, or whether rights are needs seen from a different perspective is irrelevant.* The human rights activist can fight for the rights of the people. The basic-needs approach development worker can focus on the needs of the people. Like the neurosurgeon and the psychiatrist, they are attacking the same problem from different perspectives, and like the neurosurgeon and the psychiatrist, they should cooperate and respect and recognise the work of their counterparts.

The difficulty that theorists are having in finding the relationship between rights and needs, and in ascertaining which is prior to which may be largely due to neither concept being satisfactorily founded.

It is at this point that one might step back and invite the utilitarian to enter the debate, for, as I shall argue, the creation of rights and the creation of needs can both be justified on utilitarian grounds. Indeed, many of the criticisms which utilitarians have faced may even be solved by introducing rights and needs into the utilitarianism discourse. Space allows only an over-simplified summary of utilitarianism, but this will hopefully be sufficient to show why it is in society's interests both to create principles of human rights and to recognise them, and, in view of the globalisation of the world, it will be shown why rights and needs, even if not inherently universal, can be *universalised*.

5.3 Utilitarianism

Much has been written on the pros and cons of basing ethical theory in utilitarianism, and space will allow but a brief and simplified summary of it.

5.3.1 *Act-Utilitarianism*

Initially, utilitarians proposed (Bentham, 1948; Mill, 1962) that the goodness of any act could be determined by calculating the net utility gain that would result; by utility, was meant the gain in pleasure, minus the pain. To do an act X (e.g. to give a lift to a hitch-hiker) would entail a large utility gain for the hitch-hiker, and a small utility loss for me; his happiness, as it were, would more than outweigh my slight discomfort of having an extra passenger. Thus I would be right (i.e. morally correct) to pick him up.

5.3.2 *Rule-Utilitarianism*

The above-described "act- utilitarianism", as it became known, formed the basis of "rule-utilitarianism" with which difficulties with the former would, it was hoped, be overcome. For one might suggest that if I then had a crash, my act of picking up the hitch-hiker would turn out to be of negative utility gain: for not only would I be injured, but now also my new passenger would be too; thus, according to utilitarian calculations, I would have done something wrong, something ethically incorrect. Yet surely, what I did was not wrong. Rule-utilitarianism was to overcome this difficulty, for in calculating whether it is right to pick up a hitch-hiker, one should consider not the utility change resulting from the one act, but the utility gain resultant from having it as my *general rule* to pick up hitch-hikers. If I have a crash every thousand journeys, therefore, then I must calculate the utility gains of picking up 999 hitch-hikers without crashing, and subtract the utility loss incurred when the 1000th hitch-hiker is not so lucky. If the resultant utility is positive, then I am doing something ethically correct to pick up a hitch-hiker; and if I crash, then although it did not turn out well in that instance, I can still say that I did not do wrong in picking him (or her) up.

5.3.3 *Drawbacks of Utilitarianism*

Much interesting debate followed between those that supported act-utilitarianism and those in favour of rule-utilitarianism (Brandt, 1959; Smart & Williams, 1963); no more than a taste of it can be given here, but one criticism of the rule-utilitarian's stance is that, if the rule is matched closely enough to the act, then it is indistinguishable from the act (Lyons, 1965); thus if the rule were more accurately defined as "picking up hitch-hikers when

drunk", or "..when you are going to crash", then the rule-utilitarian would again be obliged to see the picking up of the hitch-hiker on the day of the crash as ethically incorrect.

Another major difficulty with utilitarianism is that it totals utility without respect for utility losses for any individual; thus if 999 people would gain utility from, for example, demolishing the university refectory and building a new one upstairs, and the loss of utility for the one wheelchair-bound person was not sufficient to balance this, then utilitarianism would deem such an act morally justified. Utilitarianism takes no account of rights as being of any greater significance than desires: in the above scenario, the utilitarian calculation would be unaffected whether the 1000th person only desired access to the refectory, or whether he/she had a right of access to it. In response to this line of argument, Rawls (1958, p. 168) suggested that we must maximise general happiness only if it can be done in a fair way. Dworkin (1977, pp. 91-2) spoke of the special characteristic of rights, that rights "trump" desires; but, within utilitarian principles, no allowance is given to the trumping force of rights - *unless, of course, the trumping of rights over desires was included in the rule of rule- utilitarianism.* And it is at this point that rights-based theory and utilitarian theory can converge, and perhaps even merge to be one and the same thing. The two theories can reduce into each other to such an extent that it becomes solely of academic interest whether a rights-based or utilitarian-based model is followed*: is the good of society best insured by the rule-utilitarian principle that rights should be promoted, or by the rights-based principle that all society should have a right to increased utility?*

5.4 <u>Summary: Which Principle is "the Best"?</u>

The simple truth is, therefore, that there are several ways of expressing the fact that provision of food and clean water is a development-promoting act, i.e. that such provision is "good". One can:

a) say that the *utility* of the community will be increased if food and
   clean water is provided, or
b) talk of the *need* of the community for food and clean water; or
c) claim the *right* of the community to food and clean water.

All are correct statements, but two questions can be asked:
1. Which reflects most accurately the situation?
2. And which will be the most effective at persuading those in authority
   that action must be taken?

Answer to Question 1

The answer to the former question, interestingly enough, is not the same as the answer to the second: the statement which most accurately reflects the situation is (b), that there is a need.   Statement (a) is too weak, as the happiness of the community could also be increased (perhaps - there are arguments which can be made against this) by providing everyone with alcohol, or with $10,000. Statement (c) is presumptive, and focuses not so much on what is required by the community, but more on the duty that rests with the listener; furthermore, to claim that food and water is a right may be, in fact, to *underestimate* its importance to the community - for to have a right does not entail that there is a need; for example, the members of the community may have the right to get a passport and travel abroad, but this is not a need, not even, perhaps, a desire. The justification for the community to have access to food and clean water is clearly greater than that which justifies the members of the community having access to a passport. Indeed, as I have argued, the need is prior to the right, and

will be seen to exist even before society applies the label of 'right' to the subject of that need.

Answer to Question 2

As to the second question, that is, which statement will most effectively persuade those in authority to take action, the answer is (c). They might say little more than "Oh," to (a), and "Oh, isn't that sad?" in response to (b). But to (c), they would have to respond either with, "OK, we'll check that they are adequately provided for," or, "Well, it's not my duty," or, "No - it's not a right!" It would take some courage to respond in either of the last two ways, and it may not be politically expedient for the one against whom the right is claimed to deny the right in such a way.

5.5 Conclusion: a Look to the Future

There is clearly a problem in identifying the ultimate source for a moral theory: while in the past, natural rights were seen as those rights provided to man by God, such a theocentric approach is no longer acceptable, due to the doubts among many of the existence of God, or, if He does exist, how did He come to exist?

Many of the ethical theories that have since developed have also failed to define the ultimate answer to what the theories are based on - utilitarianism sought to explain ethics in terms of utility, but failed to identify what utility is without using other concepts such as pleasure, pain, or, ultimately, "good". Rights theorists have failed to identify the origin of the rights which they claim to exist - to base rights on God, nature, or on "being human" is not satisfactory. Needs theorists can, if needs are defined minimally as those requirements for survival, use "existence" as their basis for needs, but cannot thereby find any

moral distinction between the needs of humans and those of other life-forms; if needs are defined more broadly, then the theorists must acknowledge that the source of the need for a qualitative life is similarly elusive.

There comes a point when those in development must thank the philosophers for their help and move on out of the philosophical quagmire. To attempt to prove universality in the concept of utility, or of needs, or of rights, is fraught with difficulties if nothing less concrete than an identifiable basis for such concepts will be accepted. What should be attempted is the second-best option - to agree a universally acceptable standard.

One might argue that the Universal Declaration of Human Rights (UDHR) and its successors, both international and regional (which due to shortage of space have not been discussed) are indeed attempts at achieving agreed universal standards; but these attempts are flawed, due to the forces of interest-seeking and power politics which have sullied each attempt to achieve genuinely universally acceptable minimum standards of ethical behaviour. Greed, selfishness, self-interest, pride, and power politics must be removed from the forum at which universal ethics are to be agreed. And the temptation to include too many items in one list of standards must be resisted; this has been the undoing of the UDHR, for example, where, by infesting an otherwise worthy attempt at universal minimums (the right to life, for instance: Article 3) with potential non-universals (for example, the right to holidays with pay: Article 24), the validity of the whole has been jeopardised.

Human society must lower its aims to the attainable; a group of people, representative of all cultures, religions, and backgrounds, who have no interests in doing anything other than defining the most fundamental principles of ethics,

should meet and set out what they consider to be the fundamental needs and the fundamental principles by which humanity should live. To ensure disinterest, participants should not be paid, should meet in a neutrally acceptable place, should not be ambitious for their own advancement in their field, nor ambitious for the advancement of their nation/society/community/even their local football club. The list that results may be short - but it will be acceptable as a starting point. It can then be up to the various societies and civilisations which make up the world to similarly, and disinterestedly, decide on what is the most appropriate way to satisfy those needs; if it is found that these satisfiers world-wide are found to match, then these too can be labelled as fundamental universal needs. Once the needs are thus identified, then world society may seek to establish a means by which the provision of these basic needs is guaranteed, perhaps through establishing a set of human rights and, hopefully, the procedures of implementation and enforcement of these rights.

This process will have to be regularly repeated, for although representatives of all the different societies and civilisations can be brought together, it is impossible for representatives of all the different centuries to meet. Some universal needs and rights may turn out to be true for all time - food and water, possibly[7], but others will no doubt change.

The group can decide how to select the universals; two options are immediately apparent: one is to choose those needs and rights which are agreed by all the representatives to be fundamental (as indicated in 'B' in illustration below); the other is to collect all the needs and rights, those agreed by all plus those agreed by some and those unique to only certain societies (as

indicated by the larger area 'A'). The former list could form the basis of universal world-wide legislation; the latter might provide a challenging target which all societies might aim to meet in the future.

It should be pointed out that the needs and rights need not be those of individual human beings, but could include the needs and rights of communities, societies, and nations. One would thus have not only human rights, but community rights, citizens' rights, state rights.
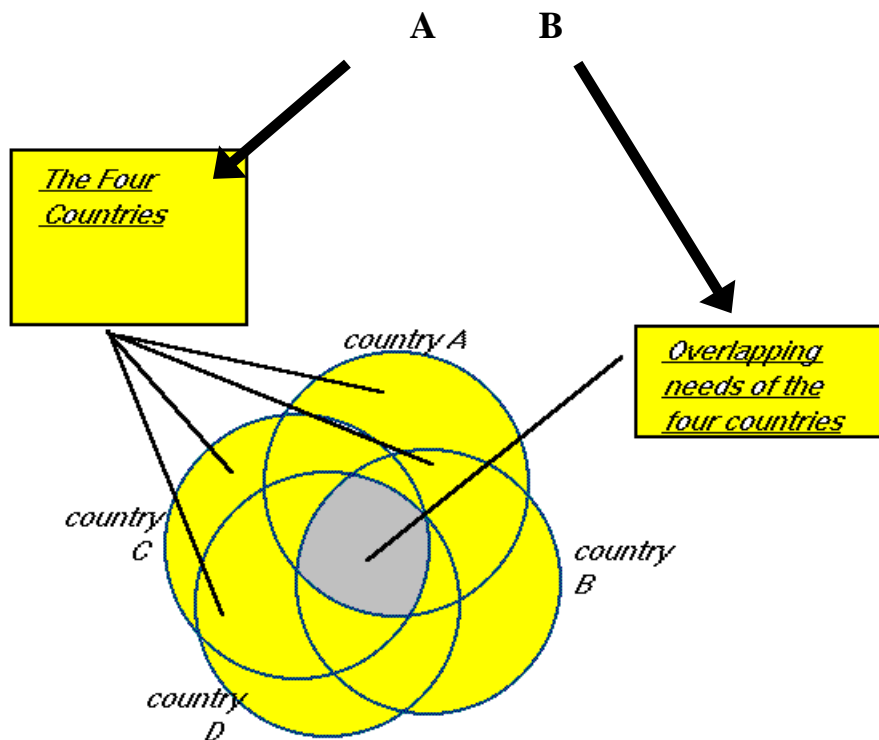
6. Conclusions

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[7] The fact that food and water is and has always been a vital needs does not *necessarily* entail that it will remain true for ever more; it is not inconceivable (although admittedly highly unlikely) that human energy might in future come from a source other than food: from electricity, for instance.

This paper has provided quite a tour of the theoretical difficulties concerning the place of rights and needs in development, and as was anticipated in the introduction, it has necessarily been, due to the restrictions on length of this paper, something of a whirlwind and simplified tour. Nevertheless, some important conclusions can be drawn from the discussions outlined above.

The intention of the paper was originally to assess the universal validity of human rights and, due to their relevance to these, basic needs. With Oxfam's recently launched campaign of ten 'basic rights' used as a point of departure, a review of current thinking on the theory of rights and needs was attempted, and it was shown that there appears to be much controversy in both areas: there are differences of opinion concerning the definitions of the terms, the classifications of the concepts, the foundations on which they are grounded (or not), and thus the universalities of both rights and needs. The universality of legal human rights was assessed, and found wanting: there are problems both in the way that international legislation is drawn up and in its enforcement, and so one cannot deduce conclusively that human rights are inherently universal, on the basis of the existence of international agreements or covenants. Human rights were also looked at from a moral perspective, and again there is some difficulty in trying to find a universal basis on which human rights are grounded. Universality was then sought in basic needs, but was not found. It was then suggested that, rather than seeking inherent universality in the concepts, it may be more appropriate to look at the problem from a different angle: to determine whether universal needs, and hence rights, might be made or created, rather than found, by society; that is to say, whether needs, and hence rights, are '*universalisable*'. If this is possible, and desirable, then maybe the Oxfam campaign will, despite the heterogeneity of the ten 'basic

rights' listed, stimulate useful further discussions on world morality, and may lead ultimately to the formation of a truly universal moral system in the future.

It has been argued that it may be appropriate for the world society, in view of the increased international mobility and communication technology, to seek to set down some basic 'ground-rules' which all societies may agree to follow. Just as when football was becoming an internationally competitive sport it became necessary to ensure that all participants had a shared view of what the rules of the game were, so also in the international 'game' of politics, trade, tourism, and development some ground rules may be helpful; whether it is most appropriate to lay down these rules in terms of rights, needs, duties, or responsibilities is another question;   but given the close correlativities of rights with duties, duties with responsibilities, needs with rights and responsibilities, and so on, then choosing one as a basis of world morality need not be a form of 'cultural imperialism'. If international society can agree a set of universal needs, then different societies may convert, as appropriate, these needs into individual rights, citizens' rights or society rights, or duties or responsibilities, according to the value system most accepted in the society concerned.

Oxfam's Campaign can be seen to be an assertion of a claim that all people should, by rights, be provided the basic necessities of life, and Oxfam clearly recognises that for a qualitative human existence, the mere basics of physiological survival (food, water, air, shelter) are not enough. By referring to other needs in their list, they are drawing attention, quite rightly, to the fact that in development one is dealing with people, not animals or plants. Whether Oxfam is assuming that all ten items listed are universally accepted as basic needs, and hence as justifiable objects of rights-claims, or whether it is seeking to universalise these as needs, is not known;   either way, the campaign can

still be morally supported by those of us in our society who agree that these rights should be recognised. Just as the Christian believes in the Truth as he/she knows it, and wishes to see that Truth understood world-wide, and may seek to have everyone in the world adopt Christian principles, so also Oxfam in particular, and those involved in western development organisations more generally, may have their own conceptions of 'good development' which they wish to become recognised world-wide. There is nothing wrong with this, and it could be argued that it is due to this care about the fortunes of others that NGOs such as Oxfam seek to assist developing countries as they undergo the difficult process of adjusting to a globalising world. What the discussion in the above chapters does tell us is that these NGOs should be wary of making the same mistakes as the missionaries of the past, that of assuming that their way is the only way, and that their belief system is a universally applicable one.

If Oxfam is to avoid the charge of cultural imperialism, and the risk of in future being as discredited as some of the missionaries of the past now are, then it should state clearly which of the ten elements in its list are claimed to be indubitably universally accepted, and which are the recommendations of a western NGO which the developing world might wish to adopt. And, although it is in practice difficult to persuade governments to surrender any of their powers, it might be appropriate for NGOs to try to encourage the governments of the world to facilitate the instigation of an international, intercultural, interreligious debate with representatives from all sections of world society: the pious and the atheists, the rich and the poor, the educated and the illiterate, the old and the young, male and female, each as far as possible free of political or commercial interests, could be invited to suggest what moral principles (duties, rights, responsibilities, etc.) would be universally accepted by them and their community. From this one might discover firstly, which ideals are

universally shared (and which could then be institutionalised as genuinely universal moral principles), and secondly, the range of ideals, from which societies might select some for adoption within their society.

This is idealism, without doubt, and academics have understandable reservations about idealism; but if it is true, as the paper suggests, that legal 'universal' rights are not accepted by all as universal, and that the only moral rights which are accepted as universal cannot usefully be based theocentrically, nor on 'nature' nor on 'humanity', then one has to conclude that the only way to determine universality is empirically, and that universality is not something which humanity *discovers*, but which humanity *makes*.

Rather than there *being* a universality of rights and needs, one could say that there is a *need* for, and perhaps a *right* to, universality. If the Oxfam campaign can do no more than make the societies of the world question the assumptions which cloud our understanding of our moral fabric, or our ideas of rights, of our principles, then that would be a great achievement.

7. References

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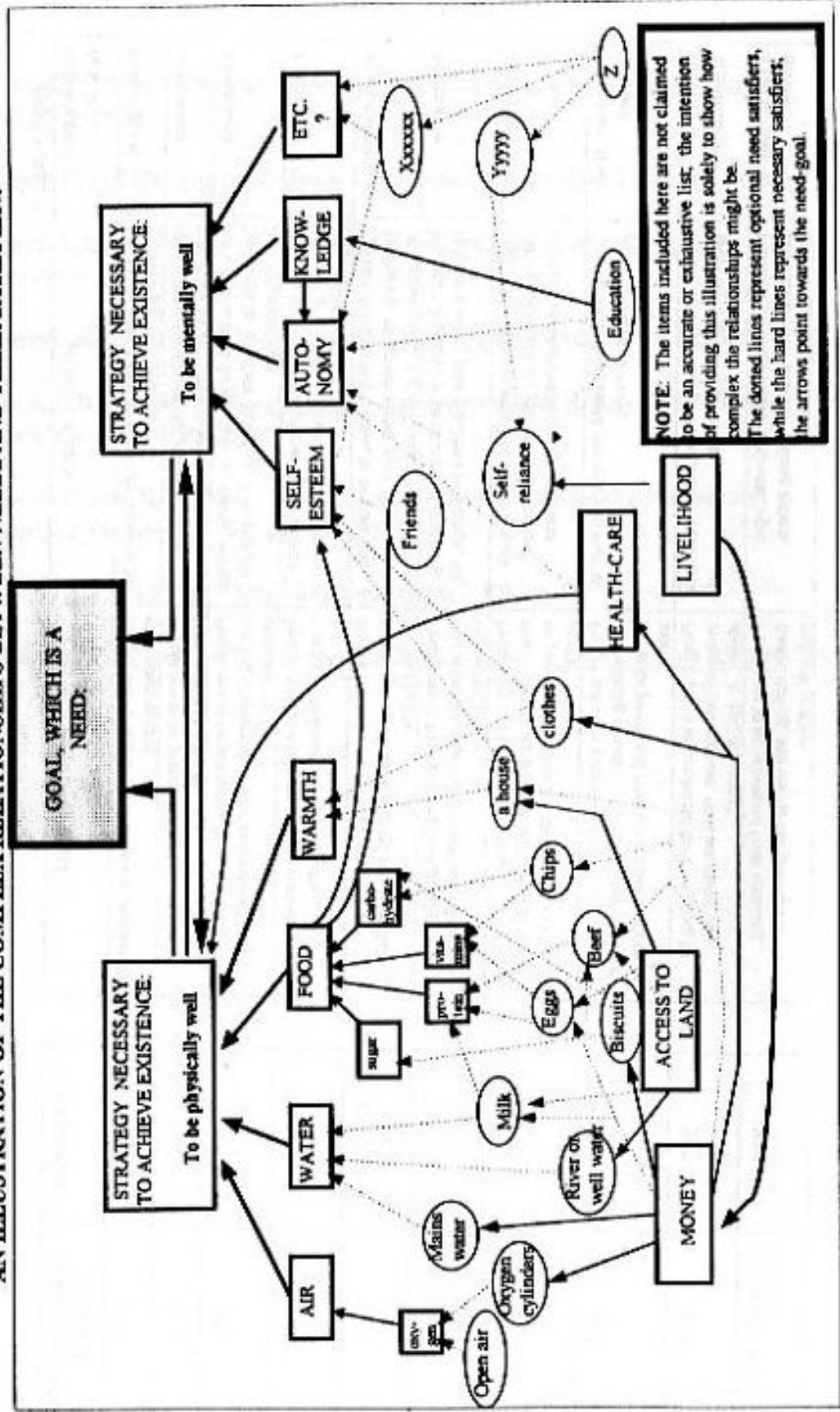**Wellman, C. (1975)** "Upholding legal rights" <u>Ethics</u> 86 pp. 49-60

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APPENDIX 1

Oxfam's basic right to:	positive rights	negative rights	civil/political	economic/social /cultural
enough to eat	Food to be distributed to all people (or to all in need) by e.g. government	People not to be prevented from e.g. purchasing or producing food	no	yes
clean water	Mains water supply, or digging of wells or boreholes, by e.g. government	People not to be prevented from taking water from available sources	no	yes
a livelihood	Jobs, and/or land for cultivation, and/or welfare payments for landless & jobless, to be provided by e.g. government	People not to be prevented from seeking & finding employment, from cultivating, from claiming welfare	no	yes
a home	Housing to be supplied (rented or inhabitant-owned), or financing of materials for home-construction	People not to be prevented from purchasing, renting or building accommodation	no	yes
an education	Primary & secondary schools to be built and funded e.g. by government; plus other education media, e.g. TV, radio	People not to be prevented from attending school through lack of money, or remoteness, or child-labour	yes / no	yes
health care	Hospitals & clinics to be built and funded e.g. by government; plus availability of drugs, etc.	People not to be prevented from getting healthcare as required through lack of money, or remoteness	yes / no	yes
a safe environment	Legislation & enforcement of safety at work and in public places, plus pollution control: arranged and funded by e.g. government	People not to be prevented from............ falling over? Breathing polluted air? "People not to be prevented from living and working in safety"	yes / no	yes
Protection from violence	Security to be guaranteed through provision of police and army services	People not to be prevented from............ ......walking streets? ......being killed? "People not to be prevented from living and working in safety"	yes / no	yes
equality of opportunity	Legislation & enforcement to ensure equality of opportunity in all areas of life	People not to be prevented from working by virtue of their gender, race, sexuality, age, ability, & qualifications?	yes	yes
a say in their future"	Provision of a fair electoral system, open government and decision-making system, channels of communication	People not to be prevented from speaking freely, voting, and taking full part in the political process	yes	yes? / no

AN ILLUSTRATION OF THE COMPLEX RELATIONSHIPS BETWEEN NEEDS AND THEIR SATISFIERS

NOTE: The items included here are not claimed to be an accurate or exhaustive list; the intention of providing this illustration is solely to show how complex the relationships might be. The dotted lines represent optional need satisfiers, while the hard lines represent necessary satisfiers; the arrows point towards the need-goal.

Convention on the Rights of the Child: 1989

Phraseology Used in Introducing the Rights	Article/Para-graph Nos. :
1. States Parties shall respect and ensure the rights....	2/1;
2. States Parties shall take appropriate measures to ensure that....	22/1
3. States Parties shall take all appropriate (...) measures to ensure that....	2/2; 18/3; 19/1; 28/2; 32/2; 33; 35; 39
4. States Parties shall take all feasible measures to ensure that...	38/2; 38/4
5. States Parties shall ensure that...	3/3; 21; 37; 40/2
6. States Parties undertake to respect the right....	8/1
7. States Parties shall respect the right...	9/3; 14/1; 14/2
8. States Parties shall assure to the child ... the right...	12/1
9. States Parties shall recognise for every child the right...	26/1
10.States Parties shall respect and promote the right...	31/2
11.States Parties recognise the right(s)...	15/1; 23/2; 24/1; 25; 27/1; 28/1; 31/1; 32/1; 40/1
12.States Parties shall use their best efforts to ensure recognition of the principle that...	18/1
13.States Parties shall take all effective and appropriate measures with a view to...	24/3
14.No child shall be subjected to...	16/1
15.The child has the right to...	16/2
16.The child shall have the right to...	13/1