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Amartya Sen, Ethics, and Economics in the Health Care Sector.

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A research report submitted as partial requirement for the degree MSc Med in the field of Bioethics and Health Law. Steve Biko Centre for Bioethics, Faculty of Health Sciences, University of the Witwatersrand.

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To Simon

Abstract

Economics promotes market mechanisms for the efficient use of resources in satisfying human want, yet market mechanisms are apparently unable to provide adequate health care and thereby satisfy a need central to a person's well-being. This research report looks at the views of Amartya Sen and particularly his ideas of distributive justice and capability. It also considers some of the insights that economics provides for an understanding of the apparent limitations that occur in health care provision. The findings point towards a curtailed view of what may reasonably be obtained and a recognition that only limited agreement on any arrangement for health care provision may be possible within society. Sen's capability approach provides a pertinent and expansive measure of a person's well-being and freedom; it should not be ignored in any evaluation of well-being or the acceptability of any policy purporting to improve well-being.

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Preface

The primary aim of this research is to add to the conversation concerning distributive justice in health care by elucidating complexities that make a simple combination of ethics and economic theory inadequate, and to attempt to bring ethics and economic theory closer together. The approach is to examine economics and welfare, to consider insights provided by the thoughts and theories of Amartya Sen, and to consider some of the welfare aspects of health care.

It is self-evident that health is central to a person's well-being. It is therefore a very special part of considerations of welfare. Health care is only one aspect of health, but without adequate healthcare very real suffering can ensue. It is therefore within the ambit of ethics to be concerned with health care provision.

Ethics is concerned with right action – what is the right thing to do; what ought to be done. For health care to be available to those who need it, and when they need it, is not simple task. There are many layers of organization that are necessary to provide even simple levels of health care. From administration, to procurement, to distribution, to training of professionals, the

diverse and complex nature of the task is apparent. These functions can be done well or badly. Health care can be efficient, equitable and effective or it may not. Consequently, ethical concerns and concerns of distributive justice are relevant. The economic imperative – that people have infinite needs and finite resources, seems especially apparent. The question therefore is one of the right things to do, for individuals and for society. Does the much-hyped market mechanism of delivering goods and services provide a good model for health care? Should equality be pursued for its own sake, or do the very poor deserve more assistance, more welfare, than others? Clearly a societal obligation is felt – charities provide some of the needed medical care, and it is generally accepted that public health and welfare of some description should be provided to those with a certain level of need and also in an emergency regardless of ability to pay. How best then to consider ideas of and action for distributive justice?

During the 1950's-1960's Kenneth Arrow developed Social Choice Theory[1], which shows the difficulty of obtaining any consensus for group decisions and is therefore pertinent if society

[1] 'the subject of social choice theory was revived in its modern form by Kenneth Arrow around 1950 … he also gave the subject its name' (Sen 2009: 92).

is to make decisions for arrangements for distributive justice. Arrow was also interested in healthcare and in 1963 put forward the special characteristics of health care that allow it to defy a normal supply and demand mechanism. This was articulated in his 1963 publication *Uncertainty and the Welfare Economics of Medical Care*.

Further insight into the health care market was given by George Akerlof. He published a “revolutionary paper in 1970” showing that “if one party to a deal has inside information and the other does not” the problems created are “profound and dramatic” (Harford 2006: 112). These are the specific characteristics of health care insurance and they effect the provision of health care.

Economics may enable objective insight into the functioning of the markets. However if the economics of health care escapes the supposed rationality of the market mechanism agreement may be difficult to obtain Furthermore in any normative pronouncement, economics is not excluded from the influence of value judgements. An agreement even on the correct ethical concerns in distributive justice may be elusive. Sen’s views relating to justice and the means of obtaining it are pertinent to

these ethical and economic concerns particularly with reference to healthcare.

Chapter 1

An introduction to Amartya Sen: 'Nobel Prize Laureate'

In an autobiography written at the time of the award of his Nobel Prize for Economics, Sen describes how events and experiences in his early life contributed to his awareness of the effects of social disparities, and later influenced the direction of his research. The following is drawn from that autobiography

Sen was born in 1933 into the pluralist society that was India. His early schooling[2] had nurtured diversity of thought and culture, and encouraged openness to new ideas. When sectarian violence erupted in the mid 1940s, he was devastated by the killing of a Muslim labourer in his own, mainly Hindu, neighbourhood. It was shocking for him to learn that it was extreme poverty that had forced the man to venture into an area, unsafe for him, in search of income. The violence also alerted him to the divisiveness that communitarian politics could hide. Likewise, the Bengal famine of 1943 had an impact on him. Neither he, nor any one he knew, starved, but two to three million people died, mostly those who were placed at the lowest rungs of the economic ladder such as landless rural labourers.

[2] At Visva Bharati, in Santiniketan.

On leaving school, Sen proceeded to Presidency College in Calcutta to study economics. He was there from 1951-53 and found constant reminders of economic misery. Sen felt that he had already established an understanding of the plurality of cultural identity before arriving at Presidency College, but at Calcutta his lifetime concerns became apparent: welfare economics, economic inequality and poverty, and importantly the scope and possibility of rational, tolerant, and democratic social choice. Formal work on these areas came later.

In 1953, he moved Trinity College, Cambridge, again to study economics. Cambridge was alive with intense debates between different schools of economic thought, especially the conflict between those who supported 'Keynesian economics'[3] and the 'neo-classical'[4] economists. After Trinity Sen returned to Calcutta where at the young age of 23, he was appointed to a chair in economics at Jadavpur University, while still completing his PhD thesis at Cambridge. He thereafter returned to Cambridge to study philosophy. After completing these studies he again returned to India.

[3] Keynesian economics refers to an economic theory stating that active government intervention in the marketplace and monetary policy is the best method of ensuring economic growth and stability (Mohr 2000: 579)
[4] Neo-classical economics: an approach to economics that relates supply and demand to an individual's rationality and his or her ability to maximize utility or profit (Weintraub: 1993).

From 1963 – 71, he was Professor of Economics at the Delhi School of Economics, where he immersed himself in research into social choice theory. Social choice theory relates to aggregation in economic assessment and policy making, and this is related to poverty, inequality, unemployment, real national income and living standards. His work *Collective Choice and Social Welfare,* published in 1970, was an effort to take an overall view of social choice theory.

From 1971, at the London School of Economics, Sen resumed work on social choice theory. He also worked on economic and social appraisals for "measuring economic inequality, judging poverty, evaluating projects, analyzing unemployment, investigating the principles and implications of liberty and rights [and] assessing gender inequality" (Sen 1998a: 6). By the mid-1980s, Sen's work became more involved in "trying to understand the nature of individual advantage in terms of the substantive freedoms that different persons respectively enjoy, in the form of the capability to achieve valuable things" (Ibid: 7). During this time

he published *Choice, Welfare and Measurement*, in 1982 and *Resources, Values and Development,* in 1984[5].

In the late 1980s Sen moved to Harvard. Among other areas of interest he pursued the idea of 'capabilities'. This was part of a continuing search to understand individual advantage, which depends upon many factors including social opportunities and influences. Capability determines how people manage to live the life they choose and have reason to value - including the freedom people have to choose the life they have chosen. This position was put forth in his 1985 publication *Commodities and Capabilities.*

Amartya Sen wrote his autobiography from which the above information was gleaned in 1998 at the time of his Nobel Prize. Sen also relates in his autobiography the divisive nature of economic theory – the argument between those who hold with a Keynesian view of economic theory and those who are more of a 'neo-classical' persuasion. This is an ongoing division that has not yet been settled, and does not even include other differently

[5] Both books were collections of articles he had published in journals in the 1979s and early 1980s.

nuanced views. Welfare is viewed differently from each of these perspectives.

Sen's continuing interest in and study of individual advantage and justice has culminated in his latest publication *The Idea of Justice* (2009), in which he draws together from his previous work and from the ideas and the insights of others a comprehensive view of justice and capability. The ideas put forward in *The Idea of Justice* particularly that of capability, are relevant to ethical decisions in distributive justice and health care and will be explored further.

Chapter 2

Economics and distributive justice: some views

Economics is a social science and can been defined as the "practical and theoretical science of the production and distribution of wealth" (Sykes 1982: 328). The subject matter of economics is individuals, society, and their material welfare. The study and analysis of production, distribution and exchange of goods and services requires analysis of the actions and behaviour of individuals and groups and how these lead to the development or destruction of wealth.

There are subdivisions in the science of economics e.g. macroeconomics, microeconomics, business economics, healthcare economics. Of particular interest to ideas of economics as they relate to distributive justice are positive economics and welfare economics, which present two contrasting positions.

Positive economics

"Positive economics views the economy as a system susceptible to analysis in ways similar to those used in the natural sciences"

and "is concerned with the logical implications derivable from a set of initial assumptions" (O'Connell 1982: 1).

Welfare economics

Welfare economics, a branch of normative economics[6], is concerned with social welfare, and is "a varying blend of positive and normative economics" (ibid: 2). If social welfare is to be improved then a measure is needed to assess what is to be improved. The way in which social welfare is measured distinguishes Neoclassical ("Old") welfare economics from "New" welfare economics.

Neoclassical ("Old") Welfare economics[7]

Welfare economics can be traced to Jeremy Bentham. His use of the moral and political philosophy, Utilitarianism, provided the measures of Utility for determining policies for social welfare that should, according to Bentham, be used to guide legislation (Gray 1995: 28). This was Neoclassical ("Old") Welfare economics[8], based on the idea that individuals have similar utility functions

[6] Normative economics embodies value judgements that are the motivating factors for policy recommendations (Wilber: 2004).
[7] Neoclassical welfare economics is not the same as neoclassical economics. Neoclassical economics is what is generally called 'economics' – the accepted orthodox view of economics (Weintraub 1993: 2).
[8] This is referred to by Paul Samuelson (1947) as "ethical hedonism". Those who developed this approach include Pigou, Bentham, Sidgwick, Edgeworth and Marshall (O'Connell 1982: 4).

that are in some way quantifiable. Social welfare could be thought of as the sum of individual utility functions (O'Connell 1982: 5)[9]. Bentham's Utilitarianism was transmitted into public life, thereby resulting in interventionist social policies and inspiring reforms in public health, the civil service and local government (Gray 1995: 29).

Utilitarianism gradually fell from favour as comparisons of personal utility came to be considered unscientific[10]. Distributional issues are also not considered in the measure of the total utility of a community; this is of particular concern to Sen in his rejection of utilitarianism.

"New Welfare Economics"

"New" Welfare economics developed away from utilitarianism, utility measurements and value judgements, to concerns of "efficiency" and "equity". Vilfredo Pareto (1909) determined that efficiency "would be achieved when it would not be possible to improve any one person's well-being without adversely affecting

[9] Every additional consumption of a commodity will give smaller and smaller increases in utility – the law of diminishing utility.

[10] "Economists came to be persuaded by arguments presented by Lionel Robbins and others (deeply influenced by "logical positivist philosophy") that interpersonal comparisons of utility had no scientific basis". Because of this, Sen (1998a :182) argues that 'the epistemic foundations of utilitarian welfare were seen as incurably defective.'

that of someone else" at such a point "there could be no net gains or improvements for anyone in society" (O'Connell 1982: 5). As an allocative mechanism, the Pareto criterion does not depend on utility measurements, to ensure efficiency it "requires that no potential improvements be possible" (ibid).

Equity is concerned with how the products of society are distributed ethically and therefore involve questions of income distribution and social choice (ibid). More recently cost-benefit analysis, and the possibility of making social welfare judgements on the basis of national income, and social indicator research have approached the measurement of social welfare from different perspectives (Fleurbaey 2008: 8). Social choice theory and Sen's capability approach have also influenced thinking on social welfare judgements.

Whatever measurement approach is taken, welfare economics' focus remains one of changing the *status quo* from what is to something deemed to be better. There appears then to be at the outset an is-ought dichotomy. Positive economics, which enquires into the economic states and processes, versus welfare economics, which would prescribe what economic states and

processes should be altered, by some means, to improve social welfare[11].

Positive Economics vs. Welfare Economics

Welfare economics is a long way from the economics of Adam Smith (1723-1790), often referred to as "the founding father of economics" (Rasmussen 2010: 1). Smith was first and foremost a moral philosopher and ethicist[12], but in "*The Wealth of Nations*" published in 1776, he explored the causes of prosperity, which led to the establishment of economics as a science. He coined the phrase "the invisible hand"[13] describing the multitudes of individual economic activities, based on personal advantage, which lead to the overall well-being of society. His oft repeated and poetic explanation captures his position:

> *It is not from the benevolence of the butcher, the brewer, or the baker, that we can expect our dinner, but from their regard to their own interest* (Smith 1776: 508).

[11] See Frankena's classic work in which he clearly explains Hume's is-ought distinction, commonly referred to as the 'Naturalistic Fallacy". Frankena, W. 1939. The Naturalistic Fallacy. *Mind, New Series*, 48(192): 464-477.

[12] Adam Smith was a professor of moral philosophy at Glasgow University (1752-1763), first publishing his other great work *Theory of Moral Sentiments* in 1759 .

[13] "By directing that industry in such a manner as its produce may be of greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention" (Smith 1776: 423).

It can be said that Adam Smith identified capital accumulation, free trade, an appropriate – but circumscribed – role for government and the rule of law as keys to national prosperity. (Greenspan 2007: 261). Most importantly, he was the first to emphasize personal initiative.

> *The natural effort of every individual to better his own condition, when suffered to exert itself with freedom and security is so powerful a principle, that it is alone, and without any assistance … capable of carrying on the society to wealth and prosperity* (Smith 1776: 14).

Jeremy Bentham was an admirer of Adam Smith and, despite utilitarianisms interventionist tendencies, he surprisingly remained "a strong advocate of *laissez faire*[14] in economic policy" (Gray 1995: 28). John Stuart Mill moved further from this position. In *Principles of Political Economy* Mill makes a distinction "between the laws of production of wealth – which are real laws of nature, dependent on the properties of objects – and the modes of distribution, which, subject to certain conditions, depend on human will" (Mill: 1848). By holding that distributive arrangements

[14] *Laissez faire:* French for "Let (people) so (as they choose)." It describes a system or point of view that opposes regulation or interference by the government in economic affairs beyond the minimum necessary to allow the free enterprise system to operate according to its own laws" (Hirsch et al: 2002).

are a matter of social choice, he does not recognize that productive and distributive activities are inextricably mixed (Gray 1995: 29). The idea that distribution is a matter of choice, somehow disjointed from the 'invisible hand' idea of Adams, allows a view of welfare economics to exist apart from positive economics – the 'ought' view, as opposed to the 'is' view of economic interactions. This welfare view is one of values, choices, and interventionist policies, without necessarily appreciating the effect interventionist policies have on distribution and production itself.

Bentham, his follower James Mill and Mill's son John Stuart Mill effectively broke with the liberal tradition (ibid: 30), initiating a divide from the freedom expounded by Smith and the liberal views of the Enlightenment and legitimising interventionist actions by government. Interventionist policies of whatever form must provide a limiting factor to the freedom to pursue one's own interest in one's own way. A consensus regarding the true value of welfare economics has not emerged. There is a continuing tension between those who oppose the free market position with a desire to do good and those who support it as a force for good. The conflict between the Keynesian and neo-classical economists at Cambridge (that Sen discusses in his autobiography) reflects a

similar dichotomy then, and likewise the tension exists in *The Idea of Justice* in Sen's discussion of concepts of freedom, the role of the state, democracy and individual well-being.

Freedom and Liberty

Adam Smith's basic insight is given form by those who favour a free market with a minimal role for government. The working hypothesis stems from the observation that the free market produces order: despite the superficial chaos of billions of transactions between people, there is generally an agreement between supply and demand – neither excess demand, visible by lengthy queues and waiting times, nor excess supply, visible as huge unsold stock, are prominent features of a market economy. This Basic Walrasian Conjecture may be stated more formally:

> *The laissez faire operation of the price mechanism, in an environment of deregulated competitive markets where agents are motivated by self-interest, will produce not chaos but coherence, in the sense of market clearing*[15]*, optimal outcomes* (Bryant 2009: 3).

[15] Market clearing is based on the famous law of supply and demand. Kling (2010: 1) explains it as ..." Economic theory says that the price of something will tend toward a point where the quantity demanded is equal to the quantity supplied. This is the *market clearing price* because it "clears away" any excess supply or excess demand."

The belief is that the market mechanism will deliver the greatest possible wealth and well-being to all. The largest possible quantity of goods will be produced at the lowest possible price, to the benefit of all.

The opposing belief is that markets on their own cannot deliver the most desirable outcomes. This is reflected in those who advocate active government intervention in the economy itself and monetary policy to ensure an optimum outcome[16]. For considerations of distributive justice, the observed success of the free market system may argue for a more *laissez faire* approach, however the presence of desperate and destitute people in society militates against just leaving it to the market mechanism. To stand idly by neglects a sense of duty and a moral imperative to help others.

There are therefore strong forces in favour of welfare in some form or another and not on total reliance on the implicit value of a free market. It seems ethically unacceptable to leave the vulnerable to the supposed efficiency of the market system, yet it

[16] This is labelled *Keynesian* or *neo-Keynesian,* after John Maynard Keynes who advocated for government intervention.

also seems ethically unacceptable to interfere excessively in the market system and risk reducing the welfare of all.

The political philosopher and economist John Gray (1995:69) provides three interesting insights into what is at stake between the liberal idea of freedom and interventionist policies, which he argues is the way in which welfare economics must be implemented.

Firstly, it is **freedom itself that is at stake**.

> *The case for market freedoms has been set out in part in terms of efficiency and clear failures of planning* [that is central planning by government] *to deliver promised goods, but the fundamental argument is one that invokes individual freedom itself.*

Secondly, it is **the "liberty-preserving role" of the markets themselves that matters** and "not economizing on scarce means to known ends". Gray (ibid: 67) asserts that the central problem:

> *... as of economic theory properly understood, is the **division of knowledge** in society – the problem of how the knowledge that is dispersed or diffused among millions of*

economic agents, and known in its totality to no one, can be rendered accessible to many. This is the true role of the market process: not economizing on scarce means to known ends, but rather generating through the price mechanism information as to how economic agents ignorant of each other may best attain equally unknown purposes. The task of the market is, then, that of a discovery procedure for identifying and transmitting to others data about the infinitely complex structure of preferences and resources in society.

Thirdly**, the supposed problem of utilizing scarce resources with maximum cost-efficiency is fallible**.

It presupposes that the purposes or goals of the organization and of its members may be ranked in a hierarchy of importance by reference to which the distribution of resources may then be determined. In … the economic life of many organizations in a whole society – there is no agreed hierarchy of ends and there is no authoritative allocator of resources (ibid: 67).

A final caution from Gray (ibid: 69) warns us that

> *Every governmental intervention has real costs, and there is strong evidence that the vagaries of governmental policy constitute the chief source of economic disturbance in recent decades. It is a general truth … that the imperfections of the market are never sufficient to justify intervention in the absence of careful consideration of the corollary reality of government failure*.

Welfare economics at the least may compromise freedom, interfere with the market and reduce the overall benefits that the market provides such as the free flow of information -especially by the price mechanism - allowing individuals to attain their own purposes and in so doing, if Adam Smith's view is taken, increase the wealth of the nation.

Whatever type of improvement welfare economics is aiming at, the compromise to freedom and benefit is a consideration not to be ignored. Sen is concerned with freedom. He describes the difference between freedom as process and freedom as outcome. A person's advantage is not represented solely in terms of what that person achieves. A person's advantage may be better reflected by the agency freedom that the person has to make personal choices. The "agency aspect" the ability to form goals,

make commitments, have values – and the "well-being aspect" may be related, but they are still distinct.

Sen (1999: 6) also puts forth the case in defence of free markets:

> *To be generically against markets would be as odd as being generically against conversations between people … The freedom to exchange words, goods and gifts doesn't need justification in terms of their favourable but distant effects; they are a part of the way human beings in society live and interact with each other (unless stopped by regulation or fiat).*

Sen echoes the observation that 'there is no agreed hierarchy of ends' and also emphasises partial rankings and interpersonal comparisons.

Sen's development of the idea of Capabilities during the 1980s sought to view the compromises to freedom and well-being that have an affect on advantage and welfare from the point of view of the individual. He rejects an approach to welfare that concentrates on utility as the only source of value, and also on individual happiness as a useful measure. One's happiness may be relative to expectations due to circumstances, and the

hopelessly deprived may lack the courage to desire much and may be happy with a very little improvement in their lives.

Chapter 3

Economics – some scrutiny

Economic man and rational choice theory

Despite his background in economics and his general recognition of the value of free markets, Sen criticizes a central assumption of economics that people always act to maximize their own welfare. This is described in Rational Choice Theory which is rejected by Sen for reflecting "an extremely limited understanding of reason and rationality (Sen 2009: 179). 'Economic man' is not 'rational man' and rational choice theory does not capture the full spectrum of choices made by individuals.

'Economic man' is shorthand for the type of rational man that economics has described for its purposes. Being a rational maximizer of well-being, the economic man concept is used by economists to predict behaviour and to assess rationality. It is predictive, because by calculating what choices maximize supposed well-being, predictions of economic behaviour may be made or guessed at. It is a criterion of rationality, because it determines what norms must be followed for choice to be seen as

rational[17] (Sen 2009: 175). Economics has re-defined rationality and limited its meaning, creating a circular argument. If a person is rational they are said to behave as would economic man, by maximising self-benefit; a person who maximises self-benefit is said to be rational and therefore behaves as the idea of economic man would predict. The evidence does not accord.

'Economic man' in many ways describes people's actual behaviour as unsatisfactorily as a stick-figure drawing represents their appearances. There are many characteristics that do not fit this representation. Sen reminds us that 'the completely egoistic human being was not always dominant in economic thought. He gives as an example the reasons Adam Smith offers for going against the dictates of self-love: sympathy, generosity and public spirit. He quotes from *The Theory of Moral Sentiments,* in which Smith (1759: 191) describes these virtues:

> **Sympathy:** *the most humane actions require no self-denial, no self-command, no great exertion of a sense of priority ... and ... consist only in doing what this exquisite sympathy would of its own accord prompt us to do ...* **Generosity:** *when we sacrifice some great and important interest of our*

[17] Sen (2009: 175) quotes John Elster in *Reason and Rationality:* 'the rational actor is one who acts for sufficient reason'.

own to an equal interest of a friend or of a superior ... **Public spirit:** *'when he compares those two objects with one another, he does not view them in the light in which they naturally appear to himself, but in that in which they appear to the nation he fights for.*

Sen (2009: 187) is critical of the fact that modern economics has in the main favoured a simplistic view of motivations, ignoring all motivations other that the pursuit of self-interest, and that 'rational choice theory' has determined that this uniform view of human behaviour is termed rational.

Rational Choice Theory is the idea that people choose rationality if and only if they pursue their self-interest. Rational Choice Theory is closely aligned to the concept of economic man dictates that those who do not choose to maximize their own welfare are acting irrationally.

Again Sen disagrees with this simplification, because Rational Choice Theory reflects "an extremely limited understanding of reason and rationality" (Sen 2009: 179). As he (ibid: 32) puts it, "A person may have well-thought-out reasons other than the promotion of personal gain for acting in a socially decent way".

An explanation of 'economic man'

Sen (ibid: 177) provides us with reasons that are offered for maintaining the fiction of the 'economic man':

a. As a general rule it is close enough to the truth, despite some well-known divergence

b. It is useful in making predictions

c. The assumed behaviour is "good enough" for the task it is being used for.

Sen refers to others who have offered explanations as to why actual choices are not always seemingly rational. For example, Herbert Simon introduced the term 'bounded rationality' to explain that people generally don't make rational decisions – possibly because of obtaining insufficient information, not being alert, or focussed (Sen 2009: 176). Another reason is offered to excuse this deviation from rationality: 'weakness of will' or 'insufficient self-command' (ibid).

Sen rejects these views as inadequate because he considers that rationality is greater than this view of rational man. The deficiencies of economic man are in many ways similar to those of utility for the assessment of a person's well-being because it

ignores the distinction between the “agency-aspect” and the “well-being” aspect of a person.

The inadequacy of economic man and the assumptions made by economics may simplify economic enquiry without undermining the validity of its conclusions, but in considerations of welfare that involve social choice or redistribution of income the language of ‘economic man’ and economic pronouncements appear to reflect less than the complete picture. How actual economies function is still not settled: neo-classical vs. neo-Keynesian debates continue. Because the variables are huge and the whole economy is the subject of debate, hypotheses are not testable. A ‘general equilibrium theory” that would explain the functioning of the whole economy remains a theory. Economic theory is on more stable ground when smaller markets are concerned. At a micro-economic level – individuals, groups, firms, industries, hypotheses become testable. Notwithstanding Sen’s cautions on the infallibility of Rational Choice Theory, economics is most scientific at this level. Welfare is local in its concerns, right down to regions, families and individuals. Microeconomic knowledge is therefore not superfluous to concerns of welfare, it cannot realistically be neglected in searching for ways and means to improve welfare.

Rational man

Rational man is so much more than economic man. For Smith (1759: 190) 'prudence' was 'of all virtues that which is most helpful to the individual' … 'humanity, justice, generosity, and public spirit are the qualities most useful to others (These are valued by Sen as part of rational man, who can also be considerate of the desires and pursuits of others. Different, but rational decisions may be made for many different types of reasons. People with quite different perspectives - 'from the dedicated altruist to the reasoned seeker of personal gain' - may make quite varied, but still rational decisions. For Sen, rationality is a matter of basing choices on reasoning that can be sustained over time and subjected to scrutiny. There may be a plurality of reasons, all rational, all leading to different choices. These therefore leave the principle of self-interest maximisation as an inadequate identifier of choice.

For the reasons Sen has illuminated, there is good reason for discretion in accepting economic assertions when they are based on assumptions of rational (in the guise of maximisation of self-interest) behaviour.

Social choice theory

Having denied the authenticity of the type of rationality defined by the 'economic man' concept, the maximization idea cannot be appropriate as a gauge of the choices that groups of people and society make. This is not unexpected - obtaining a consensus from a number of people is usually quite difficult and can't be done by a simple summation of whatever would give a maximization of personal gain. As an example of this Sen (1998a: 1) opens his Nobel lecture with a discussion of a camel – sometimes described as a horse designed by a committee, which reflects the somewhat confused results that are not unexpected from committees when trying to reach a group consensus.

The search for a rational and defensible procedure for reaching group decisions that would include everyone's point of view began with the work of Marie de Condorcet[18], an eighteenth century Enlightenment thinker. His most important work was on probability and the philosophy of mathematics and his treatise, *an Essay on the Application of Analysis to the Probability of Majority Decisions (1785)* contributed to the development of the theory of probability (O'Connell 1996: 1-2). In search of procedures for

[18] His full name was Marie Jean Antoine Nicolas de Caritet, Marquis de Concorcet and he was one of the intellectual leaders of the French Revolution.

social choice that could be seen as avoiding arbitrariness and instability he developed what is now known as the *Condorcet Paradox*. This shows that majority rule can be inconsistent, with a majority preferring A to B, and a majority preferring B to C, and a majority preferring C to A (ibid).

These are pessimistic results and illustrate the difficulty of finding an aggregate assessment based on individual priorities, and therefore the difficulty of the comparative approach which is central to social choice theory.

So how can we accommodate diverse choices and individual priorities in processes of social choice? Condorcet was the first contributor to what is now called "Social Choice Theory". Kenneth Arrow re-examined social choice and in 1951 developed what has become known as the 'Impossibility theorem'[19]. Arrow recognized the need to set limits on which conditions should be satisfied to be acceptable in any social decision procedure.

He set four conditions: (1) Pareto efficiency, (2) 'nondicatorship' (decisions are not dominated by any one person, and each person is able to make independent choices), (3) independence (demanding that social choice over any set of alternatives must

[19] It was at first called the 'General Possibility Theorem'

depend on preferences *only* over those alternatives), and (4) unrestricted domain (requiring that social preference must be a complete ordering, with full transitivity, and that this must work for every conceivable set of individual preferences). The reason that this theorem became known as Arrow's impossibility theorem was because it demonstrated that it is impossible to satisfy these conditions simultaneously (Sen, 1998b: 183).

As Sen (2009: 93) explains, Arrow's impossibility theorem "shows that even some very mild conditions of reasonable sensitivity of decisions to what the members of a society want cannot be simultaneously satisfied by any social choice procedure that can be described as rational and democratic". Sen shows faith in mathematical reasoning by declaring that common sense or informal reasoning could not anticipate Arrow's impossibility theorem. Arrow's theorem may again be a pessimistic finding, but the joke about a camel being a horse designed by a committee reveals that intuitively this is not a complete surprise – a group or committee decision may well be expected to have an odd outcome.

The Liberal Paradox: The impossibility of the Paretian liberal, another impossibility theorem:

Sen followed on Arrow's impossibility theorem with another: the liberal paradox, also called the impossibility of the Paretian liberal: 'if people can have any preferences they like, then the formal demands of Pareto optimality may conflict with some minimal demands of personal liberty'.

The example Sen gives to explain this liberal paradox involves a pornographic book and two possible readers, 'Prude' and 'Lewd'. Prude hates the book and would not like to read it, but would hate it even more if Lewd were to read it. Lewd would love to read the book, but would prefer even more that Prude read it. A liberty-based case would have Lewd read the book but not Prude – which is what each of them would choose to do. However Prude and Lewd would prefer Prude to read the book to Lewd reading the book. So the liberty-based option of Lewd reading the book goes against the Pareto principle judged by what they would both like. This is the liberal paradox – the impossibility of simultaneously satisfying both principles.[20]

[20] This sounds much like the old proverb "you can't have your cake and eat it, too!"

Impossibility is not the end of social choice

Arrow's impossibility theorem and the impossibility of the Paretian liberal are for Sen the starting point of public discussion. These theorems bring into focus questions that would otherwise not be raised. Social choice theory in this way encourages public discussion and attempts to clarify issues.

Robert Nozick (1974) does just that and his discussion gives support to the ideal of limits within a liberal framework that can still support a liberal view of freedom. Nozick's (ibid: 166) insight into the impossibility of the Paretian liberal explains and describes the real constraints on freedom that are present in society. He explains individual's rights as 'co-possible' – "each person may exercise his rights as he chooses", and this "fixes" some *features of the world:*

> *Rights do not determine social ordering but instead set the constraints within which a social choice is made, by excluding certain alternatives, fixing others and so on … Even if all possible alternatives are ordered first, apart from anyone's rights, the situation is not changed: for then the highest ranked alternative* ***that is not excluded by anyone's exercise of his rights*** *is instituted. Rights do not determine the position of an alternative or the relative*

> *position of two alternatives in a social ordering; they* ***operate upon*** *a social ordering to constrain the choice it can yield ...If entitlements to holdings are rights to dispose of them, then social choice must take place* ***within*** *the constraints of how people choose to exercise these rights.*

This gives an explanation of the way liberty is experienced in a society – choices within a social reality that imposes constraints on liberty.

Somewhere between the disorganization of a bazaar and the tyranny of a dictatorship there is the muddle of group decisions – Sen's committee horse that turns out to be a camel – and the operation of the market. Sen's central concern in the *Idea of Justice* is the muddle of group decisions; he does not give the market any particular attention. In a sense it is, in the way he describes the market as similar to conversation, just a given. Sen dismissed the concept of economic man as not sufficient for explaining the full spectrum of possible decision-making. A complete ordering of preferences is found to also be unacceptable for social consensus. There is a plurality of reasons and possibilities and incomplete orderings of possible social

choice and it is with the acknowledgement of these factors that an idea of justice might be pursued.

Chapter 4

Amartya Sen: justice in the abstract; justice in the concrete; capability

Sen identifies two basic, but different ways of reasoning about justice, both before and since the European Enlightenment period. On the basis of this distinction he divides those thinkers and philosophers concerned with justice into two camps. The one he calls transcendental institutionalism and the other realization-focused comparison.

Transcendental Institutionalism

In the transcendental institutionalist group are those searching for ideal institutions. Included here are Thomas Hobbes, John Locke, Jean-Jacques Rousseau, Immanuel Kant and John Rawls. Their ideas and concepts of justice are focussed on contractarian or institutional arrangements in the belief that these will result in a just society.

Thomas Hobbes (1588-1679) presented the sovereign state as necessary, because without it there would be a state of nature and “a war of every man, against every man”… and man’s life would be “solitary, poor, nasty brutish and short” (Flew 1984:

150). John Locke (1632-1704) introduced the idea of a 'social contract', the function of which is "to form a civil society in which men may enjoy their natural rights under a government established to enforce laws protecting those rights and to adjudicate disputes" (ibid: 204)[21]. Jean-Jacques Rousseau (1712-1778), published *The Social Contract* in 1762, in which he developed the idea of the "general will" which is directed at the public good, such that "the delicate balance between the supreme authority of the state and the rights of individual citizens is based on a social compact that protects society against factions and gross differences in wealth and privilege among its members (Delaney, 2005)[22].

Immanuel Kant (1724-1804) called his own philosophical position "transcendental idealism" with emphasis on *a priori* reasoning. He developed the categorical imperative: "Act only on that maxim which you can at the same time will to become a universal law" (Flew 1984: 189-193). John Rawls (1921- 2002) again uses the social contract, and devises a hypothetical, non-historical 'original

[21] In Locke's *Second Treatise of Government* there is a "commitment to natural rights, the rule of law, the function of the state as the guarantor of these conditions, and the rule of the majority". These "were powerful ideas that helped to shape both the American and French Revolutions and provided the key concepts for the development of liberal democracy"(Flew 1984: 207)
[22] There is a tension between Liberalism and Communitarianism

position' from which it can be negotiated, behind a 'veil of ignorance' (ibid: 299).

Sen discerns in all of these approaches to justice the characteristics of transcendental institutionalism: the pursuit of just institutional arrangements for society, and the pursuit of perfect justice. He decries these pursuits when they are the central exercise in theories of justice. Although the pursuit of perfectly just ideal states may be intellectually very interesting, he believes that it is not directly relevant to the problem of making an actual choice. Despite grouping the above philosophers together it becomes apparent that it is the complex approach to justice and to institutions developed by John Rawls, which epitomize for Sen the transcendental institutionalism that he is arguing against.

Realization-focused comparison

Sen declares that the transformational properties of realization-focused comparison are more relevant to justice. Adam Smith, the Marquis de Condorcet, Jeremy Bentham, and John Stuart Mill all discussed earlier because of their roles in the development of economics, utilitarianism and social choice are included here because Sen discerns their interest to be in justice in the society and the world in which they lived. Adam Smith (1723-90) was a

Scottish political economist and philosopher, who was interested in logic and ethics. He wrote about morality and general welfare (ibid: 327). He published *Theory of Moral Sentiments in 1759* and *Wealth of Nations in 1776.* The Marquis de Condorcet (1743-1794), as previously discussed, was a pioneer of social choice theory. The Condorcet Paradox seems to be a precursor of the Impossibility Theorem developed much later (1951) by Kenneth Arrow. Jeremy Bentham (1748-1832) was a leading utilitarian, but also "an influential advocate of reform – legal, political, social, and educational" (ibid: 41). John Stuart Mill (1806-73), English empiricist philosopher and social reformer, who "modified the Utilitarianism of Bentham … and attempted to show that men's notions of obligation can be made compatible with the greatest happiness principle" (ibid: 231).

Sen also includes Mary Wollstonecraft and Karl Marx in this group. Mary Wollstonecraft (1759-1797) was an Anglo-Irish feminist, intellectual and writer, who wrote a *Vindication of the Rights of Woman,* advocating equality of the sexes (Kreis 2009: 1). Karl Marx (1818–1883) was a German social theorist who was interested in economics and history, whose dialectic is an account

of socio-political history (Flew 1984: 221)[23]. The writings of Wollstonecraft and Karl Marx can be identified with advocating changes in social conditions, their roles, though not necessarily direct and not fully apparent in their lifetimes, can be perceived as part of a continuum of social reorganizations. Wollstonecraft being associated with feminism and Marx with socialism

Despite each proposing quite different ways of making social comparisons, Sen asserts that they were all involved one way or another in comparisons of societies that already existed or could feasibly emerge; their primary concerns being the removal of manifest injustice from the real world. Sen avers that the identification of injustice and its amelioration may be done without recourse to developing ideal institutions. Realization-focused comparison is more in tune with the problems of injustice found in the world.

Comparison approaches are primarily concerned with social realizations. It is relatively easy to identify injustice and unfairness and it may be ameliorated without recourse to developing ideal institutions. True to his commitment to plurality of reasons and the

[23] Marxism: (may be distinguished from Karl Marx himself), it is "the body of doctrines originally propounded by Marx and Engels, known as dialectical materialism" (Flew 1984: 221)

necessity of making choices, Sen does not feel precluded him from drawing on insights from the approach of transcendental institutionalism. Sen also includes the possibility of resolving transcendental and comparative issues simultaneously and calls this a 'conglomerate theory'[24]. A conglomerate theory however might be a more precise description of the ideas he develops, because he does not completely abandon the Rawlsian approach, and accepts in large part many of the concerns and reasoning of Rawls. To appreciate this departure Rawls' approach is examined in more depth.

John Rawls

John Rawls, "arguably the most important political philosopher of the 20th century", had a "life-long project of finding coherent and attractive way of combining freedom and equality in to one conception of political justice" (Richardson 2005: 1).

Rawls was looking for a just way for society to arrange its institutions. He developed the strategy of 'the original position' as a thought experiment. In the original position citizens negotiate for a fair and just society, but through representatives who operate

[24] Sen does not pursue this because he sees the standard theories of justice as associated with transcendental identification, and the types of judgement needed for this transcendental identification and comparative assessment do not follow from each other (Sen 2009: 16).

under *a veil of ignorance* so that the representatives do not know the details of the person they represent. These devices are to ensure the negotiation of principles that are fair for all, and can be publicly endorsed (Wenar 2008: 18). These representatives effect an 'impartial' role, that is similar to that of the 'impartial spectator' developed by Adam Smith and in which Sen finds much value.

Rawls two principles of Justice as Fairness are:

First Principle: Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

Second Principle: Social and economic inequalities are to satisfy two conditions:

a. They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity;*

b. They are to be to the greatest benefit of the least-advantaged members of society (*the difference principle)* (ibid: 13).

The first principle gives priority to liberty and applies to political institutions. The second principle has two parts that apply to social and economic institutions. Fair equality of opportunity requires the same educational and economic opportunities for all and the difference principle determines that any inequalities of

wealth work to the advantage of those who will be worst off (ibid: 14). This acknowledges economic theory and the ubiquitous 'invisible hand'[25] without which the benefits, which accrue to all of society, would be lost. Sen sees that a "distributional formula of prioritizing the interests of the worst-off has to compete with the utilitarian formula of maximizing the sum of utilities of all" (Sen 2009: 198). Sen however rejects these kinds of formulaic approach.

In the original position Sen identifies the problem of procedural parochialism, a type of 'group think'. The representatives may have, as Sen puts it, "local group prejudices" and the procedure precludes later adaptations so that ideas and experiences that may not be known at the time and which present themselves later or from elsewhere are precluded (ibid: 150-1).

Sen describes the positive lessons from the Rawlsian approach:

1. Fairness is central to justice, a foundational priority. For Sen the impartiality of the original position is not adequate for its purpose.
2. A conception of objectivity must establish a public framework of thought sufficient for the concept of

[25]the 'invisible hand' of self interest by which the whole of society benefits.

judgement to apply and for conclusions to be reached on the basis of reasons and evidence after discussion and due reflection

3. 'The moral powers' that people have, related to 'their capacity for a sense of justice' and 'for a conception of the good'
4. Prioritization of liberty: the strong case for seeing liberty as a separate and, in many ways, overriding concern in the assessment of the justice of social arrangements
5. The need for procedural fairness
6. Attention is drawn particularly to the predicament of the worst-off people.
7. Sen's own reading of Rawls: the importance of human freedom in giving people real – as distinct from only formally recognised – opportunity to do what they would like with their own lives. (ibid: 62-5).

These are factors relevant to a pursuit of justice. They influence the degree of capability that a person has, in pursuing a life that they would wish to have.

Yet Sen does still reject transcendental institutionalism as informative but insufficient for a description of social justice

because “if a theory of justice is to guide reasoned choice of policies, strategies or institutions, then the identification of fully just social arrangements is neither necessary nor sufficient” (ibid: 15). He does not believe however that his position is very far removed from Rawls. He later avers that to move to actual assessment of freedom and capabilities would not be a foundational departure from Rawls’ programme, but mainly an adjustment of the strategy of practical reason (ibid: 66).

Sen moves to develop not principles or ideal institutions but a Plurality of Reasons for Social Justice. He develops the concepts of freedom, incompleteness, impartiality, and public reasoning, among others, that contribute to social justice. Instead of denying the inescapable complexity of any decision making procedure, and searching for a simple axiomatic tool to determine policy or choices, he advocates that the complexities must be elucidated, exposed, discussed and worked with, all in the pursuit of justice. He therefore advocates public discussion and education as part of the way forward in improving justice.

The complexities must be grasped and included, not as distractions from the central pursuit, or rule, or thesis, or institutional arrangement or ideal of welfare, but as part of the

project itself, of developing capabilities. Capability is important in the sense that benefit is derived not from a system's ability to deliver (some service or good), but a person's ability to choose to access this service or good (whether or not a choice is exercised). This is a 'bottom-up' approach instead of a 'top-down' approach. Capability becomes a measure of a person's well-being, the capability to improve a person's own situation according to that person's own desires.

Sen's Framework for Reasoning[26]

Plural grounding of Justice: Plurality of Reasons

The plurality of reasons for justice is important and inescapable. Sen provides a captivating example of the "possible sustainability of plural and competing reasons for justice" (ibid: 12):

> Which of three children – Anne, Bob and Carla – should get a flute about which they are quarrelling?
>
> -Anne claims the flute on the ground that she is the only one of the three who knows how to play it (the others do not deny this)
>
> -Bob claims the flute on the ground that he is the only one among the three who is so poor that he has no toys of his

[26] Many of these contributions to a framework for reasoning are included under the title "Social Choice as a Framework for Reasoning" (Sen 2009: 106.

own (the others concede they are richer and have plenty of toys)

-Carla claims the flute because she has been working diligently for many months to make the flute with her own labour (the others confirm this) (ibid: 13).

Depending on the point of view, a utilitarian or economic egalitarian, or libertarian might be persuaded differently by the arguments. Each would be pursuing an idea of justice, but it is apparent that each view has a claim for fairness. Plurality of unbiased principles reflects the fact that impartiality can occur in many different ways. Plurality of values is inescapably present in social judgement. Plurality of reasons are present in reasoning and public reasoning.

Plurality aspect of freedom

Freedom is not a simple concept and can be scrutinized in different ways, because there are several distinct features within the idea of freedom.

The freedom to choose and determine the way we live our lives, is part of the value of our lives. It is not just the life we lead, but also the freedom to choose that life that gives it value. There are

two distinct aspects to freedom – one is opportunity and the other is process. Opportunity is related to the outcome, what is actually done. Process is related to the choice itself, which leads to the outcome. More freedom gives us more opportunity to pursue our objectives - to live as we would like, to achieve what we value. Process is part of the choice - we are not being forced into some state because of constraints imposed by others. This leads to a distinction between ‘culmination outcome’ and ‘process outcome’, the outcomes may be the same, but in the ‘process outcome’ there was choice, which becomes part of the value of the outcome. If there was no freedom in the choice (because of coercion to do a particular thing), the ‘culmination outcome’ might appear to be the same, because the outcome looks the same, but it is not the same as ‘process outcome’, which includes free choice. Being free to pursue one’s own ends may include the freedom of being able to bring about one’s reasoned choice, (always supposing the person has an adequate opportunity to reason). It may include the opportunity of reasoned assent by direct control (through one’s own actions) and indirect control and effective power through others, (friends, doctors, attorneys).

Freedom may be limited just by the possibility of another’s arbitrary power, which could interfere with a person’s freedom.

This arbitrary power, just by existing compromises a person's liberty, even if no coercion is ever used. [27]

Sen sees human rights as embodiments of freedoms that society has affirmed. These freedoms must be important in themselves, and by being declared 'human rights' they are affirmed and recognised as important freedoms by society. Freedoms cannot become human rights unless they reach a 'threshold of relevance', by which Sen means that they must be freedoms that can be influenced through social help. Rights can include processes and opportunities.

Capability

The concept of capability is a consolidation of Sen's views on justice. It attends to the actual freedoms and abilities of a person to choose the life that they would wish. Capability is "an aspect of freedom". Freedom is something of value in itself and as a means to other things of value. The freedom to choose our lives can make a significant contribution to our well-being, but beyond well-being, the freedom itself may be seen as important, apart from its contribution to well-being. The capability approach includes not just what a person actually ends up doing, but also on what that

[27] This is a Republican concept or neo-Roman idea of freedom

person is in fact able to do, whether or not the choice is made. Capability is closely aligned to agency, which encompasses all the goals that a person has reason to adopt. It is not just the outcome – achieving a particular goal, but also the freedom to choose to achieve that outcome, which counts for a capability approach. Well-being may be just one of many goals that the free agent may adopt, and it may not even be the most important. Capability is engendered if the individual is free to pursue well-being and free to pursue all the goals that he or she has reason to value.

An important aspect of capability is that "in valuing a person's ability to take part in the life of the society, there is an implicit valuation of the life of the society itself" (Sen 2009: 246).

Incompleteness

After the findings of de Condorcet and Arrow's impossibility theorem, social choice theory allows for incompleteness of judgements in social justice. Assertive incompleteness is the incompleteness recognized by a theory of justice, while tentative incompleteness may relate to operational difficulties[28].

[28] E.g limitations of knowledge, complexity of calculation, Herbert Simon's 'bounded rationality' previously discussed under economic man.

Impartiality

The just resolution of a problem requires the qualities of perspective, rationality and balance. Adam Smith's 'impartial spectator' is the objective form of impartiality that Sen favours. It is a device that encourages a dispassionate and objective consideration of a problem, and does not exclude any relevant considerations

Public Reasoning and Democracy

Sen advocates agreement, based on public reasoning, on rankings of alternatives that can be realized. Sen promotes the view that democracy is not limited to balloting on voting day. It is 'government by discussion' thereby including political participation and dialogue. He also agrees with John Rawls' view that 'the exercise of public reason' is part of democracy. Public reasoning includes open impartiality.

Conclusion

Sen's approach to justice is one of realization-focussed comparison; he is concerned with social realizations and the resolution of injustices. Although recognising the insights that a pursuit of perfectly just institutions and perfect justice may have,

these add to the plurality of reasons for justice, they are necessary but not sufficient in the pursuit of justice. The appropriate starting point is not “What would be perfectly just institution?” but “How would justice be advanced?” Realization-focussed comparison uses the concept of capability to evaluate the actual freedoms and abilities a person has to live the life they might choose. A more just society would have increased its members capability. Capability includes well-being and agency freedom. Public reasoning, which is part of democracy, must be concerned with capability, and must be pursued with impartiality and must recognize the importance of making political room for the incompleteness of social judgements.

Chapter 5

Medical care – a special case

Good health is fundamental to a person's ability to experience life, as he or she would wish. Capability includes 'well-being freedom' and therefore in Sen's idea of justice, the freedom and ability to pursue one's own good health and well-being is part of one's capability function. Society's arrangements for health-care are therefore significant factors in the promotion of people's well-being and well-being freedom.

Resources are always limited in any area of human need, but the effect of this can be particularly cruel in medical care. Arrangements that reduce the optimal use of resources are of particular concern, as shortages of equipment, medicines, hospitals and clinics have direct effects; efficiency and equity concerns are acutely significant. Pareto efficiency and distribution concerns cannot easily be ignored[29].

There is no settled consensus of the best arrangement for health-care, which is a most glaring example of a social choice problem.

[29] Pareto efficiency is "achieved when it would not be possible to improve any one person's well-being without adversely affecting that of someone else; there could be no net gains or improvements for anyone in society"(O'Connell 1982:5).

Savedoff (2004: 140) puts it thus:

> "Spending on health services has increased dramatically in all the world's high- and middle-income countries[30], leading to increased concerns about cost-containment, quality and responsiveness. Many of these countries, even if they have predominantly public systems, have introduced more market elements to relieve pressure on public services or to encourage greater productivity and allocative efficiency. Tensions in developing countries run high, as rising aspirations continue to outstrip the local resources available to meet them. Countries in Latin America – which had hoped to follow the western European models of social insurance expansion – have been blocked by the slow expansion of the formal labour market and low productivity in public institutions. In most of Asia, private fee-for-service arrangements continue to dominate, with few insurance products emerging. The former communist nations of eastern Europe and central Asia are dealing with the collapse of national health services and turning to social insurance arrangements, while African countries are

[30] Savedoff is referring to increases in speding since the early 1960s; Arrows article was published in 1963.

> struggling under extremely limited resources and increasing disease burdens, notably from the spread of HIV/AIDS."

As might be expected when looking at all the diverse 'states of play' in medical provision arrangements around the world, the issues can be complex, highly emotive and expensive. The likelihood of 'incompleteness of social judgements' seems high and is borne out by Savedoff's examples. 'Impartiality' and 'public reasoning' may be insufficient to obtain a social consensus. That comprehensive and judicious reasoning can be all-important, is not denied by Sen:

> "Informal insights, important as they are, cannot replace the formal investigations that are needed to examine the congruity and cogency of combinations of values and apparently plausible demands." "Our deeply felt, real-world concerns have to be substantively integrated with the analytical use of formal mathematical reasoning" (Sen 1998b: 184).

The question, "How would justice be advanced in health care?" might be answered by another question: "Does the market have a solution?" To which the answer might be, "sort-of".

Kenneth Arrow's 1963 paper, "The Uncertainty of the Welfare Economics of Medical Care", became one of the most widely cited articles in the field of health economics, and marked the creation of the health economics as a discipline (Savedoff 2004: 139). As Arrow (1963: 1) was careful to point out, his subject is "the *medical-care industry*, not *health*". As he correctly points out medical-care is only one of the causal factors in health, nutrition, shelter, clothing, and sanitation may be much more significant (ibid). Sen would also include factors such as social organization, the nature of schooling and education, the extent of social cohesion and harmony.

Arrow's point of departure is the desirability of a competitive market, because of the economic efficiency that it can deliver; failure by one or more of the competitive pre-conditions[31] for a competitive market would reduce welfare below the best obtainable from existing resources and technology, in the sense of a failure to reach an optimal state in the sense of Pareto" (Arrow 1963: 1). Unfortunately, this turns out to be the case for

[31] Arrow identifies three "major competitive preconditions" which
1. the existence of competitive equilibrium
2. the marketability of all goods and services relevant to costs and utilities
3. non increasing returns
1. and 2. Insure optimal competitive equilibrium
3. insures that every optimal state is the competitive equilibrium corresponding to some distribution of income

medical-care. Because of the special nature of health-care a competitive market does not exist in the way that a market exists for other commodities. This special nature Arrow declares is due to uncertainty. Because of uncertainty there is no market for some of the risks involved in health care. Because of uncertainty there is also imperfect marketability of information. (As John Gray suggested the market is really about innumerable pieces of information being conveyed by means of price between interested parties).

George Akerlof further illuminated the special features of health-care and his insight also related to uncertainty, in the form of asymmetric information (Akerlof 1970: 488-500). Akerlof's example was the used car market; he titled his article *The Market for "Lemons": Quality Uncertainty and the Market Mechanism,* 'lemon' being shorthand for poor quality. Uncertainty is a feature of medical care, in the predictability of recovery, and the various risks. Akerlof's 'lemons' refer to the insurance industry's difficulty in assessing the level of risk involved, and the problem of inside information – in which one party knows more than the other. Those who are likely to need insurance will be most likely to seek it – these are the 'lemons'. Those who are not 'lemons' in this sense are less likely to want insurance. Therefore a certain

amount of self-selection occurs: those most expecting medical care are more likely to seek insurance. His conclusions concur with Arrow's. With uncertainty and asymmetrical information, it is possible that there will be no market to insure risk.

The overwhelming problem for the market provision of medical care is the way in which this inside information tends to destroy insurance markets. At the point where premiums have become excessively high only those who most need insurance will be interested in purchasing it. However the premiums will approach the actual cost of the medical care so this is hardly insurance – a situation in which no insurance market actually exists. That they exist relates more to legislation and employment practice. Because medical cover is also linked to employment it assists in maintaining the viability of health cover, because the healthy are obliged to buy health cover packaged with their job (Harford 2006: 125). In South Africa the prescribed minimum benefits, and legal difficulty medical aids have of denying anyone cover and the inclusion of medical cover in remuneration packages, also supports this kind of insurance. However there is still the tendency of the young and healthy not to insure themselves thereby reducing the pool of income for the medical insurance

companies. This does not suggest itself as a good long-term model.

Patently this does not mean that medical care does not occur – clearly it does. It occurs however without the efficient allocation of resources that a competitive market provides. Arrow asserts that virtually all the special features of health care provision stem from the prevalence of uncertainty which rules out a competitive market. In its place there are "compensatory institutional changes with some reinforcement from usual profit motives, [which] largely explain the observed non-competitive behaviour of the medical-care market, behaviour which, in itself, interferes with optimality"(Arrow, 1963: 2).

The Special Characteristics of the Medical-Care Market

According to Arrow (1963: 4), the particular characteristics of the medical-care market establish a special place for medical care in economic analysis. He identifies these characteristics to be:

1. Irregular and unpredictable demand; demand associated with an assault on personal integrity. Illness is risky and costly in itself, apart from the cost of medical care.
2. Expected behaviour of physicians – because the product and activity of production are identical, the patient cannot try

out what is on offer before consuming it. There must be an element of trust, and the physician's behaviour is expected to conform to high ethical standards, not least of which is his having concern for the patient's well-being and a lack of self-interest. This lack of self-interest must include a lack of interest in profit, which, if apparent, would destroy trust.

3. Intense product uncertainty because of the unpredictability of the outcome, and (for the patient) no previous experience of the situation. There is also informational inequality, with the physician knowing far more that the patient.

4. Licensing, which restricts supply and therefore increases the cost. This is defended as guaranteeing a minimum of quality.

5. Extensive price discrimination by income – with an extreme of zero prices for sufficiently indigent patients.

Conclusion

Because of these special characteristics a free-market mechanism is inadequate for health care. As Arrow remarks in his 'Postscript', "the logic and limitation of ideal competitive behaviour under uncertainty force us to recognize the incomplete description of reality supplied by the impersonal price system" (Arrow 1963: 9). Non-market institutions (such as trusts and

norms) do compensate for these market failures (Savedoff 2004: 139), historically religious organisations and charities have also stepped in because of the obvious need. There is generally widespread support for the government to provide healthcare, particularly for those most in need, and for the indigent. Public health moreover is also of widespread benefit for “there is every reason to suppose that it is considerably more important than all other aspects of medical care” (Arrow 1963: 4).

This leads us to real choices in public health policy. The question becomes one of choosing the roles that can be effectively played by markets and what is best done by non-market institutions (Savedoff 2004: 139-140).

Health is core to a person’s capabilities, health care is only one contributing factor, but is felt the most keenly, because its absence at critical moments can be a matter of life or death or debilitation. Health care deserves then the scrutiny it receives. The insight provided by economics indicates that arrangements for the provision appropriate healthcare cannot be adequately provided for by the market forces of supply and demand. Furthermore economic analysis does not provide a solution. The arrangements are a form of social choice, with all the limitations

and inadequacies that are thereby implied. What then can Sen's capability approach offer for health care?

Chapter 6

Sen: Capability and Health Care

In pursuing justice Sen prefers the opening question to be: “How would justice be advanced?”, and not: “What would be perfectly just institutions?” Considering the special characteristics of health care, what might this mean?

Laissez faire not an option

Arrow and Akerlof both reveal the special nature of health care and that it is not amenable to resolution by market forces. This at least removes part of the quandary at the centre of welfare economics. A *laissez faire* approach cannot be an option; an unregulated free market does not operate in health care, because uncertainty prevents the existence of the conditions needed for a competitive market (Arrow 1963: 2). This does not however remove a central insight of economics: resources are always limited.

Limited resources always the case

Limited resources cannot be wished away and health care provision requires extensive resources. A competitive market may not be able to determine the supply and demand of health care,

but health care provision must still occur within the constraints of available resources, which are dependent on such things as the strength of the economy and availability of resources.

Social Choice

Because of limited resources and the limitations of competitive markets in healthcare[32], health care provision becomes in essence a fundamental social choice issue. The social choices might be concerned with such things as

- Opportunity costs – what other social good must be foregone to pay for health care costs.
- Affordability – what can the state reasonably afford to pay for.
- The reach of public health programs – what can and should be done by government.
- Distribution arrangements – how best to provide health care to communities. E.g many small clinics, or larger district hospitals.
- What might best be left to the private sector.
- The most acceptable public-private mix of services.

[32] specifically in health care provision, because of the presence of uncertainty (Arrow: 1963)

Decisions required in health care provision work at different levels. Some involve short-term activity and some are only going to have an effect in the long term.

Sen identifies a number of factors that are relevant for a framework for reasoning: plural grounding, public reasoning and impartiality, capability and well-being freedom. These are all relevant to the provision of the health care and are interrelated. Sen does not provide a formula for the application of these factors, but applying each of the factors to health care assists in the reasoning that must inform any social choice.

Public Reasoning and Impartiality

Sen advocates an awareness of the interrelatedness of economic performance, social opportunity, political voice and public reasoning. (Sen 2009: 350). All of these are significant for health care.

Plural grounding

In health care the possible plurality of reasons for choices and also the plurality of options is clear from the many different ways in which health care is provided (Savedoff 2004: 140). A

comparison approach, looking for ways and means to a better outcome, might be more useful than aiming for and falling short of ideal, unattainable solutions, particularly in the absence of a consensus on what an ideal solution might be.

Capability, well-being freedom

For Sen searches and debates for a perfectly just distribution arrangement are likely to miss the insight that a comparative approach might take. The comparative approach asks how justice could be advanced in a particular situation. Capability as a measure of the benefit and advantage to individuals within groups and society, provides a gauge to assess personal situations and changes to those situations.

Good health is central to people's ability to experience life as they would wish it to be and is pertinent to the experiences and expectations that give life value. It is therefore central in many respects to the idea of capability. Good health has been shown to be due to a diverse range of factors, including social status, nutrition, income, environment, spirituality, social support etc. Health care is only part of this, but it is essential at critical moments. A person's health is part of that person's capability.

A Story of a Capability Approach

Instead of considering this framework in the abstract, a factual case of an attempt to use a capability approach provides more insight.

Santosh Mehrotra (2008: 405-406) under the title "Democracy, decentralization and access to basic services: an elaboration on Sen's capability approach"[33] describes the Bamako Initiative, begun in 1987:

> Against a background of severe international economic recession and financial indebtedness, structural adjustment led to a marked reduction in the state's provision of services and a serious disruption to public health systems in most of sub-Saharan countries in the 1980s. Patients seeking care were beginning to pay considerable amounts for various treatments.
>
> In this situation, the Bamako Initiative arose as a reasonably successful example of voice in ensuring access to affordable essential health services for an increasing proportion of people.

[33] Sub-heading "Health: accountability to the community in Sub-Saharan Africa" (Mehrotra 2008: 405)

The Bamako Initiative has shown that organised communities can help sustain local public health services, not only by contributing financial resources but by having 'voice' in the management of services. The Bamako Initiative strategy is to revitalise public health systems by decentralising decision-making from the national to the district level, instituting community financing and co-management of a minimum package of essential services at the level of the basic health units. The aim is to improve services by generating sufficient income to cover some local operating costs such as the essential drug supply (often imported with donor provided foreign exchange), salaries of some support staff, and incentives for health workers. Funds generated by community financing do not revert to the central treasury but remain in the community and are controlled by it through a locally elected health committee. Thus, a revolving pool of funds helps to sustain the health service. From mere recipients of health care, consumers become active partners whose voices count. (Mehrotra 2008: 405-6).

Mehrotra states that "mobilising voice in the health sector has also helped to rejuvenate health services. "Voice" in

this context refers to agency, in that the voices of the people count: the people who are to use the system have influence over the system itself. They vote for their local health committee, their views are taken into consideration. The minimum package of essential services is decided by this local committee, influenced by the needs of the people who voted for them. Health workers responsibilities lie in the care of the local people, by whom they can be held to account, because it is the local people who are setting their incentives. This is the indirect freedom discussed by Sen as important: the ability to make the things you want to occur happen through others. Likewise the support staff whose salaries are paid by the communities of the patients they serve, are obligated to the patients and the local committee and not to a distant bureaucratic entity. A pertinent aspect of Capability in this initiative is agency freedom.

Mehrotra (ibid) further reports:

> The strategy of the Bamako Initiative has, after ten years of implementation, in Benin and Guinea, enabled nearly half of the population to be regular users of the services and raised and sustained immunisation levels close to Year 2000 Health for All target levels. Some assessments

show that community participation has not been as well defined as originally thought, and that significant community empowerment has not taken place[34]. Yet even with a weak voice exercised by households and communities the outcomes are significant.

For Mehrotra then, "it would appear that voice needs to be associated with the retention and use of locally generated resources, and that these go to improving the health service and achieving sustained outcomes. Greater emphasis needs to be put on working with existing local organisations and motivating their participation in the running of services." (ibid).

Of interest too is the significance of an understanding of the benefits of microeconomics. The funds that are generated by community financing are controlled through the locally elected health committee, they do not end up in the central treasury. A revolving pool of funds is created which helps sustain the health service. The patients and local community have become active partners instead of passive recipients of health care. (ibid: 406)

[34] 'Induced' participation, pushed in many cases by donor demand and often based on political decisions or bureaucratic simplicities, tends to accentuate elite groups in communities, marginalising women and the spontaneous organisations that are already formed to cope collectively with local problems.

Chapter 7.

Concluding remarks

Capability and Beneficence

Capability is apt for considering and understanding a person's situation and needs. It helps to focus on the pertinent issues and obstacles in place that prevent a person realising his/her own life goals. The Idea of Justice looks at justice '*in situ*'. Sen argues that improvements in capability are advances in justice; patently unjust situations call for remedial action without recourse to pursuits of perfect justice and just institutional arrangements.

Sen recommends recourse to public discussion, making political room for the acceptance incompleteness of social choices, and impartiality as the means to remedying unjust social arrangements. Assessing a person's capability is an authentic way of determining their freedom and well-being, and also the justice of social arrangements.

One doesn't need the concept of capability to appreciate that good health is fundamental to a person's well-being and freedom to choose and pursue that person's own life goals. However capability provides a comprehensive tool in assessing a person's

ability to achieve health by enjoying a clean environment, having adequate nutrition, and being able to access apposite healthcare. Not all of these are within an individual's control and social justice should seek to re-dress imbalances.

Tom Beauchamp in assessing capability as an approach to justice points out that it could just as well be an approach to beneficence (Beauchamp 2008: 12). This seems valid, as capability refers to the ability of an individual to pursue all that they consider beneficent for themselves – whatever that might be. Improving capability is also improving beneficence.

Limitations of Public reasoning and democracy

Relying on public reasoning and democracy and incomplete social choice may be valuable in reaching a consensus or public agreement, but there is nothing inherent in these to ensure an advancement of justice. De Condorcet's history perhaps illustrates this. His ideas may have been sound and fair and just; the Constitution that he wrote for France at the time of its Revolution, may have provided a liberal framework for justice and fairness that would improve the lot of all. Unfortunately he was a poor orator, and could not sway his audience, his Constitution was rejected, and he went into hiding and died (possibly at his

own hand) (O'Connell 1996: 2). Democracy and public discussion may be part of justice, but may not be sufficient to ensure justice. Extremes of populism can provide an illogical form of coercion.

Capability for assessment

As the example of the Bamako Initiative reflects, capability provides an effective way of assessing the benefit of changes in institutional arrangements. Improving the capability of those who require medical care to influence that care leads to beneficial effects. Capability is a comprehensive and powerful way of assessing any interventions or changes in societal and economic arrangements.

Rationality and public-reasoning are not so far removed from Enlightenment thinking. In some ways the capability approach, although using more subtle, less definite, and more complex criteria and processes, is not dissimilar to the use of utility or maximum benefit, all with the idea of overall benefit. Economic man re-defined rational man as a maximizer of self-benefit. The Capability approach re-defines rational man in terms of the freedoms needed for self-realization.

Transcendental institutionalism and realization-focussed comparison.

Sen rejects transcendental institutionalism as too narrow a focus for justice. The 'how' of justice is not sufficient, he believes the 'what' gets overlooked in the main or at least improvement in the situation on the ground is delayed. The 'what' is the situational – comparative approach that must be evaluated. This is not an easy divide to sustain. Returning to the Bamako Initiative: in this case there was a change made to local institutional arrangements – this change was towards a more 'ideal' arrangement.

Even Sen's division between transcendental and realization-focussed comparison may be difficult to sustain. Those he puts into the comparative camp, are not deficient in their transcendental ideas. Wollstonecraft is looking for universal justice – not justice for one group of people only; Bentham's Utilitarianism becomes institutional in its prescriptive reach. Mill is concerned to maintain an over-riding principle of liberty. Marx perhaps is the most situational and comparative in his approach as his focus is on historical and social change and continual social upheaval – not a settled order to society (Wolff 2010: 1). Capability itself also fits into these transcendental ideas, an

ideally just society improving and equalizing the lives of its members, using capability as a yardstick.

Advantages of Sen's perspective

Sen has had a lifetime of interest in poverty and welfare concerns. Early experiences made this concern personal, but his academic work added greatly to general insights, leading to public recognition of his contributions, particularly the Nobel prize for his work on welfare economics. His perspective avoids insisting on absolutes, or fundamentalist principles. Despite much elucidation of the various concepts of freedom, he does not give freedom in any one particular sense primacy. Sen's lifetime concern with welfare may also have influenced this approach of avoiding absolutes. Welfare economics, which aims to improve social well-being, must do so by prescribing certain changes which effectively interfere with some freedoms, usually economic (e.g redistributive policies). Sen's liberal paradox itself shows a pay-off between liberty and efficiency. Policies to alleviate the plight of the poor, including health care improvement, involve transfers from some part of society to another.

Sen's caution in his general approach to the weighing of desiderata may reflect the general trait in economists to be able

to take different views, depending on circumstance. They may make a particular pronouncement, but on reflecting how things might differ with changed circumstances proceed to balance this first pronouncement. Economics is cognizant of the difference between short-term and long-term outcomes. There follows a qualification often beginning with the words “on the other hand ……” This has led one politician to quip “give me a one-handed economist” – reflecting the difficulty of choice when there is imperfect information. Unintended consequences of ‘good ideas’ are also well documented in economics, adding to economist’s caution and again possibly reflected by Sen’s open-ended approach to justice.

Sen asks, “why should we regard hunger, starvation, and medical neglect to be invariably less important than the violation of any kind of liberty?”… “Liberty must have some kind of priority, but total unrestrained priority is almost certainly an overkill” (Sen 2009: 65).

Apart from the ‘slippery slope’ concern this sounds reasonable. However a defence of the primacy of freedom might be found in Sen’s assertion that there are no recorded cases of famine in a functioning democracy! (ibid: 342-5). Freedom of the press and

price movements indicate in advance that there is a looming problem. The problem is usually not one of a net shortage of food itself, but of the ability of people, usually a sub-group of the whole population, to afford food. Democratically accountable governments do something to avert catastrophe – it is within their ability if they see it as a priority. Even though the numbers effected are often relatively small and therefore constitute a small percentage of the voting public, concern and outrage by the rest of the population spurs on governments to act – a beneficial effect of populism in this case. This is one of the great pieces of work that Sen has contributed to the world. It nicely encapsulates so many of the factors he considers important for society to make good choices and enhance its member's well-being: public reasoning, capability, information, democracy. A view of a functioning democracy is one in which these freedoms are functioning.

Capability describes properly a person's situation. Measures to enhance an individual's capability give real hope for an improvement to their lot. The word should be spread.

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