

Understanding Sen's Idea of a *Coherent Goal-Rights System* in the Light of Political Liberalism¹

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Abstract: Being qualified as a right implies being recognized as having a universal value. It describes a political ideal of *equality* in its highly abstract form. Yet, in the exercise of a right, we must consider differences in personal characteristics or social contexts, since the extent to which individuals can concretely exercise rights might differ greatly according to the differences in personal characteristics or social contexts. To respect every individual impartially, we must set up public rules of the effectiveness of rights, which will direct each individual in concrete terms the *doings and beings* he/her can actually realize depending on his/her will. *A Coherent Goal-Rights System* mainly focuses on this problem. It is considered as a pluralistic coherent-value system, in which different kinds of values are appropriately balanced under certain criteria, which intends to overcome certain kinds of dualism such as <goal-based> vs. <rights-based>, or <individualism> vs. <holism>. The purpose of this paper is to explore a way to balance social goals and rights, the right to civil freedom, the right to well-being freedom, and the right to political freedom, understanding Sen's idea of a *Coherent Goal-Rights System*.

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1. Introduction

“There is an important “social choice” question as to whether the future generations’ claims should relate to living standards in general, or also to particular features of it, such as the entitlement to have “fresh air” as a “natural inheritance,” not to be outweighed even if they are generally better off (just as the right of a non-smoker not to have smoke blown onto her face is not taken to be compromised by her general living standard—no matter how high)” (Sen, 2002, p. 545).

Impartiality, generality, publicity, non-reduction, and priority (not to be outweighed without any justification) are characteristics that every kind of political values including right and social goal should satisfy. It can be observed that the essential characteristic of a right is that it is ultimately attributed to an individual (to his/her will or interest). For example, Ronald Dworkin calls it a “trump” by which an individual can demand “equal concern and respect” from society. On the other hand, it is known that the exercise of a right by one individual might restrict the realization of the rights of other individuals, either directly or indirectly (for example, through the obstruction of certain social goals). The purpose of this paper is to explore a way to balance social goals and rights, the right to civil freedom, the right to well-being freedom, and the right to political freedom, using Sen’s idea of a *Coherent Goal-Rights System*.

Before I proceed further, I ought to comment on the distinction between the problem of what matter is qualified as a right and the problem of the extent to which an individual can concretely exercise his/her rights. Or, in other words, the qualification of a right and the effectiveness of a right respectively. Being qualified as a right implies being recognized as having a universal value at least for all human beings, regardless of any difference in individual characteristics or social contexts. It describes a political ideal of *equality* in its highly abstract form. Yet, in the exercise of a right, we must consider differences in personal characteristics or social contexts, since the extent to which individuals can concretely exercise rights might differ greatly according to the differences in personal characteristics or social contexts. To respect every individual impartially, we must set up public rules of the effectiveness of rights, which will direct each individual in concrete terms the *doings and beings* he/her can actually realize depending on his/her will.

A *Coherent Goal-Rights System* mainly focuses on this problem. It is considered as a pluralistic coherent-value system, in which different kinds of values are appropriately balanced under certain criteria. Previously, Sen has criticized a rigorous

welfarism that reduces different kinds of value to a single homogeneous quantity called *welfare* and recommended a more pluralistic approach that adopts *utility* partially as an <admission condition>³. A *Coherent Goal-Rights System* is the idea that advances this approach, which intends to overcome certain kinds of dualism such as <goal-based> vs. <rights-based>, or <individualism> vs. <holism>. It assigns a certain array of weights taking into account not only the influences brought by exercising individuals' rights but also the effects of various social goals such as rise in national income, improvement in social welfare, and maintenance of economic growth. It is assumed that although the concrete array of weights may change according to variations in people's interests or social institutions, how it changes continues to satisfy specified ethical criteria.

In the following sections, we try to verify Sen's innovative idea, by connecting it with the conception of *public interest* in the context of *political liberalism* proposed by John Rawls, where *public interest* is interpreted as having two meanings. First, it has a substantive meaning that there *exist* values and interests that are held publicly and cannot be separated among individuals. Second, it has a procedural meaning that the ultimate foundation of *public interest* should be grounded on an overlapping consensus based on individuals' judgments.

2. Previous Studies on the Relation of Social Goals and Rights

(1). Philosophical Theories on Social Goals (public good, public interest) or Rights

1. Utilitarianism: Starting with an assumption that social welfare is a sum of individual welfare components (assumption of "additive separability"), it proposes a social goal to maximize the aggregation of individuals' welfare.
2. Libertarianism: Individual rights exist prior to any social institution. A social goal applies only after individuals have exercised their rights. Yet, the kind of right they admit is only the so-called "right to negative freedom".
3. Civic Republicanism: Social goals that cannot be separated among individuals are prior to individual private goals and rights.
4. Social Contract: Both rights and social goals are assigned according to social contract based on the general will.

(2). Economic Theories on Social Goals or Right

1. "Social welfare function" proposed by A. Bergson and P. Samuelson, which embodies a certain social goal.

³ Sen and Williams, 1982, p.6, n.11

2. “Social welfare function” (a constitution) proposed by Kenneth Arrow represents an aggregation rule to make a social goal based on individual values.
3. “The Impossibility of a Paretian Liberal” discovered by Sen.

3. Individual Actions and Social States

In proposing “The Impossibility of a Paretian Liberal”, Sen used a social choice framework to describe the freedom of action. It is because he recognized the fact even an individual private action can be an object of public action. Moreover, he noticed that since an individual private action is nothing but a constituent of a social state, an individual is able to restrict the range of all assumable social states through changing his/her own action. Sen, in his early stage, opens a way to evaluate combinations of individual actions from a public viewpoint and to explore the problem of the *effectiveness* of a right. In this section, we will clarify the relation of individual action and social states according to Sen’s framework.

Let us consider a set of doings or beings of an individual, each of which is physically realizable depending only on his will. The *n-tuples* of individual doing or being actually chosen by him (not being left within his inner will) constitutes a social state. Now, if this constituted social state can be clearly separated again corresponding to the original profile of doings or beings without any external influence, it might be natural to attribute each part to an individual. The libertarian assertion that any individual choice of his/her own actions should not be publicly interrupted can be understood as reasonable in this context. However, a social state constituted by individuals’ actions is not necessarily clearly separable among individuals. A combination of each individual’s doing or being might form a non-separable symmetrical common state—such as trust of (or friendliness between, harmony with) one another, being married to (or cooperating with) each other—or an asymmetrical common state, such as one harming others. Moreover, it might induce some external, uncertain, and irreversible influences not only on human beings but also on other creatures and even nature itself far beyond the current time and space.

In addition, it is a reasonable assumption that a society includes individuals who are not physically able to realize even some basic doings or beings depending only on their own will. In this case, even if there is an obvious way to separate a social state and attribute each part of it to each individual, it seems a less reasonable thing to do. On the contrary, it seems more reasonable to regard a social state constituted of individuals’ doings and beings as a common pooled value, and to search for a fair rule of distributing.

Considering these cases, we cannot think of the following questions as self-evident: Should an individual's doing or being that is physically realizable depending only on his/her be also socially realizable depending only on his/her will? Should a doing or being that is physically non-realizable depending only on his/her be also socially non-realizable depending only on his/her will without any support? To answer these questions, it seems inappropriate to rely only on intuitions derived from our personal experiences or on prior assumptions. Rather, it may be necessary to deliberately inquire into and evaluate each individual action from various points of view. Can we find any procedural or substantive principle to inquire about and evaluate the values of individual actions and to set up concrete rules of the effectiveness of rights? Before going into concrete discussions, we want to first consider a theoretical framework for such discussions.

4. The Basic Idea of *Political Liberalism* on the Relation of Rights and Social Goals

Almost all previous theories have assumed a dichotomy of social goal versus right and argued which is prior to the other. Beneath it, there is another dichotomy of individualism versus holism. Each theory has a firm position as to whether social goals beyond individual goals exist or whether a private sphere beyond any social interruption exists. In contrast to these theories, *political liberalism* insists that on the one hand, individual rights cannot be prior to *public interest*, and on the other hand, *public interest* cannot be prior to individual rights. Moreover, it does not deny the possibility of the existence of both social goals beyond individual goals and a private sphere beyond social interruption. The relation between them can be described as follows.

There is the case that a *social state* might <actually> be a concern of individuals beyond their personal interests, since it cannot be clearly separated among individuals. There is also the case that the realization of someone's right might <objectively> disadvantage others. In these cases, it might be reasonable to admit *substantive public interests* and to regulate the range of doings and beings that an individual can realize based on his/her own choice. But based on what reason can we say "actual concern" or "objective influences"? The distinctive feature of *political liberalism* appears in its answer to these questions. It asserts that *objectivity* cannot stand without any recognition by members of the society, and that an *overlapping consensus* among individual reasonable judgments in a political dimension is indispensable. We can call this idea *public interest as a procedural meaning*. The possibility of the existence of *substantive public interests* is not denied; it only asserts that since the problem of how to regulate individual rights is nothing but political matters, the ultimate foundation of

the regulation should be grounded on individuals' reasonable judgments.

In this way, the focus of arguments is transferred from *which social value is prior -- rights (that is essentially attributed to individuals) or social goals (that is commonly attributed to society) -- to how we should balance rights and social goals and how we should assign the appropriate effectiveness to both rights and social goals. In the next section, let us consider the problem in a more concrete context. What kinds of principles are appropriate for evaluating the values of individual actions and for setting up concrete rules of the effectiveness of rights?*

5. Principles of the Effectiveness of Civil Right and Well-being Right

To explore this problem, it helps to clarify three types of right, *right to civil freedom, the right to well-being freedom, and the right to political freedom*, and examine each respectively.

First, *the right to civil freedom* (in short, civil right) requires that an individual action not be publicly interrupted in its *realization*. So with respect to the *effectiveness* of the civil right, the following two points should be examined and balanced against each other. 1) What should be examined is the intrinsic meaning of an individual action, regardless of the physical possibility or the agent's will for its *realization*. And it is the intrinsic meaning of the public regulation for an individual action, not the mutual coordination among agencies, that should be examined. 2) What should also be examined is the consequential positive and negative effects of an individual action, if it is chosen and socially realized (or alternatively, forbidden to be chosen and realized) by various types of individuals (differing in physical, mental, and other qualities) connected to each other's actions in a social and natural environment.

Next, *the right to well-being freedom* (in short, well-being right) illuminates a kind of doing or being by an individual who cannot physically realize it depending only on his/her will. In such cases, the realization of such a doing or being should be publicly secured. The central issue is how to distribute the external resources that are necessary to realize such doings or beings among members of the society. For example, income or welfare services are publicly provided for someone who cannot physically realize some basic doings or beings in a competitive market or in a private contract. In this context, "publicly" implies a way of distribution by which costs and benefits do not necessarily correspond within an individual. So, for well-being right, the following points should be examined and balanced against each other. 1) The intrinsic meaning of a kind of doing and being not to be physically *unrealizable* but to be publicly *realizable* should be examined; 2) The consequential effects of publicly

securing a kind of doing or being for all, independent of the agent's will (i.e. whether he/she actually chooses or not), on the *effectiveness* of others' rights, for example, rights to resources or well-being freedom, and so on should be examined; 3) The consequential effects of each kind of doing or being, when it is actually (physically and socially) chosen and realized (or conversely left unrealized in actuality) by various types of individuals (differing in physical, mental, and other qualities) connected with each other's action in a social and natural environment should be examined. Regarding this type of right, the *equilibrium* being actually realized needs to be predicted if possible.

Given the many arguments involved, the *right to political freedom* (in short, political right) will be discussed in the next section.

6. Principles of the Effectiveness of Political Right

First and foremost, it seems reasonable to demand formal and substantive equality of participation. 1) Every individual should be formally guaranteed to equally participate in the political decision-making process. That is to say, no individuals should be interrupted in presenting his/her judgment, and that judgment made by each individual should be aggregated with an equal weight (formal equality). 2) Every individual should be substantially guaranteed to equally participate in the political decision-making process. In other words, not only should such information necessary for forming a reasonable judgment for all be provided but also some supports necessary for accessing to information, for example for a handicapped person should also be provided (substantive equality). In addition, we can consider the following somewhat *populistic* conditions on an aggregating process. 3) Individual judgments should not be restricted in their content (*unrestricted domain*). 4) Every judgment should be equally treated, independent of the name of the agency or option (*anonymity, neutrality*). 5) Judgments that coincide among members unanimously should be publicly respected (*Pareto Principle*).

Yet, if we require all of these conditions to be satisfied, we cannot escape from Sen's Liberal Paradox, namely, under certain profiles of individuals' revealed preferences, society may fail to recommend some fair social states to be realized. In order to guarantee certain civil and well-being right (and political right itself) endowed with reasonable *effectiveness*, we must improve some of the above *populistic* conditions.

As a way of solving this problem, we can think of the following alternatives: 1) Introducing an actual assumption that people actually have a tendency of revealing such

preferences that make comparability possible (factual assumption of *domain restriction*). 2) Clarifying epistemological conditions that can ethically regulate the process of forming individual reasonable judgments and assuming that certain institutions to support such conditions will be set up (normative assumption of *domain restriction*). 3) Assuming aggregating rules that respect procedural and substantial criteria of higher principles that have existed historically (for example, constitutions and international laws). For example, John Rawls, who inquires into the possibility of a reasonable overlapping-consensus, assumes for ordinal law and policies a regulation by constitutional congress for the highest principles some ethical self-regulations and mutual regulations on the range of judgments people reveal.

To verify this solution fully, we must inquire epistemological and institutional conditions on the process of forming an individual reasonable judgments and a social reasonable judgment, and back ground theories that support the possibility and the reasonability of those conditions. We will examine this problem briefly in the next section. Here, we want to notice one point. To exercise political rights means to take a responsibility for making *public interest* and forming judgments to be counted publicly. Thus as for political rights, the problem of regulating the effectiveness of right means to cultivate the individuals' epistemological abilities and informational bases indispensable for making reasonable *public interest*. It requires re-interpreting and inheriting deep and broad human political experiences in history.

7. The Epistemological Nature of Individual Public Judgment

As mentioned before, in setting up concrete public rules of the *effectiveness* of rights, we must evaluate both its intrinsic meaning and the predictable consequences it induces. While the contents of evaluations are inevitably diverse among individuals according to their more comprehensive ideas, at least in a political dimension, that is, for the purpose of making public rules, we can consider certain characteristics commonly satisfied by individual evaluations. First, to evaluate intrinsic value or broadly external consequences of a right and to set up a public rule that works as a universal code of behavior for individuals in their social interaction⁴, it is inappropriate to rely on a non-reflectively self-central or group-oriented viewpoint with limited information (i.e. tailoring the rule to serve to their personal desires). Rather, what should be endorsed is an *impartial* and *reflective* viewpoint that considers diverse individuals (differing in personal features or social positions) with broad information and an imagination for

⁴ This expression owes to Kotaro Suzumura. Refer to Reiko and Suzumura, 2000.

understanding the universal meanings of the particular difficulties they are facing and struggling with. Furthermore, *transparency*, *accountability*, *verifiability* are also required. An evaluation that satisfies these characteristics is nothing but *a public judgment* an individual develops as a citizen. We can suppose that, referring to Rawls and the arguments of *deliberative democracy*, the function of verifying individuals' private preferences and their public judgments and cultivating the latter is embodied in a *deliberative* public forum and individuals' inner and mutual ethical reflections through public discussions.

Of course, the fact that individual judgment is based on a public viewpoint cannot guarantee the existence of an overlapping agreement among individuals. To aggregate individuals' judgments to construct a public judgment that chooses a public rule, an *aggregating rule* such as the *simple majority rule* or the *Borda rule* may be further required. An important point is that if individuals' judgments are regarded as being based on public viewpoints, a constructed *public judgment* can be recognized at least to be reasonable no matter what its content is. Moreover, as long as the opportunities of revising public rules are guaranteed, it is possible for an individual to keep holding his/her own public judgment that does not fully coincide with the constructed public judgment. He/she can try to revise not only the chosen public rule but also the *aggregating rule* itself. As a result, if his/her criticism is publicly known and is deeply infiltrated into the majority in society, he/she can get a chance to revise those rules.

“Reasonable political conceptions of justice do not always lead to the same conclusion..., nor do citizens holding the same conception always agree on particular issues. Yet the outcome of the vote is to be seen as reasonable provided all citizens of a reasonably just constitutional regime sincerely vote in accordance with the idea of public reason. This doesn't mean the outcome is true or correct, but it is for the moment reasonable, and binding on citizens by the majority principle....Citizens learn and profit from conflict and argument, and when their arguments follow public reason, they instruct and deepen society's public culture” (Rawls, 1996, lvi-lvii).

Presently, Sen proposes an idea that actualizes Rawls's perspective by focusing on activities of individuals to “expand the reach of our sense of justice”--individuals who actually belong to plural groups, positions and categories⁵. It is assumed that

⁵ Sen, 2001

such individuals are committed to diverse interests and are able to form multiple judgments reflecting particular features of the groups, positions or categories. Moreover, such individuals have chance to observe, reflect on and evaluate inside their own identities the claims of a group from others' viewpoints. These experiences shall support individuals' ethical exercises to acquire public viewpoints to evaluate the universal meanings of particular difficulties and claims of different groups. According to Sen, it is a *collaborative responsibility* of those who participate in a public rule-making process to form and express their deliberate *individual public judgments*, rather than *individual private preferences* of their own⁶.

VIII. Concluding Remark

In concluding this paper, I want to illustrate a way to balance the three kinds of rights and social goals. First, let us suppose a social goal to achieve an upper limit of automobile exhaust per year in a society, based on an estimation of the (negative) effect of automobile exhaust on environment resources. Secondly, let us assume individuals' diverse preferences, such as wishing to innovate on low-exhaust automobiles (hybrid cars), wishing to have and display a hybrid car, or wishing to run a car a lot faster than a hybrid car. Moreover, let us remember that there are many people who cannot afford to buy a hybrid car, or who cannot afford to buy any car. Third, to achieve the above social goal, respecting individuals' civil rights and well-being rights, let us assume a certain public forum to choose public policies, such as changing public transportation to a low-exhaust one, reflecting the social cost of automobile exhaust to the price of a car, and so on. The problems of what kinds of public policies should be chosen and how to regulate the effectiveness of civil rights are determined depending on an individual's autonomous exercise of his/her political right.

In dealing with global environmental problems (such as global warming), there is an important need to see people around the world as more than elements in a total picture of per-capita world consumption. They do, of course, buy goods and contribute to that per-capita figure, but they also have distinct interests and concerns, and considerations of fairness and justice apply to them. They are also agents who are interested in their own predicaments and those of others—now and in the future.(Sen, 2002, p.547)

⁶ Sen, 1999b, p.283.

The usefulness of the concept of right is that it can recall an intrinsic value of a person standing against the logic of number. Such a micro perspective of right is assumed to remind us of the intrinsic value of creatures other than humans and indeed of nature itself, apart from their “use value” for humankind. Needless to say, it is important to point out the possibility of mutual advantages among generations, or among humans, non-human creatures, and nature itself in terms of welfare. However, we cannot deny the possibility of the occurrence of certain contradictions among them. The concept of right shows its real ability in this context. It reminds us there are many values that cannot be reduced to one another, and cannot be aggregated to a single homogeneous quantity, say, welfare. On the other hand, the essence of *public interest based on individuals’ public viewpoint* is that it can grasp and respect the value of a person, a non-human creature, or nature existing in a remote place and time from the here and now. Of course, an individual cannot be detached from his/her own position, categorical groups, community or society either in substance or epistemology. Yet, as Sen says, in present days, individuals belong to plural positions, categorical groups, communities or societies and experience diverse interests, preferences, and judgments. Then, if an individual examines the meaning of his/her experiences and impartially expresses different interests, preference, and judgments to one another, he/she can recognize non-reduction plural values. A public forum is nothing but a place where individuals who have mutually overlapping experiences come together. They can collaborate to reflect partially common experiences and can listen to others’ particular experiences. It itself is a new experience and all of these experiences will promote the formation of an individual public viewpoint. The combination of a micro perspective of right (reminding us about the value of a creature) and a broad perspective of public interest (based on individuals’ public viewpoints) are inevitable to balance political values, such as social goals and rights.

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