

# **Rights, Capabilities and Human Flourishing**

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### **Abstract**

Christian theorists tend to ground human rights in the nature of human beings, as people created in the Image of God, and justified on the same basis. This paper argues for a complementary view: that rights might be grounded in the idea of *shalom*, and justified by their relationship to human flourishing. The Capabilities Approach of Amartya Sen and Martha Nussbaum, which emphasizes the importance of people's choices about how they will live, provides fruitful as a way of relating *shalom* to rights. A state of *shalom* implies human flourishing, for which capabilities are a prerequisite. Human rights, then, are those rights necessary for enhancing capabilities. This approach can assist with the clarification of certain features that rights possess, and so in evaluating rights claims. Sen's concept of "goal rights" is a helpful way of capturing and clarifying the concepts and significance of positive and community rights, as well as the tradition negative rights.

# Rights, Capabilities and Human Flourishing

## Introduction

It has become the norm among Christian writers on the subject to ground Human Rights in the way God created the world. Humankind was made in the image of God; it is this feature of human beings that makes them worthy of the highest respect, and bestows upon them certain kinds of rights. For example, the American Declaration of Independence claims that it is self-evident that all men are endowed by God with certain inalienable rights, to life, liberty and the pursuit of happiness.

In this paper, I sketch out a complementary approach, grounding human rights in the nature of creation in a slightly different way. God's mandate to humankind in Genesis 1:27-8 was to develop creation – to expand in numbers, and to rule over the rest of creation. Rights, then, could be grounded in the cultural mandate. My argument proceeds as follows: the world was created with certain aspects of harmony, and with an enduring peace (*shalom*). The Fall disrupted relationships, but God's work of redemption through Jesus Christ also re-authorizes Christians to work to reconcile to world, to work towards restoring *shalom*. *Shalom* implies human flourishing, that is, that human beings develop the gifts and talents with which God has endowed them. The necessary conditions to accomplish this are the basis of rights. A recent advance in development theory, the capabilities approach pioneered by Amartya Sen and Martha Nussbaum, provides a useful and insightful link between human flourishing and rights.

The next section describes the vision of *shalom*. I then examine the nature of human flourishing. Next, I explain the background and significance of the capabilities

approach, before considering the links between capabilities and rights. The short conclusion attempts to summarize the advantages of the capabilities approach to the development of a theory of human rights.

### **The Vision of *Shalom***

When God finished created the heavens and the earth, He pronounced His handiwork to be very good (Gen 1:31). All aspects of His creation were in perfect harmony with each other.

That state of creation in perfect harmony is summarized in the Hebrew word *shalom*. This word generally translated as "peace," but the concept is broader. Cornelius Plantinga writes:

In the Bible, *shalom* means *universal flourishing, wholeness, and delight* – a rich state of affairs in which natural needs are satisfied and natural gifts fruitfully employed., a state of affairs that inspires joyful wonder as its Creator and Savior opens doors and welcomes the creatures in whom he delights. *Shalom*, in other words, is the way things ought to be." (10)

Nicholas Wolterstorff puts it this way:

“*Shalom*” is the human being dwelling at peace in all his or her relationships: with God, with self, with fellows, with nature. ... But the peace which is *shalom* is not merely the absence of hostility, not merely being in right relationship. *Shalom* at its highest is *enjoyment* in one’s relationships. A nation may be at peace with all its neighbors and yet be miserable in its poverty. ... Justice, the enjoyment of one’s rights, is

indispensable to *shalom*. ... If individuals are not granted what is due them, if their claim on others is not acknowledged by those others, if others do not carry out their obligations to them, then *shalom* is wounded.”

(69-71)

Sin ruins *shalom*, as human history since the Fall all too clearly demonstrates. Things now are not the way they are supposed to be. Yet humankind realizes that there is something better than strife and conflict and pain and suffering. Creation is frustrated: we yearn for things to be different, to be the way they're supposed to be. Grace is the way God puts his world right again. It's how God makes the world "the way it's supposed to be." (Adams)

Old Testament prophets dreamed of a day when all wrongs would be made right. They dreamed of a day when toddlers would share a sandbox with rattlesnakes and joy would overtake all people. (Adams) The lion, wolf and leopard lie down with the lamb, calf and goat (Isaiah 11:6); in the city of God there is no more sickness and death (Rev 21:4). Life in the New Jerusalem will be a life where sin, disease, sorrow and death have been eradicated. Despite the warping effects of sin, the yearning of human hearts is for something better than the vale of tears in which we now reside.

At one level, *shalom* is individualistic – the result of peace with God (as Billy Graham puts it). The peace of God that passes all understanding is the inner *shalom*, the inner joy a believer can experience regardless of what the world throws at her. But *shalom* is more than this, encompassing a world of peace for everyone, without the outrageous effects of sin. The modern secularized goal of personal peace and prosperity (Schaffer: 205) is a distortion of what *shalom* implies, as it focuses solely and selfishly on

the person as an individual. There is no concern that others might enjoy the same benefit.

Redemption starts with God's elect from among the rebellious human race. Their role is to take the Gospel message to the ends of the earth, a message of repentance, of the coming of God's kingdom and the new age of *shalom*. Dordt College puts it this way:

As God's people, the church, we are called to be agents of reconciliation.

Under the leading of the Holy Spirit and in communion with God and one another, we are to summon sinners to repentance and strive to advance God's rule in all areas of life. We seek to transform culture and bring *shalom* to a broken world. (Dordt College)

*Shalom* encompasses all parts of human culture. In the sphere of economics is that of all families having their own allotment of land and resources, and the ability to enjoy it in peace, as Micah foresaw “in the last days” a time when “every man will sit under his own vine and under his own fig tree, and no one will make them afraid” (Micah 4:4). The vision of *shalom* includes a situation where material and security needs are met, a sustainable state of dwelling giving the opportunity for economic, societal and culture advances.

The kingly psalm of Solomon (Ps 72) captures a vision of *shalom* in the political realm. Under God, the king will reign righteously, doing justice and mercy, ushering in a Golden Age of peace and prosperity for all.

Endow the king with your justice, O God, the royal son with your righteousness.

He will judge your people in righteousness, your afflicted ones with justice.

The mountains will bring prosperity to the people, the hills the fruit of righteousness.

He will defend the afflicted among the people and save the children of the needy; he will crush the oppressor.

In his days the righteous will flourish; prosperity will abound till the moon is no more.

All kings will bow down to him and all nations will serve him, for he will deliver the needy who cry out, the afflicted who have no one to help.

He will take pity on the weak and the needy and save the needy from death.

He will rescue them from oppression and violence, for precious is their blood in his sight.

May his name endure forever; may it continue as long as the sun. All nations will be blessed through him, and they will call him blessed.

Praise be to the LORD God, the God of Israel, who alone does marvellous deeds.

Praise be to his glorious name forever; may the whole earth be filled with his glory. Amen and Amen (Ps. 72: 1-4, 7, 11-14, 17-19).

### ***Shalom and flourishing***

In Psalm 52, David writes of the time when his life was in danger after Doeg the Edomite, a spy for king Saul, had revealed David's whereabouts to Saul. It's a psalm of

victory – that, although evil seems to triumph temporarily, in the longer run those established by God will be the ones who truly prosper and flourish.

Why do you boast of evil, you mighty man? Why do you boast all day long, you who are a disgrace in the eyes of God?

Your tongue plots destruction; it is like a sharpened razor, you who practice deceit.

You love evil rather than good, falsehood rather than speaking the truth.

But I am like an olive tree flourishing in the house of God; I trust in God's unfailing love for ever and ever.

I will praise you forever for what you have done; in your name I will hope, for your name is good. I will praise you in the presence of your saints. (Ps. 52:1-3, 8-9)

*Shalom*, everything-as-it-ought-to-be, implies flourishing: that everything will be fulfilling its God-given purpose, growing and developing in the way that it should.

For a tree or other plant, flourishing implies growing to its full potential, and producing copious amounts of fruit in due season. A sickly tree, one planted in the wrong soil, or without access to appropriate amounts of sunlight and water, may produce some fruit, but it doesn't flourish; it does not produce fruit abundantly. Philosopher Philippa Foot calls norms such as these for plants and animals natural norms – she goes on to argue that similar natural norms (the virtues) exist for human beings. Flourishing, then, requires that human virtue flourished<sup>1</sup>.

“I have come that they might have life, and have it to the full”, said Jesus (John 10:10). The sheep within His pasture are kept safe and secure, and are thus able to

flourish. Human flourishing requires living life to the full – to grow physically, emotionally, mentally and spiritually. It implies the use and development of the gifts and talents with which each person has been endowed to fulfil the God-given mandate to fill, rule over and care for and bless the earth (Gen 1:28, 2:15).

To be in a position to develop and flourish, there are certain prerequisites. If thieves and robbers or wolves enter the sheepfold, the sheep will not flourish. If the physical conditions of life are so awful as to reduce life to drudgery and work to continual toilsome labour, then it is not possible for a person to flourish. Slavery, for example, so greatly reduces the opportunities to develop his talents that it denies the slave the ability to flourish. As Karl Marx pointed out, the long hours worked by people in the new factories of the nineteenth century, the low pay they received, and the unhygienic and unattractive conditions in which they lived added up to a miserable existence.

Flourishing also requires engagement with others, forming part of a community. Living alone without friendship, without people to share one's sorrows and joys, is a bleak prospect. God noted that it was not good for Adam to be alone: even knowing Yahweh intimately was not enough for him to flourish (Gen. 2:18). The importance of assembling together is stressed in both the old and new testaments. Without engagement with others, life loses much of its meaning.

### **Flourishing and capabilities**

In order to be able to flourish, then, certain preconditions are necessary. Without basic needs being satisfied, when the search for food and shelter consumes all one's waking hours, it is impossible to flourish. Mere survival, the keeping of body and soul

together, is not the same as flourishing. Nor, on the other hand, is having everything done for you, and so obviating the need for real choice. The dystopic vision of Huxley's *Brave New World*, for example, is of a society that is trivialised in its decision making.

Instead, flourishing requires having real opportunities and valuable (and significant) choices in the development of the gifts and talents one has, so as to fulfil God's purposes and unfold creation.

Bennie Van der Walt defines development thus:

Development is the balanced opening up (unfolding or disclosure) of all the potential of the human being and the possibilities of the rest of creation, according to God's purpose with it, and his will for it, so that man is able in his own culture to fulfill his vocation as a responsible steward in freedom in society to the glory of God (46).

This would also be an appropriate definition of at least part of what flourishing entails.

In what type of space, by what parameters, is development or flourishing of this type to be measured? Clearly, development-to-flourishing is more than just maximising Gross Domestic Product.

In the 1990's, the United Nations Development Programme began using the Human Development Index as a way of supplementing GDP data. This is a cheap and dirty way of trying to broaden the concept of development. While levels of income are important, increasing incomes themselves are not sufficient to allow for increased flourishing. The quality of a person's life is also heavily impacted by his health status (disease and low life expectancy make it more difficult to develop the talents one has),

and also by his education. Without basic literacy skills, people are almost certain to be impoverished culturally and unable to participate fully in society. The HDI was constructed as a weighted index of three elements – per capita income, health (as measured by life expectancy), and education (as measured by literacy levels, and average years of schooling). Poor countries that have put resources into health care and education, such as Sri Lanka and Cuba, score more highly on the HDI measure than richer countries where these areas are not seen as priorities.

But the HDI is inadequate as a measure of flourishing. The freedom to develop your skills is severely restricted in Cuba, for example, if your talents are in the area of business or political journalism.

In 1998 the Nobel prizewinner, Amartya Sen, gave a series of lectures to the World Bank staff, later published as *Development as Freedom*, which assembles an impressive set of evidence to suggest that giving people the ability to make decisions that affect their own lives tended to lead to higher economic growth, better conditions for the poor, etc. His analysis

... treats the freedom of individuals as the basic building blocks [of development].

Attention is thus paid particularly to the “capabilities” of persons to lead the kind of lives they value – and have reason to value. (18)

Sen argues that “capabilities to functionings” as the most appropriate way of answering questions about the level of development of society. What do people actually have the ability to do and to be? What real choices about their own lives are they able to make? “Functionings” measures the ‘doings and beings’ that people end up achieving, whereas capabilities measure the potentials, the real opportunities that people have, that

they can freely choose to use. Thus a person who has plenty of food available but decides to fast achieves the same functioning as a person who is living in a famine-stricken land, and has nothing to eat, but their capabilities are very different. Fasting is a choice, starving isn't.

What matters for development in its broadest sense, is providing the preconditions, the space, for people to live as God has called them to do and to be. The capabilities approach does not (generally) demand that people actually use the capabilities they have – it is the ability, the potential, to develop their lives in the way that they wish that is ultimately of first importance. As Martha Nussbaum puts it,

The central question asked by the capabilities approach is not , ‘How satisfied is Vasanti?’ or even “How much in the way of resources is she able to command? It is, instead, ‘What is Vasanti actually able to do and to be?’” (70)

Sen stresses the importance of what he calls agency freedom – the ability of people to initiate change, to decide for themselves what goals they wish to pursue, and the means by which they want to pursue them. What matters is what opportunities are available to Vasanti, not that she avails herself of this or that particular option.

Sen's approach to capabilities produces a theory of society that is pluralistic, in several senses. He does not wish to decide between different life aims that people might have, and for this reason, is happy to leave the content of capabilities underdetermined. People with different goals will value various capabilities differently: someone who is a libertarian, for instance, will see access to political and economic resources differently from someone who prefers more communal goals.

By contrast, Martha Nussbaum, has produced a substantive list of what she believes to be basic human capabilities. The list is open ended, and provisional, but this list, or something like it, Nussbaum believes constitutes the universal preconditions for human flourishing. Nussbaum's inspiration comes from Aristotle's account of flourishing (Nussbaum: 13, 76-7).

While possessing the capabilities on her list allows individuals freedom to pursue their own ends, agency freedom is not Nussbaum's primary consideration. In fact, she argues that certain capabilities can only exist if they are actually used. A decision to commit suicide, for example, is an exercise of capabilities – I have the means and ability to take my own life. But suicide destroys my ability to function in the future; it's not only a bad choice, but such a bad choice that it's something I should be prevented from doing.

Martha Nussbaum's list of central human functional capabilities is as follows:

1. **Life.** Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living.
2. **Bodily Health.** Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.
3. **Bodily Integrity.** Being able to move freely from place to place; having one's bodily boundaries treated as sovereign, i.e. being able to be secure against assault, including sexual assault, child sexual abuse, and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.
4. **Senses, Imagination and Thought.** Being able to use the senses, to imagine, think, and reason – and to do these things in a “truly human” way, a way

informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing self-expressive works and events of one's own choice, religious, literary, musical, and so forth. Being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to search for the ultimate meaning of life in one's own way. Being able to have pleasurable experiences, and to avoid non-necessary pain

5. **Emotions.** Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one's emotional development blighted by overwhelming fear and anxiety, or by traumatic events of abuse or neglect. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)
6. **Practical Reason.** Being able to form a conception of the good and to engage in critical reflection about the planning of one's life. (This entails protection for the liberty of conscience.)
7. **Affiliation. A.** Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another and to have compassion for that situation: to have the capability for both justice and

friendship. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech.)

**B.** Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails, at a minimum, protections against discrimination on the basis of race, sex, sexual orientation, religion, caste, ethnicity, or national origin. In work, being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers.

8. **Other species.** Being able to live with concern for and in relation to animals, plants, and the world of nature.
9. **Play.** Being able to laugh, to play, to enjoy recreational activities
10. **Control over One's Environment.**
  - A. Political.** Being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association.
  - B. Material.** Being able to hold property (both land and movable goods), not just formally but in terms of real opportunity; and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure.

To live a fulfilled life, to flourish, it is necessary that people have these capabilities.

A number of criticisms of Nussbaum's list have been made. Although not all of the capabilities are of equal status, Nussbaum rejects any notion of trade-offs or of a

Utilitarianism of capabilities; her theory is strictly deontological. Clearly some items on her list are necessary for mere existence; whereas without others (such as being able to play and recreate) life is possible, but badly impoverished. True flourishing life requires all of them.

Some might argue that the list is paternalistic and that it really reflects only western, rather than universal values, and will be used to criticize other cultures that see things differently. Nussbaum argues for the universal nature of these capabilities. She has no objection to a culture that would abrogate one or more of them, providing people have the right of exit – that is, to leave the culture.

There is no specific “religious capability”. Capability number 6, “practical reason”, suggests that each person should have the opportunity to choose her own conception of the good (which may include a religious conception). Nussbaum certainly thinks that religion is an important part of the fabric of human life – she devotes a whole chapter of her book to its significance – but she sees religion as a choice that a person could make, rather than as having any transcendent good.

Nussbaum sees the capabilities approach as a powerful tool to critique repressive governments. The evil of such governments is that in denying certain freedoms they compromise the ability of their citizens to flourish.

Not all societies do, and, perhaps, some are not able, to ensure that all capabilities are fulfilled. If a country is very poor, for example, it may be unable to provide more than rudimentary health care, and only the most basic of educations to its members. Nussbaum talks of a “threshold effect” – while not everyone, always, can be in possession of all the capabilities (tragedies happen, and people die; some babies never develop the ability to

talk), societies should have as a primary goal the achievement of at least some basic level of capability-fulfillment, in order that they way is open for as many people as possible to flourish.

### **Capabilities and rights**

It would be tempting simply to equate capabilities with rights: to say that certain basic human capabilities – those that really are preconditions for flourishing, are, or at least should be, human rights. On this view, everyone has a God-given right to what is necessary for him to flourish, and both capabilities and (at least some) rights can be viewed as prerequisites for *shalom*. A government that denies rights of this type to its subjects harms their ability to flourish. But to equate rights and capabilities is to proceed too quickly, even if they are closely related. Both are claims of some kind; but the precise nature of the link between them requires examination. And if capabilities are a species of right, what kind of species are they?

The concept of rights is a contested one. People disagree over the basis of rights; over who can possess them; their relationship to societal goals; their relationship to duties; and what precisely a right is a right *to* (Nussbaum: 97). The language of capabilities can, perhaps, help shed light on some of these disputes. Nussbaum herself sees rights as a subset of capabilities - political rights such as free speech and participation in selecting a government are examples of what she calls combined capabilities (where a basic capacity requires certain external conditions to exist to become a reality). Other rights, though, such as the right not to be arbitrarily killed, or

religious freedom, are more akin to basic capabilities, possessed by all as part of being human, made in the image of God (Nussbaum: 98).

Given the contested nature of the language of rights, one advantage of talking about capabilities is rhetorical: the language of rights comes with much (Western) cultural and traditional baggage, which has yet to attach itself to the concept of capabilities. Thus an appeal to capabilities might gain a more sympathetic hearing than an appeal to rights, where, for example, the listener doubts the basis of economic and social rights. If it can be shown that a particular capability is necessary to bring about flourishing, then there is an obligation on the part of others (the community, society, the government, international organizations) to see that the capability is respected.

Like rights, capabilities could be justified on instrumental grounds that they lead towards some overall good. Other people see rights as fundamental, as overriding constraints on collective goals, things that “trump” (to use Ronald Dworkin’s word) considerations of the good. The first view takes rights to be part of a consequentialist (often utilitarian) theory of the good; the latter implies a deontological theory of the good. Nussbaum is in the second camp here - capabilities generally cannot be abridged or abrogated for some greater good (such as a greater enhancement of capabilities elsewhere) - which is why she resists the idea of any trade-off between the various capabilities. The advantage of the constraints view is that it takes claims seriously: rights cannot be traded away in order to further some public policy goal. One drawback, though, is that it cannot help is in what Nussbaum calls “tragic” cases - where it is impossible to resolve a problem without compromising someone’s capabilities. Avoiding being committed to a “utilitarianism of rights” (or of capabilities) is important, but to

refuse all trade-offs is to overstate the nature of capabilities, and to sacrifice some of the flexibility of the capabilities approach. If capabilities are to form the basis of a political program for action, to insist that no trade-offs can be made between them offers little guide to policy-makers.

Dworkin's distinction between abstract rights and concrete rights is helpful here. An abstract right is a general aim of society, which says nothing about how it is to be weighted or implemented. By contrast, a concrete right is enforceable and implementable - its priority within the framework of rights has been decided. The need for trade-offs, and decisions concerning the ordering of rights are necessary when, for example, a resource constraint prevents all rights being implemented fully.

The link between capabilities and flourishing could, alternatively, provide the means by which trade-offs can be made. If capabilities are necessary for human flourishing, and flourishing for *shalom*, then when there is a shortage of resources (or if for some other reason not all capabilities can be guaranteed, then an appeal to what is most necessary for flourishing will determine the issue. For example, preservation of life and bodily integrity will trump being able to play. The resolution of conflicts between economic security and political participation will depend more on the particular circumstances of the case.

Sen offers the suggestion that rights are neither constraints nor (purely) instrumental. Instead, he sees rights within a teleological framework - but where part of the description of the *telos* is the rights-situation that exists (Abrahams). Rights are goals in the sense that their implementation needs to be part of the design of the social and political structure of a state or community. This approach accords with the way I have

been developing the argument - that capabilities are necessary for flourishing, and human flourishing is necessary for *shalom*. *Shalom* is a situation where capabilities are endorsed in their fullness: part of the description of everything-as-it-ought-to-be is the existence of conditions that nurture the development of our gifts and talents to the glory of God. It is this view of rights, I think, that links rights and capabilities most closely together. A capability-right is a claim to the prerequisites for flourishing, in order that *shalom* be built, and creation developed.

The relationship between capabilities and rights is now this: rights are grounded in capabilities - the justification for a particular right being that it serves as a proxy to ensure the achievement of a particular set of capabilities. This would allow the debate about substantive rights to be informed by something more than just deontology; rights can be ranked according to their ability to work as effective proxies for capabilities.

Also, the capabilities-rights approach creates space for third generation, or community, rights. Rights have traditionally been seen as individualistic - classical liberal rights pertain to people as individuals, not people as members of community. Community rights, on this view, are at best derived (non-fundamental) rights that are instrumental in guaranteeing certain more basic individual rights. Thus if there is a right to be defended from military attack, the right derives from consideration of individuals' rights to life, rather than the right of the community itself. But as certain capabilities (such as Nussbaum's affiliation) can be expressed only in community, some community rights, at least, can also be grounded in capabilities.

Thus capability-rights would include all first, many second, and some third-generation rights.<sup>ii</sup> For example, a capability-right to life requires the negative right of not

being deprived of life, by murder, or being shot at. The capability-right of bodily health requires some socio-economic rights. The capability-right to have control over one's environment could require certain community rights (such as education in the preferred language of one's ethnic group). At the very least, this approach provides a new way of informing the debate on rights.

### **Conclusion**

The Capabilities Approach presents a useful way forward in thinking about the purpose of rights. Like rights, capabilities are claims to entitlement, and, like rights (and unlike wants, for example) there is something important and urgent about them. Seeing rights as grounded in capabilities, or as proxies for capabilities, opens up a fruitful new way to look at questions of the nature and content of rights.

Talking of capabilities rather than rights also removes much of the baggage that comes along with the concept of rights, while still capturing essential features of the claim. In addition, the linking of rights more closely to flourishing and *shalom* by means of an appeal to capabilities has the benefit of making explicit the thrust of the capabilities approach, and its value in discourse about *shalom*.

The relationship between capabilities and rights is best captured by Sen's goal-rights approach, with *shalom* being the *telos*, the overall situation for which we are aiming. Not only will this require the realization of negative individual human rights, but also the achievement of positive individual human rights and certain community rights as well.

The capabilities approach, then, provides a helpful framework for the analysis of rights, and for the evaluation of rights claims. Claims that are inimical to the achievement of peace and justice, which cannot be grounded in a vision of shalom, do not have the status of rights. Sorting out which rights are really conducive of human flourishing would be a fruitful area for future research.

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<sup>i</sup> Foot, though, thinks that “flourishing” as applied to human beings has too restrictive a meaning, suggesting untroubled success. Thus, she says, Wittgenstein, tortured soul that he was, did not flourish, despite his great contributions to philosophy. She therefore prefers the term “benefit” – what benefits a person is what is good for him. But this language, too, has problems – benefit seems to me to be too allied to “interest”, which Brian Barry ties to wants, which is also not necessarily the same thing as virtue!

<sup>ii</sup> See Abrahams for a discussion of the distinctions between generations of rights.