

# **Economic Rights and Economic Justice in Economic Theory and Policy: An Introductory Note.<sup>1</sup>**

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As discussed in “What Are Economic and Social Rights,” Economic, Social and Cultural Rights have been marginalized in the evolution of the international and national human rights system. The source of this marginalization can be traced to two historical socio-political processes: male and class biases in liberalism and the post World War II cold war dynamics.

However, there is yet another very important reason (which is inextricably intertwined with the capitalism / communism split) behind the marginalization of economic rights. That force is the dominant (orthodox) economic analysis and economic policy. The analytical framework of orthodox economics has historically been a very exclusive and narrow discourse based on highly restrictive assumptions about human nature, the good life, the good society and the structures that must be created to ensure the optimal operations of that society. Within this framework discussions of economic and social rights have been ignored, marginalized or otherwise subsumed under narrow discussion of efficiency, productivity, economic liberty, property rights and corporate rights.

As pointed out by Alfred Marshall, one of the fathers of contemporary neoclassical economics, economics is one of "two great forming agencies in world history" (the other is religion). Thus it is important to recognize that economic ideology (and it is an ideology!) has played, and will continue to play, a crucially important role in the slow progress of creating and maintaining an enabling environment for the further development of economic and social rights. Economic analysis implicitly and explicitly through economic policy has a pervasive influence on government's and civil society's thinking and ability to push for the implementation of effective remedies for the violations of social and economic rights.

It is also important to be cognizant of the fact that civil and political rights and the status that they have achieved today, notwithstanding or minimizing the hard work of human rights activities, human rights lawyers and advocates, had a supporting environment in the form of liberal democracy and market ideals. Economic and social rights did not; and may in fact face a formidable opponent in the form of neoliberal economics which eschews all discussion about economic and social rights and over emphasize the "rightness" of market outcome and efficiency.

It is therefore critically important that advocates of economic and social rights recognize that full development and realization of economic and social rights while retaining some of the strategies utilized in the development of civil and political rights will require new and creative tactics and strategies. Such tactics and strategies will require a much more multidisciplinary, and cross-organizing approach than hitherto for utilized by the human rights movement. It must also actively encroach on and push the boundaries of economic thinking just as it must consider and push for gender sensitive and gendered approaches to these issues. This may mean critically examining and calling into questions such things as

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the economic ideology and values that underlies the policy prescriptions of the International Monetary Fund, the World Bank, and the World Trade Organization, three agencies that have significant and undue influence on the full realization of economic and social rights. Indeed they are critically important for ensuring an enabling environment that will foster the growth of economic and social rights.

To this end, the rest of this brief paper attempts to highlight the relevant conceptual and operational framework in economic thinking that must be challenged in order to move economic and social rights to center stage. It ends with a schematic outline of possibilities towards a rights based approach to economics.

## **I. Economics as a Value Laden Discourse and its Impact for the Progression of ESC Rights discourse**

We can begin our journey by posing the following three guiding questions: 1) Does economics recognize the concept of economic and social rights? Or of economic justice? 2) How are these issues dealt with among professional economists? 3) What is the scope for a rights-based approach to economic analysis and policy?

The first thing to note is that there are differences among economists. Economists differ in terms of their beliefs about: What is a good life? What is a good society? How it is achieved and maintained? At the most general and crude level of distinctions there are radical economists, liberal economists and conservative economists. Within this divide there are also feminist economists who may also belong to one or the other orientation. Each of these economic schools of thought have their own working assumptions about human nature, what the economy is for and how it should be organized and what the function of government should or should not be. Hence to varying degrees, different economists may or may not accept the concept of economic rights as it is expressed in the human rights context. Some economists who are social economists or who support the classical tradition of economic operate from the philosophical basis that the economy has an obligation to meet people's basic needs. Others may strongly disagree with this formulation. To pursue this thread further lets briefly delve into the underlying philosophy of the dominant economic theory - neoclassical economics which is also the root of neoliberal economic paradigm/policies.

### **Foundations of Neoclassical Economics**

The reigning philosophy behind contemporary neoliberal economics both in its microeconomic and its macroeconomic formulation is utilitarianism. Utilitarianism is also the philosophical basis of most current methods of appraisal of government decision-making. Utilitarianism which developed in eighteenth century Britain focuses on outcomes not process (Nueberger 1993 and Hill and Jonish 1993). Outcomes are assessed in terms of utility, as opposed to functioning, (Nueberger 1993). The argument is that people want to maximize utility (pleasure) and minimize pain. [Today economics speak in terms of satisfaction or choice theory.] It argues that individual preferences or tastes are key to rationale choice. Thus utilitarianism gave rise to a theory of value- marginal analysis which fundamentally eschews considerations of "rights" or freedom except those that are predisposed to the market.

Marginal analysis which dominates economic discourse differs greatly from the theory of value utilized by early economists (the classical school) such as Adam Smith and Karl Marx who emphasized the value of human labor and a morality of economics that argues in favor of securing basic livelihood. This framework quite easily lends itself to discussions of ethics, fairness and economic rights in the sense of the human rights discourse. However, by the 19<sup>th</sup> century this theory of value was overthrown by the ascendance of neoclassical economics and its emphasis on positive economics. Today the biases of so-called positive economics, as expressed in the neoliberal economic paradigm, includes: a mistrust of government actions, emphasis on market determined outcome, the predominance of a rational economic man, the dominance of efficiency over equality, laissez faire in the domestic economy and free trade internationally (Neuberger, 1993).

So-called normative questions are left to a field in economics called welfare economics, the mainstream of which not surprisingly does not examine issues of economic rights or economic justice but rather focuses its attention on the single-minded pursuit of "the search for the scientific basis of evaluating government economic policy (Neuberger 1993)." Thus the main concern is not about fundamental human issues of survival: poverty, unemployment, discrimination, gender inequality and exploitation, but rather on mathematical theorems of market behavior. According to Neuberger (1993), the corner stones of welfare economics are pareto optimality and pareto improvement. A pareto improvement occurs when "a change in circumstance which improves the welfare of at least one person while the welfare of no one else declines" takes place. Pareto optimality is when no pareto improvement is possible (Neuberger 1993).

Thus pareto optimality becomes a key criterion for assessing fairness and justice in economics. It is therefore a critical stumbling block in the path of economic and social rights since relying on this criterion would a priori preclude most activities of government to promote, fulfill and protect economic and social rights. As noted by Neuberger, given the original distribution of resources (land, labor, capital and entrepreneurial ability) it may be impossible to make others better off without reducing the benefit of some others in society. As a result, neoclassical economists are biased against government redistribution of resources which is fundamental to the implementation of economic and social rights. Likewise, these economists tend to be biased towards growth as the mechanism for society to improve the lot of the impoverished. More growth, it is argued, would trickle down to the poor and hence there is no need to tamper with original distribution, or with the status quo.

### **The Keynesian Revolution and Economic and Social Rights**

In the 1930's this neoclassical legacy was challenged by J.M. Keynes giving rise to the development of macroeconomics and the legitimization of the role of government to stabilize the economy as well as perform a redistributive function by providing a certain level of social welfare to cover market failures (i.e. minimum wage and unemployment compensation, social security, government spending on public (non-market) goods, etc.) Keynes provided the theoretical basis for the welfare state and the commitment to full employment.

The Keynesian (liberal economics) ascendancy led to over forty years of macroeconomic fine-tuning of the economy through a broad array of fiscal and monetary policy tools. It is therefore not surprising that it was during this period that the Human Rights Declaration was

created and subsequent covenants established<sup>2</sup>. Though not perfect, especially with regard to gender and the social and economic condition of women, and the lack of recognition of the importance of countries of the South to the living standards of workers and business in the North, the Keynesian revolution nevertheless provided an enabling environment in which it was legitimate and possible to promote and implement anti-poverty and human development programs.

Though Keynesian theory did not use the rights language, it had a fundamental predisposition towards establishing institutions and policy apparatus that would provide the necessary grounding for the promotion, protection and fulfillment of economic and social rights.

### **The Reassertion of Neoclassical Economics: The Neoliberal Paradigm and Economic and Social Rights**

Just as the great depression and its fallout proved too great a challenge for neoclassical economics and provided the way for a new way of thinking in economic theory (Keynesian analysis), in the 1970's Keynesian economics was faced with a challenge that overcame it: inflation and stagnation. This led to the resurgence of neoclassical thinking. In the 1980's the market reasserted itself, and as we know, the welfare state was abandoned in some places and is quietly being dismantled in others. So today neoliberal economics brings us back to the crude economics of the 19<sup>th</sup> century: the market predominates, corporate rights are the yardstick against which all else is measured, the natural rate of unemployment is used to justify unemployment, and issues of efficiency predominates over equality.

This "polarization between efficiency and equity" accepts the initial distribution of resources and believes that the market generates an optimal distribution of resources and capabilities (Neuberger 1993). It is biased towards individual freedom, holds fervently to a "pecuniary" version of economic freedom, and the unquestioned benefits of specialization. In practice, corporate rights are apparently valued over human life, and there is very little respect for human dignity. There is also an unwillingness to acknowledge that there might be untoward consequences associated with its single-minded focus on market forces. This is in spite of numerous calls for greater attention to social impacts. [One such strong voice which was immediately attacked and then quietly neglected was the U. S. Roman Catholic Bishops who in their pastoral letter on the U. S. Economy (but which is also applicable to most other economies now jumping on the neoliberal bandwagon) noted that the negative consequences of over-reliance on specialization and maximization of output (as opposed to workers welfare and dignity) are: social fragmentation, devaluing of labor and unavailability of meaningful work at decent wages, poverty and environmental degradation.]

## **II. Alternative Challenges to Economics and Support for Economic and Social Rights**

This narrow, crude and vulgar economics, which appears to dominate all aspects of life in its exclusivity, would appear to leave no basis or framework for justice, fairness or economic

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<sup>2</sup> This is a simplification. I am well aware that the contemporary International Bill of Human Rights was developed in the shadow of the Holocaust, the history of what Marek Piechowiak calls "state lawlessness", and a legacy of the American and French Revolutions, and natural law from Judeo-Christian ethics and morality. (see Piechowiak's "What are human Rights" in Hanski and Suksi 1997, p.3-14; and also "Our Human Rights: A Manual for Women's Rights" for a summary treatment of the logical and natural antecedents of the human rights system.)

and social rights. Fortunately the story does not end here. As pointed out by Veblen, (quoted in Scaperlanda 1990, p.121) economics dialogue is a language discourse and contrary to popular misconception it is "never devoid of ideology and value." As discussed above and noted by Scaperlanda (1990 p.121), "economics has both a philosophical and theological antecedent so even though, in the words of Veblen, "the attitude underlying neoclassical (neoliberal economics) is the morality of the pecuniary competition" because it is a discourse it can be changed." Furthermore, within economic discipline there is a long tradition of respect for dignity, solidarity and justice which has been kept outside the mainstream for the last ten years or so. This tradition goes back to Smith, Marx and Keynes and even to Alfred Marshall, who supported full employment as a priority, as well as the elimination of poverty, minimum wage and human development (Scaperlanda, p.116).

This tradition has been nurtured by social economists, institutional economists, radical economists and feminist economists. Today many of these economists are reexamining and attacking the traditional biases of neoclassical (neoliberal) economics such as *caveat emptor*, productivity, efficiency, maximization of output versus welfare of workers, competition, dominance of capital at expense of labor, qualitative differentiation of labor from capital (Scaperlanda p.115); and the idea that market forces will not always yield the institutional adjustments that are necessary to guarantee the minimum economic conditions to ensure economic dignity (Scaperaeland p.14).

Economists are also questioning the use of "consumer sovereignty as the justification for the marketing" and production of goods and services as well as raising the veil from the free market as the mechanism for controlling the use of resources. They are also placing the issues of private ownership versus the quality of private ownership and private decision-making versus the quality of private decision-making on the discussion table (Byron, p.312). In line with this and coupled with the U.S. Catholic Bishops call for productivity to take into account employment levels, the environment and the sense of community, many economists such as Williams (1994) are re-conceptualizing productivity, efficiency, production function etc., towards an alternative framework which places women's unpaid work at the center of the analysis and which is compatible with economic and social rights and a broader view of economic justice.

### **III. The Way Forward: Towards a Rights Based Approach to Economic Analysis and Policy**

Thus as we move forward the goal is to make modern economics compatible with economic justice and Economic Social Rights. This will require greater attention to economic justice, which means different things to different people. Very crudely, economic justice is concerned with the "just allocation of the benefits derived from economic resources". It is concerned with men's and women's abilities to utilize their capabilities to realize their self potential while recognizing that men's and women's abilities to utilize their capabilities depend on access to resources, entitlements, accountability and equality of opportunities (Scaperlanda 1990 and Bryon, 1982). Economic justice emphasizes the dignity and self-respect of men and women. It believes that economic structures should be founded on the principle of justice which has three dimensions: commutative justice<sup>3</sup>, distributive justice and social.<sup>4</sup>

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<sup>3</sup> Commutative justice: fairness in all agreement and exchanges; distributive: allocation of income, wealth and power; and social justice: obligations to be active/productive participants in society.

Fundamentally economic justice is concerned with the distribution of economic goods and services. It is both process and outcome oriented (as opposed to positive economics which is focused primarily on outcome) and stresses the importance of an egalitarian outcome. Economic justice argues in favor of a just economy which provides equal access to primary goods and services versus an efficient economy constructed on unfair tax burden, and inequality of income. It is formulated outside of individual preference and is determined by exogenous factors such as religion, politics and ideology. Within this framework government intervention is not only desirable but necessary.

Contrary to the above view, is the conservative economic thinking (neoliberal economics) about economic justice/freedom which is based on a libertarian conception of distributive justice, prizes and privileges, the right to social and economic liberty of individual free choice and procedural justice. In this framework the state plays a night watchman role of simply protecting a narrowly defined set of (mostly property) and corporate rights. It does not play a distributive function. Other conservatives within this tradition may appeal to a utilitarian notion of distributive justice that relies totally on the free market to maximize utility, allocate resources and distributes rewards.

Building on the egalitarian view of economic justice sketched above we can begin to construct a comprehensive gendered and alternative economic framework for economic justice and economic and social rights. Key to this is the inclusion of all of the aspects of justice (commutative, distributive and social justice) centered in gender analysis which examines gender inequality, gender bias and rigorous attention to unpaid work. It must also explicitly examine class and racial dynamics.

Some of this work is already underway. For example, Leslie Armour (1994) places commutative justice central to economic justice. He argues that economic justice is commutative justice which provides for human dignity, fair exchange and the participation of everyone who wants to participate. Thus everyone can participate in the economy on a term according to her /his talents and the economy provides adequately for everyone's integrity as moral agents.

For Armour, commutative justice is preferable as the principle of economic justice rather than the more popular distributive justice. This is because distributive justice which is "attained when the inequality of distribution matches the inequality of merit" is too narrowly based on each person receiving his just dessert. The problem is that, in the first instance, it assumes that people only want possessions. But, as pointed out by Armour, people may want certain kinds of freedom of action, freedom to achieve and maintain certain experiences. In the second instance, it presupposes that we know what 'just dessert' is or what merit is. Conventional wisdom would let the market determine what is a fair distribution based on some notion of economic merit which is assessed in terms of value-added, or productivity. But who or what determines these criteria and are these value-neutral? In practice, they are not but are in fact determined by class, gender, and racial dynamics, despite the misconception of scientific and technical neutrality.

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<sup>4</sup> See also: Catholic social teaching in 1891 Rerum Novarum (on the conditions of workers); 1981 Papal Encyclical Laborem Exercens (on Human work); and U.S. Catholic Bishop pastoral on the economy which are discussed more fully in Scaperlanda, p111-117.

A third problem with distributive justice as the sole basis for economic justice is that it treats people as fixed points even though the economic system has fluid properties. For example, the movement of money and capital can quickly alter one's status from an equitable situation to a less equitable one (a point made by Armour, p.34.) So, the movement of money and capital has important implications for economic justice based on distributive justice or commutative justice. But the latter is preferable to the former since it leaves wider scope for managing questions of equity and economic and social rights.

This third problem is quite important because the movement of money and capital have significant implications for government's ability to manage the economy and move it towards social ends. As we are now acutely aware the indebtedness of government, whether to external forces, as in the case of Southern Economies, or to internal forces (high budget deficit), heightens governments' vulnerability to the international capital and money markets. In the case of the South high external debts have created the debt problem resulting in the regime of Structural Adjustment Programs (SAPs) administered by the IMF and the World Bank. These programs have straitjacketed governments and block their ability to provide meaningful social welfare programs to meet the needs of the most vulnerable in society. To a certain extent SAPs have led not only to governments inability to protect, promote and fulfill social and economic rights but may itself violate these rights.

Likewise, in Northern economies, the fluidity of money (hypermobile capital) constrains government's ability to maintain social programs as they must be ready to meet the discipline enforced by financial and capital markets which rule the trillion dollar a day foreign exchange market.

As events in Southeast Asia are proving "one's just or unjust share in the system can be obliterated overnight' by currency speculation, IMF prescription and or trade policy."

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