
MARKET INTERVENTION AND HUMAN RIGHTS

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ABSTRACT

Today human rights are often described in terms of the rule of law, constitutionalism, civil liberties, constitutional rights, and fundamental rights. This paper aims to understand the responsibility of a government to intervene into markets to answer the calls for justice and sustainability. The requires a theory of economic welfare connected to the faith in fundamental human rights. One such social theory of economic welfare is provided by Karl Polanyi who calls for government intervention into the market to compliment the market's self-interest – something he calls a “double movement.” Amartya Sen also criticized one-sidedness understanding of economics contending that it violates the two roots of economics in both, engineering and ethics. This paper will show that government intervention into markets is not just acceptable according to a formalist economic theory, but also necessary as a preservation of fundamental human rights, and to protect justice and sustainability in economic and social advancement.

Keywords: Human rights, government intervention, economic welfare, justice

Introduction

Our faith in fundamental human rights cannot be dissociated from economic theory. There is also the responsibility of the government intervention into markets known as economic intervention. The 30 articles of the Universal Declaration of Human Rights (UDHR) refer to the civil, political, economic, social and cultural rights of the people. Therefore, the UDHR is considered as a milestone document in history in which the protection of human rights is closely related to the concrete problems in the domain of economic welfare.

Critical analysis of economic welfare presupposes an understanding of the nature of economy which in the time of the ancient Greeks was called *oikonomia* and *chrematistik*. The former embraces chiefly wealth consumption in the satisfaction of the households. The latter deals with exchange in wealth-getting thus necessitates justice and sustainability. The rise of social contract theories in 17th to 18th centuries involved a speculation concerning the state of nature of a war of all against all (*bellum omnium contra omnes*). This hypothetical condition was created to pave the way for a theory of the state to emerge. One can hypothetically state that in the lawless condition the strong will rule over the weak and the rich will control over the poor. As a consequence, there is an increasing inequality. Critical social theorists tried to resolve this inequality in the state of nature by theorizing a social contract aimed at organizing human beings in a community of law and order known as *civitas* or society or simply the state in modern sense. This state of law and order was designed to mirror the city-state or *polis* in the ancient Greeks.

The development of the idea of the social contract and natural rights occurred during the 17th and 18th centuries with Hobbes, Locke and Rousseau. Although these social contract theorists had different interpretations of the nature of the social contract they all contributed to the underlying idea that human beings are born free and equal in dignity and rights. The power of the state has the responsibility to protect these fundamental rights because these rights justify the reason for the state's coming into existence. But the question is what if the state fails

in protecting fundamental human rights? Are there indicators to measure the conduct of the state regarding fundamental human rights, and can one evaluate the liability of the state to intervene into the problems that threaten human rights?

The inequality of income is placed at the top of the list of fundamental human rights violations in 2017. This reflects both the cause and the results of human rights violations in the field of economic welfare. The main cause of inequality of income is conditioned by the economic situation where the top 1% of the world's population now owns more than everyone else put together. For example, in the United States of America (USA), the top 1% of the population secured over half of all income growth since the 2008-2009 financial crises. The result of this is an inequality which erodes labor rights, increases discrimination, and raises barriers to political participation, and threatens the protection of human rights. Economic inequality of income impacts human rights in Indonesia in the form of terror, freedom of religion, women's and girls' rights, children's rights, disability rights, etc.

Michael E. Porter, a professor in Harvard Business School points out that business prosperity requires a healthy community. For a business to gain prosperity it should comply with community standards. Good business integrates societal improvement into economic value creation. By shared value, Porter refers to business that creates economic value by creating societal value, using capitalism to address social problems, and resolving social problems. Porter's point is that creating shared values in business requires being able to include the societal values of the community. But in the real world, communities where corporations actually operate, vary in terms of cultures and religions of the people, and often involve conflicts in value within the communities and against the claims of the corporations. Alasdair MacIntyre in his book *After Virtue* presents a challenge to the believers in the universal human rights when he questions whether there can be a moral consensus generated on basis of an ideal rationality, and whether there is a common historical narrative. This was the mistake of the enlightenment project which reduced truth

claims to an ideal rationality. His book *Whose Justice? Which Rationality* was written in response to an epistemic crisis in which truth claims must be understood historically in rival traditions.

Samuel Huntington, in his provocative book *The Clash of Civilizations*, hypothesized that the imposition of one's view over another ends up in social conflicts because people use their cultural and religious traditions as their guiding principles. Today we witness cultural and religious conflicts almost all over the world. Most of them arise in multicultural societies. In contrast, global market and politics tend to end the diversity of cultures and religions and regard human beings as members of a market society under a universal law of freedom. Francis Fukuyama in his book *The End of History and the Last Man* called for a universal law of freedom to unite all nations into one polity. Democracy, for him, is a universal form of world politics. The problem is the concept of human rights in Western constitutionalism paves the way for neo-liberalist proponents of the self-interested market to enforce an ideal rationality of individual freedom, while ignoring practical rationality based on cultural and religious beliefs in rival traditions. Actual rival traditions can split apart when one is trying to impose the one-sidedness of a truth claim over others. But they can also be integrated through shared and analogous values in dialogues.

MacIntyre's main point is to articulate a politics of self-defense for local communities that aspires to protect their practices and sustain their way of life from corrosive effects of capitalist economy, while allowing cultural and religious traditions by recourse to practical rationality where mutual recognition among cultures and religions can be achieved. The question is how justify government intervention into markets in support of fundamental human rights? The answer is to consider economic welfare as the combination of private and public wealth. This involves the recognition of a plurality of traditions which have rival and largely incompatible forms of practical rationality

Theory of Economic Welfare

The theory of economic welfare refers to the level of prosperity and quality of living standards that help improve economic wellbeing of the people. Economic welfare is measured through a variety of factors such as real income, real Gross Domestic Products (GDP) and other indicators. This creates difficulties in measuring economic welfare. For examples, there are difficulties in measuring living standards due to Purchasing Power Parity (PPP) compared to neighbor countries. There are economic activities that cannot be measured such as black markets. The externalities resulting from growth often lead to decline in living standards. Poverty can be widespread even though the country may have high GNP per capita. There are intangible factors, such as literacy and access to education. Economic welfare is basically referred to the quality of life. Such factors which lead to the quality of life often cannot be made available by the people themselves. This often requires government intervention. This is especially important because economic policies and programs are necessary due to the problem of justice and sustainability mainly to those who are the least-advantaged.

Karl Polanyi's economic welfare theory can be used to deal with the problem of dis-embedding the market economy from society. The capitalist market tends to develop only in the self-interest of capitalist private economic institutions. The advance of this socially dis-embedded economy must be countered by economic policies and programs that respect the well-being of the people. Government intervention may affect inefficient markets at the same time promote justice and sustainability as the main task of the government. This is what he called a "double movement." The liability of the government intervention is considered a social responsibility to maintain justice and sustainability, and which supports fundamental human rights.

The methodology used by Polanyi in bringing his theory of economic welfare is radically different from conventional methodologies aiming at renewal of capitalist market into a social market. Polanyi's argument is that the social, political and economic spheres of human

existence are deeply interlinked and cannot be analyzed in isolation. Polanyi uses historical analysis to understand the emergence of industrial society and the influence of science and technology on economic behavior. Through historical analysis of social context, Polanyi arrives at an understanding of the economy as a kind of functioning for greater good for the whole society. This insight is historically embedded in both praxis and theory since Plato and Aristotle in the ancient Greeks. The notion of the greater good for the whole society implies in the task of the government is to protect justice and sustainability in economic affairs in order to be consistent with democratic system in seeking the well-being of all members of the society. Faith in fundamental human rights is concrete because it is about well-being that is the fulfillment of economic, political, and ecological necessities that can only be realized through and within the state. The importance of history in analyzing economic conditions is based on Hegel's idea that history realizes the principle of rational freedom in the world through the mechanism of human history. Thus, history is shaped by larger forces which leads it to the realization of greater freedom and rationality. History is about the concrete progress of human beings in relation to economy, politics, and ecology.

In his book *On Economics*, Amartya Sen, a 1998 Nobel Prize winner in economics sciences points the way to further analysis of more specific notion of economic welfare implied in the term economics itself. Economics was for a long time seen as a branch of ethics. For ethics is about doing the right thing then economics is understood as a discipline that can help us answer the question how to do the right things in dealing with scarcity of resources in order to increase well-being of individuals and that of the whole society. Thus economics is not limited to its service to the accumulation of money and the stock market. Economics is about answering Socratic question, how should one live? It is not about *having* but about *well-being*. Wealth is not abstract but concrete in the sense of fulfilling human ends requiring understanding of the two origins of economics, both engineering and ethics. Based on understanding of the two origins of economics, engineering and ethics can be used in advancing the

greater good for man as a political animal. Engineering relates to science and technology that we develop, while ethics relates to norms and values to what extent we are to abstain from self-interest. Both engineering and ethics are part of politics in which man as individual, social, and natural being relates to family, community, society, and ecology. Therefore, economic welfare necessitates freedom and justice to be sustained in a community of beings. From this point, the government intervention into markets is necessary to safeguard justice and sustainability as faith in fundamental human rights.

The methodology used by Sen in his theory of economic welfare is to harken back to the ancient Greek theory of the social market to understand the present condition of the self-interest markets. By analyzing the previous historical developments in economic praxis and theories, Sen comes to distinguish rationality as *consistency in choice* and rationality as *maximization of self-interest*. One is no better than the other since they are complimentary. Rationality as consistency maybe unjust while self-interest can lead to selfishness. We need to be consistent to be fair while fairness does not exclude caring for oneself. Dilemmas in decision-making requires Aristotle's idea of prudence which allows decision-maker to avoid danger or risk. It is the cardinal virtue that, according to Aristotle, rightly directs particular human acts. Therefore, history presents the insight of substantive ethics in seeking economic well-being as something worthwhile for the whole community. It seeks to address the Socratic question concerning "how should I live?" In seeing economics as a combination of engineering and ethics, Sen finally stresses that economic welfare can be substantially enriched, in a predictive economics or a descriptive economics, only if by paying more attention to ethics.

Discussion

1. Shapes of Faith in Fundamental Human Rights

The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at

the *Palais de Chaillot* in Paris, France. The Declaration emerged directly from the experience of the two world wars. The declaration consists of 30 articles that have been elaborated into international treaties, economic transfers, regional human rights instruments, national constitutions, and other laws. This is known as the International Bill of Human Rights which consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, and the International Covenant on Civil and Political Rights. They are offered as International Instruments by the United Nations aiming at protecting succeeding generations from war that will bring untold sorrows to mankind. All of these will be of help to a variety of readers who are specialists in political science, international relations, law and ethics in promoting justice and sustainability in economic and social advancement.

The aim of UDHR is first to reaffirm faith in fundamental human rights, in the dignity and worth of human person, in equal rights of men and women. Second, it is established to promote justice and respect for the obligations that arise from treaties and other sources of international law. Third, it is used to promote social progress and better standards of life in relation to human freedom. The significance of having faith in fundamental human rights is mainly to guide practice of tolerance and living together in peace with one another as good neighbors. It follows that in practice of tolerance we may be united to work together to maintain international peace and security. The result of tolerance and solidarity is to make international machinery for the promotion of economic and social advancement of all peoples work.

2. The History of Human Rights

Most declarations of human rights emerged in times of social conflict. The United Kingdom's Bill of Rights was created in 1688 after a revolution demanding the Crown and Parliament in order to create an equitable demarcation of powers. This has come to have universal significance influencing the formulation of France's Declaration of the Rights of Man and Citizens in 1789, the United States' Bill of Rights in

1791, and the Union of Soviet Socialist Republics' Constitution in 1936. The United Nations' Universal Declaration of Human Rights in 1948 followed these earlier pioneering efforts.

The English Bill of Rights rested on the parliamentary supremacy but later it inspired more sophisticated development of human rights present in the constitutions of many countries today. The basic elements of human rights written into a constitution consists of the civic liberties that allow man to live in freedom and equality upon public utility, opinion, and assembly to do whatever as long as it does not injure another or is not prohibited by the law. It means that no one shall be accused, arrested, and imprisoned on presumption of guilt. They must be presumed innocent until the time they are proven guilty. In a constitutional state, freedom to worship, speech, assembly, and petition to the government for a redress of grievances are recognized by the law. We witness that in a country that suffers from poverty and illiteracy, access to justice is very limited.

Economic inequality hinders the ability of the the least-advantaged people in society to seek justice. It erodes labor rights, leads to discrimination, and limits political participation. These problems require economic policies and government intervention. To bring equality in economic welfare into existence the government must assess through the history of economics that the greater good in economic welfare comprises both, private and public wealth. Only by economic intervention into markets can governments reliably unite corporations and civil society to achieve economic change for a greater good.

3. Insights as the Knowledge of Being

Plato's economic theory of the division of labor in the *Republic* considered justice and sustainability as the maintenance of politics in a city-state called *polis*. For Aristotle, the concept of economic welfare involved both the household management of wealth and the mutual respect of citizens under the rule of law. For one to become a good citizen required training to be mature in virtues to act according to his nature as both rational and social being. Being both rational and social

are complementary elements of intellectual virtue and important in the formation of the young. His virtue ethics holds that human beings always act in order to obtain that which they think is good. Therefore, the state or political community possess the highest degree of the good and should be the highest aim.

The rise of the *civitas* in European societies was considered the beginning of modern civilization that has begun in the Middle Ages (from 5th century to 15th century), passed through Renaissance in the early modernity and reached its culmination in 17th and 18th centuries wherein social contract theories come into existence. T. Hobbes' *Leviathan* was first published in 1651 at the end of the collapse of feudal system in 16th century in which mercantilist economy took the lead in economic system mostly in England and physiocratism was developed in France. They both were made up into free market economic theory and *hitherto* supported by positive sciences brought to European societies by political revolutions in England, France, the USA *inter alia* the Copernican scientific revolution in 17th century and the great transformation caused by industrial revolution in 19th century. By the end of mercantilism, development of capitalist markets in 18th -20th centuries were challenged by socialism developed by the Marxist tradition with a goal to end the capitalist class society into a classless society. To this point, democratization in politics appeared to remove the one-sidedness of capitalist self-interest with social interest of socialism to reconciled both individual liberty and social responsibility into a form of democratic form of a welfare state.

Increasing inequality in many countries has become a problem that requires government intervention to create conditions for human rights in a concrete sense. The liability of the government to intervene into markets has been defended since the Great Recession in 1932 to 1933 in the USA. It led Keynes to argue for government intervention to enhance the well-being of the people. This was subsequently rejected by neo-liberalists. They believed that intervention into the market would harm and violate basic rights of human beings to seek their individual self-interest. Robert Shiller, a Nobel laureate in economics, shows that

after the experience of the Great Depression in 1932-1933, and the Great Recession in the USA in 2007-2009. There is now some acceptance in Keynes' ideas concerning economic intervention. Although the world's major banks have kept short-term interest rates at near zero levels we have seen in this government intervention the greater good that results from economic intervention actually protect economic welfare for all as shown in graph below.

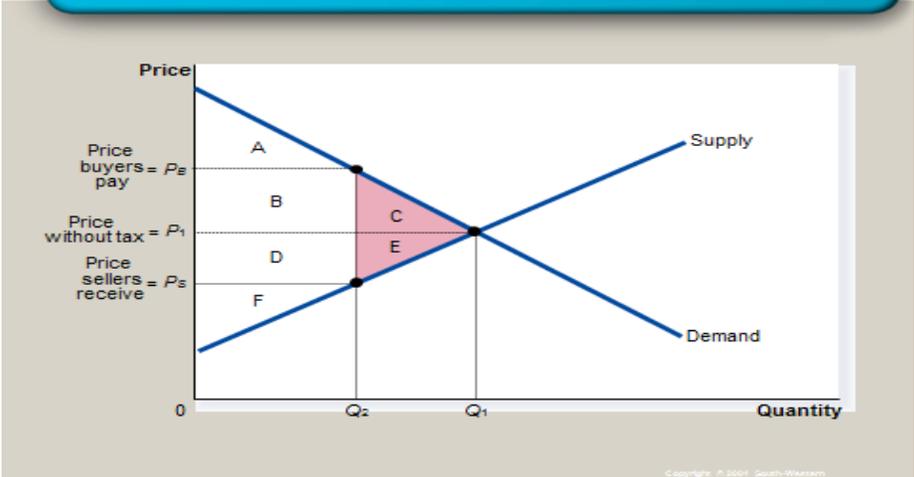


Sweden is a proof of the viability of a state-oriented economic welfare system. The increasing equality has been made by the country as one of the world's most compressed income distributions.

One can see the rise of the welfare state from an economic policy that calls for defending justice and sustainability rather than seeing it from a diehard position of fighting taken by either capitalism or socialism. The decline of socialism in the 20th century was seen by neo-liberalist proponents as proof that nationalizing the means of production, distribution, and exchange to serve some ideal of social justice was a failure. The real battlefield of today is recovering the idea economic welfare in respect to freedom, justice and sustainability against the emphasis on efficiency and profit for self-interest. Pareto's theory of an optimal equilibrium leads to efficiency but not justice and sustainability. Only through some form of economic intervention can justice and sustainability be achieved

which serves fundamental human rights. Although economic intervention impacts efficiency, it does not promote economic and social advancement in the long run. Sometimes the acceptance of a loss is justified for the greater long-term good..

How a Tax Effects Welfare



Conclusion

An economic theory that fits the idea of economic welfare goes back to the ancient Greek theory of social market economy and continues in the insights of both Karl Polanyi’s theory of double movement and Amartya Sen’s theory of two origins of economics both engineering and ethics.

This double movement is an ethical imperative requiring active intervention by the government as a corrective to the dis-embedding of private from public wealth. It has a dual function that is reflected in the very idea of economics. Sen refers to formal economics or the science of economics that necessitates scientific and skilled training to allow it to serve the whole of society. This means we should not neglect the importance of ethics. Through ethics, economics is directed to the service of people’s need for food, shelter, education etc. in concrete manifestations of the knowledge of well-being.

ENDNOTES

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