

ECONOMIC JUSTICE AND MARKET ECONOMY: A REMARK ON HAYEK'S POSITION ON SOCIAL JUSTICE

Andre Ata Ujan

Atma Jaya Catholic University, Indonesia

Abstract

Is social justice or economic justice a utopia? This would be one of the questions that anyone might immediately raise as he/she reads Friedrich August von Hayek's position on the idea of social or economic justice. As a classic liberal thinker, Hayek believed that free market is the ideal economic system for it in nature promotes freedom and equality in free and open societies. Is Hayek's defense of free market economy sufficiently convincing to eliminate any room for social or economic justice to take place? In this essay I want to argue that there is actually no free market in a pure sense. Market is in fact not entirely free from selfish interests potentially developed by market players themselves in doing business. It is therefore not entirely reasonable to see market as purely spontaneous and independent entity. Since it is in fact open for selfish interest, its outcomes can be just or unjust. Free competition prompted systematically by free market system, therefore, could risk human life prospect. For this reason, state's intervention to a certain extent is necessary to prevent market competition from endangering citizens' basic right to enjoy a decent life. State's intervention is, therefore, important for it is necessary to secure social or economic justice. Social or economic justice is of course an ideal but not necessarily a utopia in a radical sense. Taking the unfortunates' quality of life as the benchmark in designing and enacting economic policies, social or economic justice might be, at least partially, realized. John Rawls' idea of maximin rule or maximin strategy can pave the way for the realization of such ideal that every civilized person or society is essentially ever craving to.

INTRODUCTION

From an ethical perspective, a central issue in economics is that of economic justice, which is popularly termed social justice. This issue has become important since it is threatened by the pragmatism connected to the promotion of free market economy. There is a shared conviction among its proponents that a free market economy is the most viable economic system for everyone to pursue his/her economic interests. It however, at the same time, tends to enlarge the socio-economic chasm between the rich and the poor. While we must acknowledge that the free market has contributed to our modern societies, it must also be acknowledged that it has brought with it negative externalities. It has often burdened the less fortunate, particularly among developing countries.¹ Supported by the ideology of neo-liberalism, the inequalities of the free market will increase. This continues until all aspects of human life are under the control of economic hegemony. Freedom in free market economy is, therefore, paradoxical in nature. On one hand, it has become a precondition necessary to promote human development, particularly, in terms of economic prosperity. However, on the other hand, it creates a continuous expansion of social disparity. Hence, promoting social or economic justice is a task that every civilized society has a moral responsibility to address. Friedrich August von Hayek (1899-1992), however, stands in opposition to this common concern. Hayek believes that the struggle for economic or social justice leads to state intervention, and ultimately to authoritarianism, which in turn would diminish individual freedom.

Social justice, according to Hayek, is an illusion. The market is a spontaneous, independent, and impersonal order. It is therefore unreasonable to take social justice to be the standard to evaluate the market. But this position, regardless of how sound it might seem, must not be taken-for-granted. I would argue in this essay, instead, that the free market is not as spontaneous and independent as Hayek has in his mind. The free market is not entirely free from selfish interests and, hence, its results can lead to grave injustice.

I would like to show that government's regulation on markets, which, to a certain extent, functions to confine economic freedom, must not be understood and viewed simply as the reflection of freedom in-

fringement. An intelligent and prudent regulation is necessary to ensure everyone's right to economic gain, in particular, and human well-being, in general. To such an end, this paper begins with a short elaboration of Hayek's view of social justice and his idea of the nature of free market economy. To be fair to Hayek, a careful assessment of his contributions to the theory of the free market and social justice will be necessary. This might help us see both the insights and the blind spots of Hayek's conception about free market and social justice. At the end of this essay, an alternative position will be offered to demonstrate that creating and promoting social or economic justice is still possible and this can be done without necessarily violating individual freedom.

SOCIAL JUSTICE IN MARKET ECONOMY

1. Freedom, General Welfare, and Abstract Rules

Among social philosophers, Hayek has been extensively recognized the prominent defendant of the system of *laissez faire* economics. He has been known for his strong criticisms of the state's interventions on markets. His observation of political practices leads him to emphasize that the state's intervention is commonly applied in the form of enforcing models of distribution, which is deliberately designed to create redistribution of wealth and ownership. The state's intervention according to Hayek is likely to generate negative impacts on human civilization since it is by nature a violation of personal freedom; it even promotes and creates authoritarian politics.² The politics of centralized policy taken to control market, Hayek believes, would prompt unfair wealth redistribution for it simply gives advantages to those who avoid assuming real responsibility for the society and, at the same time, disadvantages those who in fact contribute to society. Wealth redistribution simply gives a *free ride* to those who do not deserve it, which is certainly contradictory to the principle of justice as fairness.³ To put it in another way, only those who contribute to society can have the legitimate right to benefit from it. A critical question that follows is: should we neglect those who are objectively unfortunate? Is it fair to ignore the life prospect of the unfortunate

ones simply because of their objective inability to contribute?

This is a very reasonable question to pose to Hayek. It is worth noting that Hayek himself actually rejects the idea that individual wealth and income is the end of economic policy, because the so-called general welfare is not the accumulation of individual welfare. General welfare is concerned with the question of how to create conditions that might help facilitate the satisfaction of pluralistic and unknown individual ends. In short, the state's policy has nothing to do with direct individual income. Individual interests are pluralistic in form and they may compete with one another. Therefore, the real responsibility that the state is supposed to assume is not to ensure everyone a certain amount of income or wealth, but rather to create conditions that can pave the way for every individual to pursue his/her own interests.

There are two factors supporting Hayek's position. First, ensuring individual satisfaction requires full or complete information or knowledge about individual satisfaction. This however, is hard, if not impossible, to meet even by government whose main duty is to make sure that all citizens have equal and fair opportunity to live a decent life. Hence, it is unreasonable to consider individual wealth the standard of market evaluation. Following Adam Smith, the market is subject to the *invisible hand*, i.e., market mechanism in the form of free supply and demand. The power of supply and demand determines market transactions; and nobody can exactly predict and fully know in advance the results. In other word, the market by nature operates within the condition of uncertainty. In such condition, what is necessary to work out is creating the conditions that promote favorable opportunity for everyone to satisfy his/her needs.⁴

Second, and more important, promoting individual or group interests as the target of public policy, instead of promoting social harmony, leads to conflicts resulting from competing interests. Such conflicts have become a common phenomenon in pluralistic societies since every party tends to insist upon special treatment. Justice and peace as an ultimate end disappears due to the domination of individual or group interests. Hence, to avoid potential conflict, what is important to agree on, Hayek argues, is not the *end* but rather the instrument *by* which everyone is able to pursue his/her own goals or ends. In other words, it is important to strive for creating favorable conditions that provide fair and

equal access to reduce and to reconcile various (conflicting) interests. Civilized societies, Hayek emphasizes, have developed due to the realization that human beings can live peaceful lives and be a benefit to one another without necessarily agreeing on final goals.⁵ Hayek promotes a *means-end* approach, which has become common in mainstream economics. By stressing the means-end approach as the basic character of mainstream economy, Hayek, at the same time, is inclined to see economics, borrowing from Amartya Sen, as a kind of engineering science or calculative science rather than a normative science. In Karl Polanyi's words, mainstream economy prefers to see economy primarily as formal science and, hence, ignores the genuine characteristic of economy as substantive science.⁶

Hayek does realize the impossibility of successfully reconciling various (conflicting) interests. But by giving special emphasis to a means-end approach, Hayek eliminates individual ends from the framework of socio-economic concern and encourages *openness* to develop social cooperation among members of society. In this way, Hayek, on the one hand, promotes individual freedom, because freedom is the foundation of human civilization. By anticipating potential conflicts triggered by various and pluralistic self-interests, Hayek, however, on the other hand, tries to remind us that self-interest is prone to falling into economic egoism. At this point, self-interest can put free and civilized society in a risky situation.⁷ We see here that the moral sentiments taken by Adam Smith to be the moral shield and a product of human self-control, and which prevent human beings from slipping into economic egoism, simply have no place in Hayek's idea of economic rationality.

A great society, Hayek insists, must not design its rules for the sake of a projected individual end but rather as the instrument that functions to serve various and pluralistic interests.⁸ To play that role effectively, a rule, according to Hayek, must be general and abstract in nature, and only then can a rule or law be adapted to uncertainties. To have adaptive and anticipative rules, it is important to learn from the past. This would be highly important because experience can become viable basis to predict possible future conditions and at the same time help remind us of the importance of observing the rule of law as we deal with uncertainty. A rule therefore serves as general norm in pursuing various and pluralistic

individual interests.⁹

Hayek puts special stress on and even prefers rule utilitarianism to act utilitarianism. A rule in essence functions as the guidance of individual or group behavior. It does not directly determine the type and the form of an action that human being has to do. It provides the agent with insight of how he/she should act as he/she is encountering particular problem in a real situation. Act utilitarianism is not as effective because it presumes knowledge of the agent's concrete situation and the effect of the action for both the agent him/herself and many other people. Such an approach neglects the phenomenon of ignorance, which is a condition that always exists in every decision-making process.

Since a rule is, basically, a normative guidance, it is impossible to have perfect or complete knowledge about the effect it may bring about. It can lead us to a certain action, but it does not necessarily follow that we have sufficient reason to claim with certainty in advance that a rule-based action can lead us to a definitive result. Having perfect knowledge would guarantee particular effect of particular action. Unfortunately, such situation never exists. Under the condition of uncertainty, the results of an action depend not only upon a guiding rule. It is also determined by subject's ability to adapt him/herself in a way that the prospect of the success he/she is striving for becomes more feasible to achieve. Hence, again, an appropriate rule must be in essence general and long term (rule utilitarianism) rather than particular and short term oriented (act utilitarianism).¹⁰

2. The Mirage of Social Justice

Hayek raises these arguments to question the techniques of wealth distribution that governments pursue.¹¹ Taking social justice to be the basis for wealth redistribution, Hayek asserts, is a primitive way of thinking. Hayek argues that whatever the benefits or threats that anybody could acquire through market mechanism are in nature coming out as the unintended result of the market mechanism itself. Hence, the so-called social justice is simply the direct consequence of artificial "anthropomorphism" or "personification" taken to rationalize a process and an order, which is in itself self-ordering, that is, market. Hence, demand for the satisfaction

of social justice is unreasonable. It is even an immature way of thinking because the so-called market is in essence an impersonal entity. In other words, since market is actually under nobody's control, then its resulting effects cannot be considered fair or unfair.

That is also the reason why Hayek is likely to question political movements that take social justice to be central. Adherents of liberalism and that of socialism commonly take social justice to be the justification for their political struggles. However, since market mechanism and its results are practically uncontrollable, Hayek believes, such motive must be open to critical questions. By questioning the motives of such movements, Hayek is also likely to unmask political veils, and encourage the public to be aware of the hidden motives.

Hayek doubts the possibility of engineering social justice, for our experience teaches us that the more the idea becomes public, the more impossible it is to take place. Efforts to create social justice, promoted by both liberalism and socialism, according to Hayek, would risk the very human basic values, especially the value of freedom that plays a very central role in supporting human civilization.¹² We see here that Hayek is likely to confuse social justice as an ideal with its manifestation in political and economic reality. Realizing the imperfect manifestation of the idea of social justice, Hayek comes to reject it and see it as an illusion. Hayek is so intent on defending the free market, he overly diminishes the idea of social justice. Taking such position, however, actually leads Hayek to fall into a natural fallacy, condemning a particular ideal due to its imperfect manifestation in real life. Hayek, however, ignores such an objection since he holds consistently that a discussion about the tension between social justice as an ideal and its manifestation in human real life does not make sense; such discussion, therefore, has no place in free and open societies. Many efforts have been made to pursue ideal values, especially social justice, and yet, Hayek observes, those efforts always tend to fail. Such efforts, according to Hayek, even threaten free and open societies. Socialism is the most problematic ideology with regard to its defense of social justice. The adoption of socialism, Hayek argues, simply uproots traditional values that everyone needs to develop and maintain moral values, especially personal freedom. Hence, the idea of social justice, Hayek holds, must be at odds with the culture of free market since

market in essence takes personal freedom to be the foundation upon which it grows and flourishes. But this point, it is necessary to raise the question: is there sufficient reason to hold that market order, in the name of social justice, has the authority to set up remuneration models based on performance evaluation and needs, which are actually different from one person to another?¹³

Hayek's response is "no". Hayek recognizes people's shared conviction of the validity of social justice. But he also knows that such a conviction has, supported by government's intervention, encouraged and motivated people to strive for its realization in their real life. However he emphasizes that the more people are dependent on the government for the realization of social justice, the more the people put themselves under the control of the government. This political environment leads ultimately to totalitarianism.

If market and its results, Hayek argues, are entirely controllable, then we have sufficient reason to identify certain people to be responsible for the increasingly widening gap between the rich and the poor. This interpretation, however, according to Hayek, is entirely wrong. Since the market is a spontaneous process, Hayek holds, it is absurd to say that there is injustice in market order. Blaming market as the source of social injustice, Hayek emphasizes, is unreasonable since we actually have no sufficient knowledge that justifies us to assign blame to individuals for social problems. This is only the case in a centrally planned economic system. Only in such a system can anyone assume responsibility for market negative externalities. In the system of planned economy, the market operates upon particular planned goals and therefore, the results it carries out can be said to be just or unjust. Such a planned system however is at odds with the basic ethos of free society. Planned economy potentially negates peoples' initiatives and creativity, which is the *sine qua non* condition for economic development. To put it in Hayek's words, command economy, the other label for planned economy, is a real threat to human freedom.

3. Market: A Game/Catallaxy

Following the above argument, the market cannot be just or un-

just because only human-created situation can be just or unjust.¹⁴ Justice and injustice are attributes applicable only to human intentionality based-actions and hence cannot be true for unintended actions. Justice requires particular game rules. However, since the entire process of the distribution of goods and services is entirely under the control of impersonal market, the existence of such rules is not relevant. Although human market behavior can be just or unjust, the consequences of his/her actions that may affect other people's quality of life cannot be just or unjust because the consequences a market can bring about are unpredictable.

Hayek viewed the market simply as a game. Just like a game that needs the rule of game to take place, so does the market. Rules are settled and agreed on the basis that they are needed to increase every party's opportunity to win the game. It must, however, be noted that the existence of the game rules at the same time indicates that the game itself cannot be entirely controlled by individuals or groups of individuals who participate and involve in the game. The result of the game, therefore, is not exactly predictable even by the players themselves.

Besides, in any game, the rules are not the only factor of success. Players must have good knowledge of how to play, skills to increase opportunities, and even good fortune. Since the quality of knowledge and level of skills of players are different, mere knowledge of the game rules provides no guarantee for winning. The competition, at most, is considered to be fair. However, it is unreasonable, Hayek argues, to insist that the end result of the competition be equal for every participant of the competition. The same thing, Hayek holds, is true in economy.

For the above reason Hayek prefers to call free market economy a *catallaxy*,¹⁵ that is, the phenomenon of a spontaneous order created by market agents who, on the one hand, are subjected to the same rules of game, but, on other hand, continuously try to create mutual adaptation for the sake of each own interest. A *catallaxy* become special to adopt for it accommodates various knowledge and interests, which are different from one another. In a *catallaxy*, everyone has equal opportunity to pursue his/her own interest without negating the same opportunity for others to pursue their own. This argument reveals how Hayek is so confident of taking self-interest to be the basic motive of economy. He appears to believe that free market systematically supported by self-interest as its

internal self-regulating power would not turn out to be an arena for economic egoism to flourish. It is worth noting that Hayek actually realizes the potency of conflict, which is commonly incorporated in economy-based self-interest. Hayek, however, seems to believe that there is enlightened self-interest in economic competition that serves to maintain fair economic opportunity for all. This brings him to the conclusion that market, in terms of cattaaxy, is the most efficient system because it opens the door for everyone to benefit from it. In calculative economic language, it is necessary to support free market since it is the only system in which *pareto optimality* principle could obtain.¹⁶ Viewing it from the perspective of economic advantage, it must be emphasized that the principle of *pareto optimality* can be fulfilled only if, and only if, the economic advantage of some people can be increased without at the same time decreasing the equal opportunity for others to benefit. The critical question to be raised is: should we conclusively come to the position to state that the fulfillment of *pareto optimality* principle inherently brings with it the fulfillment of everyone's right to benefit from the market? In other words, does justice immediately take place once *pareto optimality* has been fully satisfied?

Hayek, however, rejects such question since he holds that the market order is never justified on the basis of its power to create social justice. The market follows its own mechanisms. It is only the market agents' fair behavior – that is, market competition, not the market itself, which is free from fraud, monopoly, and violence – that allows for the principle of justice to flourish. Even the liberal conception of justice promoted by John Locke, according to Hayek, is based on the same conception of free competition, that is, only the way of competition can be fair or unfair; not the result of the competition itself. Hence, general rules settled to regulate market procedure can never guarantee that anyone can benefit from the market.

CRITICAL REMARKS

Some elements are worth noting. First, is there sufficient reason to believe that the social free space created by general and abstract rules

for everyone to pursue their own interests can never be misused by market agents to selfishly pursue their own interest? Should we believe that market is entirely free from economic malpractice, such as dumping, cartels, and monopolies? If there is room for market agents to misuse market opportunities, then why should the market be exempted from measures insuring justice? Hayek, it seems, fails to realize that a general rule, no matter how large the scope it may have, cannot effectively anticipate the entire possible problems that can happen in the future. Rules are limited by substance and are therefore, not fully anticipative.¹⁷ At this point moral considerations come to be forefront. Moreover, once a rule is too general in its characteristic, including the ones that regulate market, it opens the door for multi-interpretations. This would in turn give more room for abuse. If that is the case, then there is no sufficient reason for Hayek to stubbornly view the market as an independent and spontaneous entity and, therefore, cannot be just or unjust.

It is worth noting as well that rule of law is naturally paradox. It is the substance of a rule that, on one hand, it is by character confining, but, on the other hand, opening a space for the things outside the framework of regulation to happen. To such extent, a rule serves to put certain limitation on human actions but at the same time opens opportunities. In a very positivistic legal culture, everything is permitted insofar as it is not-illegal. As a result, *loophole seeking mentality* is very common. It is, therefore, not surprising that on behalf of the rule of law, every market player will try to do whatever they can to win his/her own interest insofar as formal legal norms are observed. Things get worse as people come to hold: “*what is legally alright must be morally alright too*”. In this framework of thinking, we should say that whatever happens in the market must not be spontaneous for it cannot escape from market players’ intentional plan. To put it in another way, whatever the result market can bring about, it is, at least partially, under the intentional control of market players and hence market players must be responsible for market results, especially for the unjust ones. It is not entirely true to see market simply as a social order, which is absolutely spontaneous and independent in such a way that there is no room at all to question its process and results from the perspective of justice or injustice.

Exempting the market from moral evaluation would pave the way

for illegitimate claims of right. Following Robert Nozick, in his work *Anarchy, State and Utopia*, (1974), a claim of an ownership is legitimate if it results from a voluntary transaction; and the person who puts his things under the transaction must be the legitimate owner of the things he is offering. Otherwise, the transaction would be illegitimate and so the ownership acquired through the transaction is illegitimate too. Voluntary transaction is, of course, possible in a free market system, but since the free market and its general rules are prone to abuse, the claim of ownership can be illegitimate. Nozick's Entitlement Theory stated that any claim of ownership must not be in force as it is acquired from illegitimate ownership.¹⁸

Second, it is not entirely true to see the state's intervention simply as an infringement of freedom. There must be a distinction between the idea of limitation as *regulation* and limitation as *infringement* of freedom. Hayek is right insofar as he understands freedom to be the foundation of human civilization. The very basic values, such as self-expression, innovation, and creativity are factors that lead to the development of civilization. Such values require a free environment. Limitation of freedom in terms of regulation is necessary and must be put in the framework of the development of human civilization. Thus legal confinement of freedom is necessary for the sake of freedom itself. The glorification of unlimited freedom would ultimately undermine a civilization.

It is the above argument that leads prominent thinkers such as Thomas Hobbes (1588-1679), Jean-Jacques Rousseau (1712-1778), and Immanuel Kant (1724-1804) to develop the idea of a "social contract". Without being blind to its possible negative externality or its unintended negative effects on the citizens' basic rights, Hobbes' insistence on the citizens to put their rights entirely under the regulation and control of the king, is initially based on the good will to protect the very citizens' basic rights. With different way out but under the same logic of thinking, Immanuel Kant later on came to emphasize the importance of the idea of social contract. Instead of giving absolute power to the king, as suggested by Hobbes, Kant in his work *The Metaphysical Elements of Justice* underscored the primacy of the rule of law as the political instrument to protect the citizens' basic rights. To protect everyone's rights, Kant believes, under the guidance of "practical reason", members of society

eventually agree to leave behind the natural state of *pre-juridical society* and move to *juridical society*.¹⁹ Legal protection of the citizens' basic rights is so important that society is legally justified in forcing every citizen to move from pre-juridical society to juridical society. A claim of a lawful state, therefore, requires true recognition of the state's essential position to enforce the rule of law as the only political instrument to ensure the citizens' basic rights. It is, therefore, reasonable, to a certain extent, to confine legally the citizens' freedom for only in this way can everyone's basic rights, including the right to social wellbeing, be effectively protected. At this point, the issue of just and unjust law is crucial.

Third, Hayek's defense on the idea of free market to fulfill the *pareto optimality* principle, is actually a reflection of his over-optimism concerning the capacity of the market for *self-ordering*. Such optimism, however, is reasonable only if the market itself is perfect. A perfect market is the one that operates under the full support of true and broadly available information. This condition is indeed impossible to fulfill. Market information is always asymmetric in nature. It is not surprising since competition in itself presumes competitiveness. This requires carefulness in sharing and disseminating information in market. For this reason, every involved party would keep its information in such a way that prevents other parties from having complete or full information they need to increase their own competitive advantage. Unfortunately, information about market is always asymmetrical. Every concerned party would prefer to maintain such a condition as it serves their self interest. It is, therefore, not entirely true to see market as entirely free from anybody's control. This further weakens Hayek's insistence on excluding concepts of justice in considerations of the market.

Besides, the principle of efficiency or *pareto optimality* principle is acceptable insofar as it promotes the principle of utility. It is, however, worth noting that putting too much stress on the principle of utility is prone to abnegate the principle of fair equality. Fair equality of the distribution of goods and services would be at risk once the principle of utility dominates.²⁰ Over-emphasizing the principle of utility simply reveals that economy has been taken to be the end in itself. It is not surprising, then, that economy is operating free from any non-economic motive. Economy has become the only motive of every economic activity. However, this

way of seeing economy would lead Hayek to encounter two serious problems. First, Hayek seems to hold that the actual economic behavior is determined solely by economic motive, which is nothing but the self-interest; and second, Hayek falls into neglect of the general formal equilibrium theory in economy.

Self-interest is important to boost economic development. Yet, it is not the sole driving motive of every economic gain. Karl Polanyi in his masterpiece *The Great Transformation*, (2001), shows this clearly. Through his careful anthropological and historical study on economic development, he shows that in many cases non-economic motives has played a very central role for economic development. They are a more determining factor in economic development than the economic motives themselves. Many economic achievements are generated from an obsession that goes beyond economic interest. In a very micro level, economic prosperity is not the entire motive that encourages a father to be so involved in his work. Hard working might be the way for him to maintain and sustain his self-dignity before both his family and the society, at large. His dedication is therefore encouraged ultimately by motives that goes beyond economic motives.²¹

The same thing is true in a wider perceptive. Bill Gates, the owner of Microsoft, in his speech in Global Economic Forum, taking place in Davos, Switzerland, (January, 2008), encouraged his audience to take seriously the importance of non-economic incentives in doing business. Self-interest, Gate asserts, is a very important motive in capitalism. However, realizing the negative externality that the market could bring about, it is the time to look for alternative incentives, which is also based on the market itself. Gates comes to believe that this alternative incentive is recognition.²² Through the market, every businessman or woman is able to create his/her positive self-image. They should be able to put the value of life beyond mere economic value. Positive self-image is an intangible value that may bring a long-term profit (tangible value) to the business; but it is also a very fundamental value for it reflects the very value of human self-quality. At this point *self-interest* must evolve and grow up to be *enlightened self-interest* in which economic achievements must be put within the framework of human social responsibility.

It is, therefore, not impossible for a human being to take religious

values or any other non-economic motives to be the driving motive of his/her economic activity. An economic gain must be treated, then, as an instrumental end for a nobler end once the work and economic achievement a person could harvest is viewed as the form of human responsibility for all the talents the God has endowed him/her. The history of economic practices has confirmed this non-economic central position in economic development. The so-called mercantilism, for example, is an economic system, which has developed and aimed at maintaining and sustaining the state's sovereignty. Its main motive is political, not economic. The economic domination through trade becomes the *sine qua non* condition for a state to demonstrate its political superiority and sovereignty over other countries in the world. Thus, it is nationalism, not economy, that has become the driving force for the growth of mercantilism.²³

The overemphasis on economy has led Hayek to neglect what is called, following Amartya Sen, the *formal general balance theory*.²⁴ To make it simple, the theory in essence emphasizes that to be successful, the economy must be understood within a broadened perspective. According to Sen, in order to be able to handle successfully economic problems, economy must open itself and take seriously all non-economic considerations. Daily experiences tell us that people can suffer from severe starvation even in a state with the abundance of economic resources or bountiful harvest. If this is the case then it must be clear that the problem to solve is not solely economic in nature. It is the problem of fair distribution of economic resources, which is by nature moral, not economic, problem. In other words, non-economic factors actually have direct or indirect effect on economics performance. Amartya Sen even believes that economy can become more productive once people take seriously moral considerations in their economic decision-making.

Fourth, the overemphasis on free market and free competition has *disembedded* the economy from its original characteristic as an *embedded* entity. Economy, Polanyi emphasizes, is but a part of the system of social relationships (*embedded economy*).²⁵ His anthropological and historical studies on economics reveals that economy can never become the end in itself. Originally, economy is always taken to be a part of social relationship and put within a broaden framework of human value system. It even becomes the instrument of social cohesion. That is the reason why

social values such as reciprocity and redistribution, according to Polanyi, have played a very central role in economic development. In other words, economic development is determined not primarily by economic growth but rather by its substantial contribution to human social welfare or human common good. Hence, fair equality of economic benefit is more important to seek for than the fulfillment of the principle of utility itself. The above critical remarks, however, must not prevent us from giving fair appreciation to Hayek's socio-political and socio-economic contribution in the context of free market economy. Hayek has made a very special contribution in reminding us of the potential totalitarianism and authoritarianism that the state might apply in defending social justice. Therefore, it is unfair to neglect some of Hayek's critical remarks concerning economic justice. First, Hayek's rejection to the state's intervention, to a certain extent, is true. While wealth redistribution, is the manifestation of the state's responsibility for its citizens' social welfare, Hayek's concerns about free riders in economy is important to note and to be aware of. Free riders are morally unjustifiable. Justice essentially requires everyone to share benefits and burdens fairly. Hence, it is unfair to enjoy any social benefit without, at the same time, being ready to bear certain burden for the society. The rule of exchange requires everyone to produce in order to enjoy particular benefits offered by others in the market. Market agents should produce to satisfy what the others need. To put it in Rawls' terms, it is unfair to insist particular right without doing one's due. Different treatment, however, must apply to those who are lacking in the abilities necessary to contribute.

Yet Hayek is not entirely blind to the unfortunate. In his work *The Road to Serfdom*²⁶, Hayek attracts our attention to totalitarianism that the state could apply in its defense to social justice. He, however, at the same time requires the state to create a safety net for the unfortunate citizens. In a society in which all members of society, to a certain extent, have reached a level of welfare, the most important thing the state has to do is to ensure everyone's general freedom, that is, a guarantee that every citizen has the real opportunity to satisfy each basic needs necessary to live a decent life. The state, Hayek argues, has inherent responsibility to encourage and create a social system that protects its citizens from various threats. In this sense, Hayek is exactly right and so deserves real support.

Second, the state's intervention must not be taken-for-granted. Besides its potential to depress citizens' creativity, initiatives, and innovations, which are but the preconditions for creating competitive advantage, the common good it adopts to be the legitimate justification of the public policies could become an ideology to support the structural violence it applies to the citizens. It is common in every corrupt government that the so-called common good is adopted simply as the political mask to cover the interest of the dominant parties. This is also the reason for free societies to be aware and critical of the ideology of the general will. Lack of criticism would pave the way for totalitarianism, a condition that must be at odds with the basic values of democracy.

Third, in a very close relation to the second point, it is necessary to emphasize that if we take seriously social justice to be the basic value for every free society, then the initiative for fighting social injustice must come, ultimately, from the oppressed ones. The oppressed parties know better the unfortunate condition to which they have borne. It is likely impossible to expect genuine generosity coming from a corrupt society. Hence, there must be initiatives of the oppressed society to fight social injustice. Free and civilized societies can learn a lot from social revolutions in The Middle East in the last ten years. The social revolution initiated and organized by the oppressed citizens has proven itself the most effective political instrument for citizens to release themselves from political authoritarianism. It has proven itself that even the most authoritarian governments are powerless in sustaining their authority once the enlightened citizens are ready to pay the price for the sustainability of their basic rights. Hayek's stubborn position in rejecting the state's intervention is therefore, to a certain extent, reasonable enough to support.

PROMOTING SOCIAL JUSTICE

In the pursuit of a competitive environment, the free market often loses sight of its original purpose. That is, the economy exists to support human welfare. But it has been separated from the social system and its role in strengthening social cohesion. The economy, therefore, must be brought back to its original position in which it serves as a part of a social

infrastructure to support social welfare. To put it in Polanyi's words, economy by nature is but an embedded economy.²⁷ This position, however, requires a communitarian spirit widely shared by society as a whole, for only in this environment, can economy turn out to be the effective means for creating human social welfare. In such environment, every member of society sees him/herself naturally as a part of the society who share fair burden and so fairly contribute to the common good. That is the basic nature of the so-called household for it is in a household that all of its members live together, share meals, and voluntarily take responsibility for the happiness of every member of the household.²⁸ Yet, the glorification of individualism and freedom has made Polanyi's and Aristotle's romanticism of mutual self-help and social responsibility seem outdated.

It is important to note that Hayek rejects social justice to be the standard of a successful market due to the idea that the market is a spontaneous and impersonal *ordo* that operates under the condition of uncertainty. It operates under its own rules of game and is free from anyone's ability to control it. The state should intervene only when the market is considered harmful to the society as a whole, particularly, to the disadvantaged ones. So, the question which emerges is: how could social justice be enforced without at the same time infringing individual freedom or without doing harm to, using Hayek's terminology, general freedom?

John Rawls offers a way out. His idea of *maximin* rule (Latin: *maximum mnimorum* rule) which is in essence an operational principle generated from his first principles of justice as fairness, that is, (1) the great principle of liberty for all; and (2a) the principle of fair equality of opportunity; and (2b) the difference principle. The first principle of justice as fairness, i.e. the great principle of liberty is political; whereas, the second principle of justice as fairness, i.e. the principle of fair equality of opportunity and the difference principle, is economic rather than political.²⁹

Hayek and Rawls actually have something in common. Both of them take uncertainty to be the basis for emphasizing the importance of freedom (in Hayek) or liberty (in Rawls).³⁰ Freedom (and abstract rules) according to Hayek, is important because market is full of uncertainty. Rawls takes the same way to justify everyone's option for the first principle of justice. To him, in uncertainty, it is reasonable for rational people

to choose the first principles of justice because only within the framework of such principles can everyone guarantee each own rights and freedom to enjoy social benefit provided by and available in society. Freedom is even so important that it must not be traded off even for the sake of economic interest.

The first principles of justice, therefore, must be treated lexically. It means that the second principle (i.e. the principle of fair equality of opportunity) can come to force only, if and only if, the first principle of justice (the great principle of liberty) has been satisfied. The same way of thinking is true for the *difference principle*. This principle may come to apply only, if and only if, the principle of fair equality of opportunity has been fully satisfied. That way of regulation is important because every principle in nature incorporates in itself human basic rights; to be more precise, human basic needs. In other words, it is morally unjustified to pursue one's own interest at the price of others' interest. That is exactly the essence of the maximin rule or the maximin strategy.

The maximin strategy requires the fate of the unfortunate ones be taken seriously to be the benchmark in setting up and enforcing public policies. It means, only if everyone has satisfied his/her basic needs (this is the basic requirement of the principle of fair equality of opportunity), can the *better off* be allowed to claim the right to enjoy a better life prospect (the basic requirement of the difference principle). It is, therefore, very clear that Rawls really takes into account the fate of the disadvantaged to be the benchmark of public policies. Only if the disadvantaged has the real opportunity to enjoy a decent life, can the rest has the legitimate claim to enjoy a better life prospect. To put it in a stronger way, the *better off* must not enjoy a better life at the price of the *worse off*. This helps ensure everyone's basic rights, on the one hand, and sustain freedom of the better off to pursue his/her interest, on the other.

CLOSING REMARKS

Hayek has shown us the importance of freedom in supporting human civilization, particularly, in the system of free market economy. To such extent, we must be very careful of any public policy enforced in the

name of social justice. However, Hayek's conclusive position to eliminate social justice from the system of free market economy for the reason that such ideal would endanger human freedom and civilization, is overly extreme. The spontaneous, independent, and impersonal characteristic of the free market economy, which he takes to support his position, is an exaggeration. There is no sufficient reason to see market as an entity, which is entirely free from any party's intervention. Market is always, potentially, distorted by the market agents' selfish-interests. Hence, free market economy can become a serious threat to social justice. The state's intervention is, therefore, important to support everyone's right to enjoy a decent life in terms of human basic needs.

It is indeed not easy to reach a situation fully colored by social justice. Yet social justice is not a utopia in a radical sense. Through restless efforts, social justice could, at least partially, be realized, when the unfortunate become a benchmark in planning and enforcing public policies. A civilized society must not allow any market system to widen the chasm between the rich and the poor. It is highly unreasonable to let an economic system to take precedence that reasonable people recognize as harmful to social justice. At this point, the state has the legal and moral responsibility for creating conditions for the existence and the sustainability of social justice.

Endnotes

¹Bill Gates, "A New Approach to Capitalism", in Michael Kinsley, (ed.), *Creative Capitalism* (New York: Simon & Schuster, 2008), pp.7-16. In his speech, Bill Gates, among others, emphasized the urgency of the developed countries' openness to help reduce socio-economic chasm that has grown up between developed and developing countries. Gates tried to invite and encourage developed countries to create their domestic market for the developing countries' products.

²Friedrich von Hayek, *Law, Legislation and Liberty: The Mirage of Social Justice* (Chicago, London: The University of Chicago, 1978), pp.67-70.

³See John Rawls. *A Theory of Justice, revised edition* (Harvard: Harvard University Press, 1999); *Justice is Fairness: A Restatement*, 2001). Taking liberalism to be the political back-ground of his theory of justice, John Rawls emphasized the importance of fair distribution of benefit and burden. Claim of rights to enjoy any social benefit without doing one's own part as the reflection of his/her responsibility to society, according to Rawls, is a blatant violation of the principle of justice as

fairness.

⁴Hayek, op.cit., pp.1-5. See also John Rawls, *A Theory of Justice, revised edition* (Harvard: Harvard University Press, 1999), pp.52-77.

⁵Hayek, op.cit., p.109.

⁶Amartya Sen, *On Ethics and Economics* (Malden, USA: Blackwell Publishing, 1988), pp.1-9; Compare it with Karl Polanyi, "Aristotle Discovers The Economy", in Karl Polanyi et al., (eds.), *Trade and The Market in the Early Empires, Economies in History and Theory* (New York: The Free Press; London: Collier-MacMillan Limited, 1957), pp.243-270. Polanyi's main position is that economy must be an embedded economy; and in such position, economy becomes an integral part of a broader human relationship or human value system. Unfortunately, economy in fact is disembedded and eradicated from such system. Polanyi rejected every notion that considers economic interest the only motive of all economic activities. He defended embedded-economy and rejected disembedded-economy.

⁷Sen, op.cit., pp.10-21.

⁸Hayek, op.cit., pp.4-5.

⁹Hayek, op.cit., pp.11-14; 126.

¹⁰Hayek, op.cit., pp.20-23.

¹¹Hayek, op.cit., pp.62-102.

¹²Hayek, op.cit., pp.65-66.

¹³Hayek, op.cit., pp.67-70.

¹⁴Hayek, op.cit., p.33.

¹⁵Hayek, op.cit., p.108.

¹⁶Sen, op.cit., hlm. 27.s

¹⁷R. Boatright, *Ethics and The Conduct of Business*. Fourth Edition. (New Jersey: Pearson Education, Inc., 2003), pp.16-18. According to Boatright, good economy requires a balanced consideration on economic, moral, and legal aspects in running economy. An overemphasis on economic aspect would provoke moral problems, which in turn, at least in the long run, inflict negative impact on economy itself.

¹⁸Robert Nozick, *Anarchy, State, and Utopia* (Oxford: Basic Book, Inc., 1974), pp.150-155.

¹⁹Immanuel Kant, *The Metaphysical Elements of Justice*. Translated with an introduction by John Ladd, (Indianapolis, New York: The Bobs-Merrill Company Inc., 1965), p.80.

²⁰Sen, op.cit., pp.31-37.

²¹Karl Polanyi, *The Great Transformation. The Political and Economic Origins of Our Time* (Boston: Beacon Press, 2001), pp. 48 etc. See also Gregory Clark, "The Lesson of History", in Michel Kinsley, (ed.), op.cit., pp.183-85.

²²Gates, op.cit., p.10.

²³Ian Bremmer, *The End of Free Market. Who Wins the War Between States and Corporation?* (New York: Penguin Group (USA) Inc., 2010), pp.32.42.

²⁴Sen, op.cit., pp.2-7. Sen holds that economy originally has two dimen-

sions: (1) Ethics; and (2) engineering. Each of them in different way has close relationship with politics. Quoting Aristotle, Sen asserts that economy has a close relationship with ethics because economy in essence is dealing not only with the question of “how to live”, but rather “how human beings *should* live their life”. In raising this moral question Sen is going to emphasize the importance of moral motive in economy. Due to its close relationship with ethics, economy becomes *normative economy*. Meanwhile, the second dimension primarily emphasizes the calculative character of the economy; this is *mainstream economy*.

²⁵Polanyi, *The Great Transformation*, pp.48-58.

²⁶Hayek, *Road To Serfdom* (Chicago: The University of Chicago Press, 2007). Hayek’s explanations, on the one hand, emphasize the importance of releasing market from the state’s authoritarianism (the principle of non-intervention). However, on the other hand, to prevent the fate of the unfortunate ones from getting worse and worse, he emphasizes as well the importance of the state’s intervention to ensure everyone’s basic rights, including right to enjoy a better life in terms of economic prosperity. Hence, to a certain extent, Hayek is on the side of social justice.

²⁷Polanyi, *The Great Transformation*, p.48; “Aristotle Discovers the Economy”, pp.243-270.

²⁸Aristoteles, *Politics*, Translated by C.D.C. Reeve (USA: Hackett Publishing Company Inc., 1988), p.3.

²⁹Rawls, *A Theory of Justice*, pp.47-102; 130-138. Hayek applies “freedom” in all his analysis of the market economy because his approach to economy is ethical in nature; whereas, Rawls takes “liberty” to be the terminology in presenting his idea of justice as fairness because his approach to the issue is by nature political rather than moral.

³⁰“Freedom” is a moral terminology, whereas “liberty” is a political terminology. Hayek applies “freedom” in all his analysis of the market economy because his approach to economy is ethical in nature; meanwhile, Rawls takes “liberty” to be the terminology in presenting his idea of justice as fairness because he claims that his approach to the issue is by nature political rather than moral.

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