

Economy, Society & Justice
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Free Market: Means or End?

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Subjects and Social Expectations. Rules and Justice.

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My contribution – as its title shows – will focus on the theoretical and practical difficulties that the attempt to determine and apply universal rules of justice comes up against, within tendentially more and more differentiated social contexts like contemporary Western ones are.

My core idea is that even if this were possible the usefulness of such rules would be limited by the dispersion of social knowledge, by the fact that each individual has a subjective time expectation, and that he usually prefers spending such time in order to achieve his own ends, which are connected to his value-system and priorities.

Moreover, the fact should not be overlooked that in a situation in which there is a (even non conflictual) pluralism of individual and social expectations that are changing also due to the unbroken entry of social actors, the pursuit or imposition (also by means of a selection of expectations) of an orderly system of ends would have such high costs that its achievement should be questioned (or compromised). The most likely occurring thing is that the final cost of the end achievement could be higher than the one we decided to pay at the beginning, or that it would not fit our expectations.

In short, the more complex the society is and the less numerous the “informal ties” are, the higher the “transaction costs” will be.

The theoretical background of my argumentation are the two traditions of the Austrian School and Neo-Institutionalism, which I am inclined to bring near to one another, although I am well-aware that they are two in some ways similar but not precisely overlapping philosophies of the social sciences.

My argumentation will move from the difficulty to determine a shared concept of *social justice* if we have not at our disposal a univocal reference to a theory of *Natural (Property) Rights*, or to a teleological conception of human nature and social process, being rather compelled to “create” it within a non-homogeneous context.

What I would highlight is that – those conditions given – the intention to realize a “social justice” (understood as “fair” allocation of resources or opportunities) will come up against so high “transaction costs” that the goal becomes unreachable, or implies an higher and higher use of coercion, at least in the form of a political and economical selection of the individual and social expectations.

However, if their political selection by means of a democratic process implies a political definition and allocation of *Property Rights* that runs the risk of causing further social conflicts, this does not mean that we should give up the intention to determine common rules able to keep the development of social dynamics under control, or to reduce their “transaction costs”. Giving up this possibility would namely mean to let the society and the political association open to the equally negative consequences of a growing diversification of knowledge, which would result in highly differentiated social positions that in their turn might generate a dangerous cultural and political incommunicability. All this would imply, once again, an increase of “transaction costs”.

The starting point can therefore be found in the impossibility for every form of political system to keep the circular flow of ideas distinct from the process of distribution of goods (Coase).

What I intend to claim is that the theories of *social justice* (and the plural is not fortuitous) do not take into account the revolution that took place in the field of social sciences on the one hand in connection with the “theory of subjective values” (Austrian School), the theory of the unequal distribution of knowledge within society (Hayek), and the features of the market process as creator of new knowledge (Kirzner), and on the other hand in connection with the theory of the “transaction costs” (Neo-Institutionalism).

According to classical political theory, as well as to some contemporary political theories, it is possible to pursue that intention, and politics has the task and the skills to rectify the inequalities resulting from the competitive market process without interfering in the process of creating and allocating knowledge. So they overlooked for a long time the link between subjective knowledge and the individuation of opportunities able to change the economic situation of social actors.

If this is true, we should recognize the fact that all attempts by the part of political power to allocate goods, knowledge, and opportunities according to shared criteria of utility or social justice are assigned to fail:

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a) because no political power possesses a knowledge of individual and social expectations greater than that, which is unequally and fragmentarily distributed within the society;

b) because no political power is able to control the knowledge flows and the opportunities they open;

c) because even if this goal were reachable it would imply that the actions aiming to achieve common social purposes should prevail over the ones aiming to achieve individual purposes or the ends of particular social groups.

On the contrary, what is more and more evident in Western societies is an increasing differentiation in culture, values, “ways of life”, and therefore in individual and social expectations, and the time in which we want to realize them. So we have multicultural and “multi-ethics” societies that tend less and less to identify with common goals.

Neither can the shift from the *Natural Rights* of the classical liberal tradition to the *Human or Social Rights* be simply reduced to the widening of the sphere of individual or social rights, because it means also that the function of the state is no longer limited to that of a “right-watcher”. The widening of individual and social range of expectations implies that within the same society social groups (not always peacefully) coexist that: 1) wish that the state action is limited to the role of “right-watcher”; 2) claim that the state works as their “accomplisher”; 3) wish that the state would fully be uninterested in rights. However, what is worth noting is that these same groups not always recognize the legitimating of a political process that establish the priority order of their realization by means of collective choices.

In this sense, what is gradually disappearing is the distinction between public and private sphere, which characterized since centuries Western civilization. Put differently, such distinction is becoming more and more problematic.

From this viewpoint, it is important to underline that we are more and more inclined to deny that the political system has the right to establish the priority-order in the production of the so-called “public goods”, and that their always controversial definition is becoming more and more doubtful. As a result, the higher and more contradictory the demands will be, the longer the time will be in which the state can satisfy the different expectations, to leave out of consideration the costs of such operation.

In other terms, if we think that the “social justice” goals are a property of political power as concerning their individuation and realization, we will come up against an untenable version of the “ethical state”. Conversely, if we think that such goals spontaneously originate in society, we will come up against the fact that no political power can satisfy them in the individually expected time.

This means also that finding a political solution to so differentiated social expectations implies the following process: 1) census of expectations; 2) individuation of their solution according to criteria of a social justice able to satisfy everybody at the same time; 3) transmission of the optimal solution to the social body; 4) application of the individuated solution.

The necessary time to carry out this complex process, given that it is possible to find a solution, cannot be short, and the achievement of the necessary knowledge is not for “free”. But this also means that in the meantime individual expectations may change due to the achievement of new and different knowledge, and that the solution elaborated on the basis of the initial expectations may be no longer satisfying. The fact that the information flow is out of political control may result in a changing of initial expectations, and means that no collective choice elaborated according to universalistic criteria of social justice or utility can be universally satisfying.

The more complex and diversified the expectation are, the longer the time of political decisions will be. *To be sure, the time of politics does not coincide with the time in which individual and social expectations change within dynamic contexts.*

What is more, without a “natural law” based upon a conception of “human nature” that specifies the “virtuous” behaviours, even the definition of “social justice” as the goal of economic and political activity is untenable. But today, as it is well-known, we have various and different conceptions of *human nature*, and therefore also of *virtue* and *justice*. Things would be easier if individual expectations would be based upon a homogeneous set of core-values, if not in a shared conception of human nature. But that is not how things stand.

An objection could be raised, concerning the possibility to understand “social justice” not as a goal to be achieved on the basis of an actually existent and shared human nature, but as a set of rules of procedure aimed at assigning the same rights/opportunities to all members of a society.

This “soft” version of social justice, that could be sum up as the “equality of opportunities”, runs into the problem arising from the fact that those rights and opportunities could be understood and exploited by individuals in different ways, also on the basis of the knowledge at their disposal. In other terms, the necessary time to reach a uniform knowledge about them, which in its turn would produce socially beneficial results, would be also diversified, so that the goal would be unreachable because each individual entering the society should meet the initial cost of learning about rights. Therefore, social interaction would occur between individuals that perfectly know such rights and their opportunities, but it would occur also between individuals whose knowledge is less complete. This fact would at least extend the necessary period of time to achieve the goal.

In this case, the necessary time to learn the rules of procedure could not be significantly different from the necessary time to learn the opportunities offered by the market. But what is more

important is that such time would not be the same for all, because the individual ability to make use of the opportunities is different.

As a consequence, we must resign ourselves to the idea that every transmission process of knowledge, the “top-down” one in the form of rights assignment, and the “bottom-up” one in the form of an individual know-how concerning the market indicators, is a learning process varying amongst individuals, which can be corrected in egalitarian terms by no political system. For one, because the politicians’ choice is but a photography of the social distribution of knowledge and expectations.

Put differently, *no institution can equally distribute “time” opportunities and “virtues” amongst all its members*. Institutions can make it easier to spare time by the part of individuals, but they can use the available opportunities in various ways. This does not automatically imply that an individual process of knowledge achievement in order to elaborate correct expectations in which other individuals may take freely place (as in the process of catallactics) will be *naturally* shorter.

Beside the guarantee of *Natural Rights* (life, freedom, and property), a liberal theory of institutions should also aim at guaranteeing that individuals can subjectively maximize the use of their *time*. The disposability of such time should be rescued from the limits imposed by politics and its “collective choices” originating from one of the possible ideas of “social justice”, however possible it may be and like it happens with *Natural Rights*.

From this viewpoint, the enjoyment of a “right” cannot be limited by “general utility” (be it in the form of greater efficiency of the system, or in the form of social justice), without a free and explicit renunciation by the part of each individual. However, though this position may be considered as the consistent result of the foundations of the liberal Natural Rights theory, the fact remains that even such a society – in which there would be no need of “collective choices” to produce “public goods” – would be a society characterized by a “subjective” knowledge and evaluation of *Natural Rights* (i.e. by measurable “transaction costs”). To put it differently, it would be a modality of political association in which the predictability of exchange outcomes is conditioned by the unpredictability of individual interpretations of the *Property Rights* they own, by the judgment concerning their extension, and by the knowledge of jurisprudence.

So, what I want to show is not that the realization of the best political order depends on individual virtue, on the goodness of the rules inspiring it, and on the ethical, political or economic ends it aims to achieve, but – more simply – that it depends on the individual interpreting them, that is on the knowledge they have at their disposal.

Therefore, it is surely possible to understand the market as a means whose goal is to widen the sphere of individual freedom, but we cannot understand it as a means able to realize harmoniously all individual ends at the same time.

At this point, a provisional conclusion could be possibly put forward: individuals always try to shift from opinion to a knowledge of things able to work as a point of reference for human action, and be useful at least to reduce the undesired and unintentional consequences of their action under conditions of information and time scarcity. Social institutions fulfil this relevant task of “certainty producers”. The problem is that no kind of knowledge, not even the knowledge of ethics, does exist independent of individuals, and that – even in case it would exist – the process leading to its achievement would be uncertain and costly, due to the aforementioned reasons linked to scarcity. Moreover, its transmission and communication could not take place without “costs”, also “time-costs”.

This limitations notwithstanding, an *order* sometimes occurs, and the explanation of this phenomenon has always attracted the theoretical philosophy of the social sciences. If teleological explanation of this phenomenon resulted unsatisfying, the same occurred with the “explication by way of the invisible hand” that could be defined as a “secularized” version of Providence.

The anchorage of the rules of human action (understood as paths able to warrant a decrease of “unintended consequences”) to the assumed discovery of a “natural order of things” – be it labelled as “natural law”, “natural rights”, or “social justice” – did not solved the problem, because they do not exists if not depending on individuals. The issue, from Locke and Mandeville on, was even more complicated by the recognition of the fact that the “right order” results not always from naturally “good” or “virtuous” individual behaviours (also because not even morals can be genetically transmitted). As a consequence, the realization of the “right order”, understood as the “harmonization of interests” (more or less “legitimated”), appeared for a long time as a process widely unaccountable if not referring to the metaphor of the *invisible hand*.

And yet, whether because knowledge and virtue are not genetically transmitted or “freely” achieved, or because of the above mentioned reasons concerning the individual availability of time and its “subjective expectation”, we should admit that we may not expect much from the perception (or even knowledge) of “mutual advantage”. Therefore, if the “harmonization of interests” (even in the modern version of “equilibrium” or “social justice”) is a chimera, *order remains a possibility*.

However, the situation that determines the higher uncertainty concerning the subjectively and socially best way to classify information is the one that correspond to a complex society in which the different (economic, juridical, aesthetic, and ethic) institutions suggest conflictual manners to evaluate novelty, and opportunities. This explains also the increasing of individual and

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social uncertainty, if we take under consideration what usually occurs, that is that opportunities offered by the emergence of new knowledge (for example biogenetic) are differently evaluated by the economic and ethic-religious systems. Individuals do not know how to behave: should they follow ethic-religious traditions/institutions, aesthetic ones, or the ones linked to individual well-being and health?

This all applies even more to the emergence of rules. Also in this case it is absolutely not obvious that the rules originating from the market are slower and more difficult to learn than that produced by legislation. Experience let us think that just the contrary process may occur. This notwithstanding, the doubt remain that if we have no shared *telos* or metaphysics (things difficult today to find) the achievement of social justice is actually, and merely, the end of the people who determine it or hold the power. And this is even more evident if we consider the fact that to the “objects of thinking” (like “social justice” actually is, for it does not exist “in nature”), a “natural” or “ethic” end cannot be attributed.