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Edited by Reiko Gotoh and Paul Dumouchel

Excerpt

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Introduction

Reiko Gotoh and Paul Dumouchel

Most injustices occur continuously within the framework of an established polity with an operative system of law, in normal times. Often, it is the very people who are supposed to prevent injustice who, in their official capacity, commit the gravest acts of injustice, without much protest from the citizenry.¹

Amartya Sen's alternative economics: a new methodology for a theory of justice

“Why then,” asks Judith Shklar, “do most philosophers refuse to think about injustice as deeply or as subtly as they do about justice?”² Philosophers, she argues, generally construe injustice as a breach of justice, as a breakdown or transgression of the normal order of the world. Therefore, even when they do not agree with Hobbes that “Where there is no common power, there is no law; where no law, no injustice,”³ they spontaneously think of injustice against the background of a conception of justice, as if injustices were invisible and made no sense outside a shared ideal of justice.

In Amartya Sen's work the expression “against injustice” is inseparable from the idea of “patent injustice” and indicates that the perception of injustice comes first. “Against injustice” as it is understood by Sen constitutes a challenge to most theories of justice. One that says that the recognition of patent injustices is possible without reference to an explicit theory of justice, and that coming to a reasoned agreement about such injustices and the need to remedy them does not presuppose a shared conception of justice. How can this be possible?

Themes and subjects

In *Development as Freedom* (1999) Sen states that “The greatest relevance of the idea of justice lies in the identification of patent injustice,

¹ Shklar (1990: 19). ² Ibid.: 16. ³ Hobbes (1994: 78).

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on which reasoned agreement is possible, rather than in the derivation of some extant formula for how the world should be precisely run” (Sen 1999: 287).⁴ This statement expresses in a condensed form the gist of Sen’s stand “against injustice” and of his critique of traditional theories of justice formulated by political philosophers, jurists, and economists (i.e. Rawls, Dworkin, or utilitarianism, or social welfare function approaches). The goal of this volume is to explore the ideas underlying Sen’s critique of these traditional methods and to pursue a new road to the idea of justice. Our strategy is, beginning with Sen’s original contribution to this volume, to discuss in detail his criticism of the relation between economics, ethics, and laws, and then to work towards a better understanding of “against injustice” with the help of political philosophers and economists who share the spirit of Sen’s critique.

In this introduction, we wish, before presenting the various contributions, to re-examine some methodological features of economic thinking in order to analyze both its limits, which Sen points out in his criticism of the law and economics movement, and its merits, on which he builds in his critique of ideal ethical approaches to justice. History has shown that too much as well as too little of the influence of economic thinking distorts the idea of justice. Economic thought crystallized into clear conceptions some dimensions of our daily mode of thinking; however, through that very process it also closed to further reflection and hid from view other aspects of life. Because of this questions arise about which parts of economic thinking an inquiry concerning justice should take on and which it should leave out, and why. These questions in turn lead us to revisit Sen’s new perspective on economics, for it provides, we will argue, an alternative methodology to address issues of justice.

In the first chapter of this volume Sen compares and contrasts two types of approaches to the question of justice. Those of the first type, which he rejects and criticizes, he names “transcendental approaches.” They aim at finding perfectly just social arrangements, and he associates them with philosophical theories of justice. The second type, “comparative approaches,” concentrates on ranking alternative social arrangements (whether an arrangement is “less just” or “more just” than another) and is characteristic of the way questions of justice have been addressed within economics. This simple dichotomy may invite a number of objections, either from philosophers who seek to balance a plurality of values in their attempt at reforming society or from

⁴ All references to Sen will be given directly in parentheses in the main body of the text.

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economists who pursue favored conditions for optimal solutions that might be interpreted as “best” or “most just.” Further, the comparative approaches may be accused of weakening the impact of the idea of justice and its ability to induce reforms, as well as of neglecting the difference between different conceptions of justice like fairness or equity. Finally Sen’s own conception of “patent” injustice might open him to accusations of “transcendentalism,” given that it apparently rests on an ethical judgment free from all justification, something which both economic thinking and philosophy should try to avoid.

In order to respond to these objections and understand better Sen’s criticism, it is necessary first to pay attention, precisely, to what his perspective abandons and what it retains from traditional economics. Second, we need to explore the possibility of extending the comparative approach in order to be able to make consistent use of the idea of “patent injustice” within a comparative framework. Once again it is in Sen’s economics, in his perspective as a whole, including the capability approach and social choice theory, that we find a sketch of a positive answer. To wit: a social choice procedure that can specify a social evaluation to avoid “patent injustice,” or at least which allows us to choose less unjust “patent injustice.” This somewhat paradoxical expression means, as we will see in more detail later on, a social state which is “patently unjust,” but nonetheless “maximal” given existing economic circumstances.

Merits and pitfalls of economic thinking

According to Sen, one of the fundamental merits of economic thinking in its approach to justice lies in its ability to make comparative evaluations over alternative options. Each option is evaluated as “better than” or “same as” another. When on the basis of such evaluations a complete ordering of all alternatives is possible, the “optimal set” can be defined as the set of alternatives that is at least as good as all others. In such cases, one can be tempted to interpret elements belonging to the optimal set as just and other alternatives as unjust. In partitioning thus the world in two, with the optimal set corresponding to the set of all just alternatives, economics can mimic “transcendental” theories of justice. However, the interest of economic thinking is not in dividing the world in this way. Rather it is in ranking all options in the search for solutions in diverse circumstances, solutions that are relative to the set of feasible social states, which may change depending on economic conditions. This relativity entails that the distance separating any two alternatives belonging to the optimal set, or two alternatives which

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do not so belong, cannot be assumed to be smaller than the distance between any two alternatives, one of which is an element of the optimal set and the other which is not. In other words, being an element of the optimal set does not reflect a radical difference between alternatives.

Another important characteristic of economic thinking in this context is the assumption of substitutability among plural goods which assumes that different alternatives made up of a plurality of goods in varying proportions, like consumption vectors, can be considered equivalent. Technically a substitution pattern is represented by an “indifference curve.” Indifference curves vary according to the amount of each individual good among the plurality of goods. Therefore a lexicographical order of preferences, one that gives complete priority to one specific good, constitutes an exception rather than the rule. It corresponds to a very particular pattern of substitution. These two characteristics taken together distinguish economic thinking from “transcendental approaches,” and have the further advantage that they help avoid strong conflicts among individual interests. For example, it might be true that we can never erase scars left from historical injustice, yet it might be possible to mitigate the victims’ current agonies by preventing further expansion of social and economic disadvantage through appropriate systems of economic compensation.

Kenneth Arrow (1963) suggested that if individual preferences can be interpreted not only as the expression of individual tastes, but also as individuals’ “values on values,”⁵ (that is to say as the evaluations individuals give to different values), it should be possible to extend economic thinking to the issues of justice, by replacing consumption vectors by social policies, preferences by normative evaluations, and plural goods by a plurality of ethical values. Given this interpretation, an individual evaluation can allow for substitution between different ethical values and lead to comparative judgments over alternative social policies that embody a plurality of ethical values in different proportions. Indeed, Bergson–Samuelson’s type of social welfare functions can be understood as evaluations of a social planner that have precisely these characteristics. They are also known to bring optimal solutions under favorable economic circumstances.

This extension of economic thinking to the field of ethical judgments faces several difficulties, however. The first is that without information similar to market prices, there is no guarantee that individual evaluations can be aggregated in a social evaluation leading to a social optimum satisfying certain reasonable conditions. This is the problem

⁵ Arrow (1963: 18).

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Arrow addressed and which led to his famous impossibility theorem.⁶ Moreover, even if we succeed in constructing a social evaluation leading to a social optimum, for example by introducing an assumption concerning the interpersonal comparison of individual evaluations (Sen 1970: chapter 7, 7*; 1977b), we are still faced with a second type of difficulty. A social optimum brought about through a social evaluation constrained by the feasible choice set does not guarantee that what may be called “the ethical purpose” of the social evaluation will be satisfied. This can be illustrated by economic attempts at operationalizing John Rawls’ “difference principle.”

Economists decomposed the difference principle into primitive criteria (axioms) to explore its normative characteristics and reformulated it as a Bergson–Samuelson’s type of social welfare function in order to investigate its operational performance. It is defined as a lexicographical social welfare function which, under the assumption of ordinal comparability of individuals’ utilities, aims at maximizing the utility of the least advantaged in given economic circumstances, which include individual preferences over alternative combinations of income and leisure. Such an operational formulation of the difference principle has the advantage that it can identify social optimums, i.e. alternatives in which the utility of the least advantaged is greater than in any other feasible alternatives in given economic circumstances. It also contributed to making it clear that the difference principle focuses on the least advantaged only under the provision that a priority be given to individuals’ freedom to form their preferences relative to their own conceptions of the good.

However, a formulation of this type, which considers all individuals’ revealed preferences as formally equal, whatever they may be, and leaves no room for individuals to accept any normative criterion, except self-interest maximization, cannot prevent results which belie “the ethical purpose” of the difference principle, i.e. to realize the right to well-being freedom for all by securing basic well-being for the least advantaged. If we recognize individual freedom, as well as the formal equal treatment of preferences, and rationality as paramount values, we must be satisfied with realized social optimums, whatever they may be. Yet, if our interest is to secure basic well-being freedom for all through focusing on the position of the least advantaged, we should pursue alternative formulations of the difference principle.⁷

⁶ The conditions introduced by Arrow are: unrestricted domain, weak Pareto principle, non-dictatorship, the independence of irrelevant alternatives. Arrow showed that it was impossible to aggregate individual preference orderings in social order satisfying these conditions (Arrow 1963).

⁷ See Gotoh (2006).

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The third difficulty facing the extension of economic thinking to ethical issues is that it may be impossible to assume full interpersonal comparability, or, to put it another way, we may be unable to identify the least advantaged in society taken as a whole because of the incommensurability of diverse forms of injustice. We cannot for example easily compare which disadvantage is most serious among the disadvantage derived from having been a victim of the atomic bomb, disadvantage resulting from mental disabilities, or disadvantage caused by an accumulation of personal difficulties. Nor can we easily specify a substitution rate among compensations for different disadvantage groups, e.g. how much compensation for the first disadvantage can be substituted to compensate the second, while keeping social utility as a whole unchanged. When that is the case we cannot achieve a complete ordering determining which social policy is more just. We cannot specify optimal solutions for the whole domain of alternative social policies.

At this point, it is useful to recall Sen's distinction between an "optimal set" and a "maximal set" (Sen 2002a: 160). The former is defined as above, in the same way as it usually is in economics, while the latter is defined as a set of "alternatives which are not known to be worse than any other" (Sen 2002a: 182). If our goal is to describe an ideally just society, then the comparison should include every alternative and lead to an "optimum." However, if it is to avoid "patent injustices" one by one as they arise, we do not need to identify the "optimal set." In what follows, we wish to pursue this alternative approach to justice, but first we must look in greater detail at some of the central difficulties of traditional economics according to Sen's critique.

Sen's critique of traditional economic theory

Traditionally, economists are interested in the welfare of individuals, which can be promoted by transferring goods and services in a society. They build simple models which help to analyze and evaluate the correlated influences of economic activities – production, distribution, and consumption – on the welfare of differently positioned individuals (Sen 1987). Given this, there must be many occasions in economics to address ethically controversial issues. Yet during its history the main concerns of economic theory have been with questions of rationality, such as the *internal consistency* of choices or the *completeness* of evaluations, while ethical considerations that could contradict these rationality requirements have been exported outside economic models. The former condition, internal consistency of choice, requires "inter-menu correspondence," that is to say "relating choices from different subsets

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to each other” (Sen 2002a: 122), regardless of the situation of choices. This means, for example, that if a person chooses x from the alternative set $\{x, y, z\}$, she should also choose x from the set of alternatives $\{x, y\}$.⁸ Completeness requires that an evaluation compares all pairs of social states and ranks each as better, worse, or indifferent. As long as these conditions of rationality are satisfied, the model is taken to be morally neutral, whatever results it may bring. No ethical consideration that contradicts the rationality conditions can be introduced in the model. Conversely, as long as it does not contradict the conditions of rationality, any ethical consideration whatsoever can be introduced regardless of its plausibility.⁹

Actually, ethical viewpoints can enter the model following two different routes, without engendering any contradiction with the rationality conditions. The first is the informational basis of the domain of the model; the other is the correspondence rule between the domain and the outcome. Take for example the Walrasian rule which describes a free competitive market. Its domain is the non-comparable ordinal utility functions of agencies in each and every market and its informational basis, information concerning these utility functions only. The correspondence rule is the minimum requirement to clean the market: making the exceeded demands weighted by prices zero over all the markets. For a Bergson–Samuelson type of social welfare function, the correspondence rule and the informational basis of the domain can reflect an ethical criterion of distributive justice that implicitly comes from outside the model.¹⁰ Both cases have in common that individual preferences are viewed as given and are similar in that to any other part of the economic environment.

Social choice theory, which originated with Arrow, is epoch making in economic history because it opens a way to make explicit ethical criteria externally imposed on economic models and to examine their plausibility in the light of “the consistency of various value judgments.”¹¹ Arrow’s “social welfare function” represents “a procedure for passing from a set of known individual tastes to a pattern of social decision-making.”¹² According to Arrow, a Bergson–Samuelson type social

⁸ Xu and Pattanaik introduce a weaker condition of rationality than this; see their contribution to this volume, p. 199–200.

⁹ That is why economic models are indifferent, for example, concerning the normative characteristics of individual preferences. Whether preferences are fully deontological or fully self-centric is irrelevant as long as the rationality conditions are satisfied.

¹⁰ See Samuelson (1983). This was explicitly the case in the formulation of Rawls’ difference principle as a Bergson–Samuelson social welfare function analyzed earlier.

¹¹ Arrow (1963: 5).

¹² *Ibid.*: 2

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welfare function is nothing but a pattern of social decision-making, which distributes resources according to a given ethical criteria.¹³ Thus social choice theory paves the way to study the normative characteristics of Bergson–Samuelson-type social welfare functions including measurements of inequality or poverty, such as the Gini coefficient, which were previously considered to be purely descriptive. Further, it allows one to study the normative characteristics of the procedure that specifies a pattern of social decision-making on the basis of individual preferences. However, we must note that Arrow’s basic concern is to elaborate a general framework where, as he says, “the distinction between voting and the market mechanism will be disregarded, both being regarded as special cases of the more general category of collective social choice.”¹⁴ This indicates that central features of economic thinking including the narrow conception of rationality, *internal consistency*, and *completeness* are expected to apply to all issues of social choice, to questions of social policy as well as those of market distribution.

As Sen points out, such an approach excludes all information other than the formal orderings of social states revealed through individuals’ preferences, and the formally equal treatment of everyone’s preference. It also allows, given a profile of individual preferences, to treat in similar manner any pairwise rankings which have a common form, independently of the position of individuals or of the nature of the social states involved in those orderings.

Economists other than Sen also doubt the soundness of these assumptions and of the related requirements concerning rationality. However, they usually focus either on the irrationality or bounded-rationality of agents in their attempts to improve our understanding of individual behavior, and to provide better explanations of how conflicts or cooperation arise in interactions (Sen 2002a: 29).¹⁵ The specific feature of Sen’s inquiry into rationality is to challenge the fundamental requirements of *internal consistency of choice* and *completeness*.

Ethical considerations, Sen notes, constitute external points of view. They act from outside and constrain choices. They are independent of considerations of the internal consistency of choices with which they sometimes conflict. However, Sen argues, “[w]hat appears to be conditions of *internal consistency* are typically the implications of external correspondence with some standard and regular preference ordering (complete and transitive)” (Sen 2002a: 21). An important example of such external correspondence is the internal consistency of choices

¹³ Ibid.: 23 ¹⁴ Ibid.: 5¹⁵ For example see Simon (1955; 1979) or Kahneman, Slovic, and Tversky (1982).

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construed in terms of *self-interest maximization*, something which most economists *prima facie* consider as an actual characteristic of individuals. This phenomenon, Sen argues, can be best understood as the result of a correspondence with a norm of *self-interest maximization* which is imposed over the whole domain of choices. However, and this is the fundamental question, is it not excessive to assume that a unique criterion, whatever it may be, can be applied over the whole domain of choices independently of all and every change in external circumstances? Especially, given that the “internal properties of choice can be far from simple when the reasoning involved in choice incorporates something more complex than mechanically following a given complete ordering, and involves such features as respecting rules, or employing resolutions, or being guided by commitments, or using meta-rankings, or anticipating taste changes, or having endogenous preferences, among many other possibilities” (Sen 2002a: 21).

As mentioned earlier, internal consistency of choice entails inter-menu correspondence.¹⁶ Yet, when an individual recognizes that her choice limits others’ possibilities to choose, she may come to change not only her choice but also the criteria of reasoning involved in the choice. For example, a person faced with the set of alternatives (x, y), either taking an apple from the fruit basket (y) or not taking anything (x) decides to act decently and refrains from seizing the last apple. However, if there were two apples in the basket, that is to say from the set of alternatives (x, y, z) she would chose (y) over (x). “The presence of another apple (z) makes one of the two apples decently choosable, but this combination of choices would violate standard consistency conditions . . . even though there is nothing particularly ‘inconsistent’ in this pair of choices (given her values and scruples)” (Sen 2002a: 129).

To this criticism of the standard assumption some may wish to object that if we refine our description of the situation in such a way as to include in the social state itself the factors that lead an individual to a different attitude or criteria of choice, we can expect global internal consistency of choice to be satisfied, given that such a strategy allows us to treat all possible contradictory cases as different social states. Let us explain this briefly with the help of the previous example. First, denote the set of alternatives {x, y} by X and {x, y, z} by Y and suppose there exist extended social states such as (x, X), (x, Y), (y, X), (y, Y), (z, Y) that combine alternative factors and alternative sets. In this way we can distinguish “choosing nothing from a basket where there is only one apple” (x, X) from “choosing nothing from a basket where there are

¹⁶ See above, p. 6.

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2 apples" (x, Y) . This allows us to reinterpret the behavior of the above individual: she prefers (x, X) over (y, X) and (y, Y) to (x, Y) . No contradiction is involved if she chooses (x, X) from the set $\{(x, X), (y, X)\}$ and (y, Y) from the set $\{(x, X), (y, X), (x, Y), (y, Y), (z, Y)\}$. It is true that if we can treat all possibly contradictory cases as different social states and if we can compare all extended social states completely, global consistency can be obtained. However, by insisting on global internal consistency one overlooks the important point that Sen's argument seeks to bring out.

An individual faced with serious conflicts among different issues may stop ordering her preferences halfway, leave crucial conflicts untouched, and offer herself a quick justification. Or she may, upon fuller reflection on the meaning of her situation, decide to refrain from further evaluation and simply reduce the weight she gives to self-interest maximization. Moreover, even if at some point a global internal consistency can be established, it may disappear later on as a result of changes in "meta-rankings." That is to say, second-order preferences, preferences over preferences over actual alternatives. Meta-rankings are important in reasoning on the merits of having different types of preferences (or of acting as if one had them) (Sen 1977a; 1982a: 103–4).¹⁷ "A particular morality," Sen says, "can be viewed, not just in terms of the 'most moral' ranking of the set of alternative actions, but as a moral ranking of the ranking of actions" (Sen 1977a; 1982a: 100).

What is at stake here is that of themselves, such "unresolved situations" do not indicate a failure of rationality. According to Sen's usage of that word, rationality is nothing but a discipline of thinking, or systematic use of reason (Sen 2002a: 19), which reflects, as well as revises, an individual's goals, values, strategies, and motivations in view of relevant information. Given this definition of rationality, it is clear that to accept external viewpoints including ethical criteria that might constrain the individual's interest is neither irrational nor outside of the strict requirements of rationality. It is also clear that *incompleteness*, in either individual or social preference, that is to say to abstain from evaluating several pairs of social states, never implies a deficit of rationality. Rather, "systematic guidance to reasoned decisions can come from incomplete orderings that reflect unresolved conflicts" (Sen 2002a: 468); incompleteness suggests the existence of value conflicts which should be seriously taken into account.

¹⁷ Sen also notes that meta-ranking "can provide the format for expressing what preferences one would have preferred to have" or "can be used to analyze the conflicts involved in addiction." See also Sen (1982b) and (1982a: Introduction).