

ETHICS AND GLOBAL JUSTICE: ARE THESE WORDS TOO STRONG?

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Abstract

The main rule of production is that it should aim at maximum profit. Hence, a balance should be struck to ensure that producers obtain maximum profit. This is a rational objective called *efficiency*. What has ethics got to do with economics?

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The main rule of production is that it should aim at maximum profit. Hence, a balance should be struck to ensure that producers obtain maximum profit. This is a rational objective called *efficiency*. What has ethics got to do with economics? Nothing, since economics and ethics are different ontological objects. Moreover, economics does not need ethics to function, and ethics does not need economics to carry out its reflections (ethical judgment, reflecting judgment, nomothetic judgment, etc.) Legality means *compliance* with the law, in other words the rule of law. Nothing more, nothing less. If legality is “compliance with the law”, it is not an ethical principle, but it means to be governed by the law and by nothing else.

What has ethics got to do with legality? Nothing at all, as proven by the fact that some languages use different terms to express the meaning of this Italian word. In German, beside *Legalität*, the word *Gesetzlichkeit* is used to express the idea of compliance with the law (*regelmässig*). A more technical term is *Gesetztheit*, which refers to the positedness, the ‘positivity compliant with the law’¹; in English beside *legality*, the word *lawfulness* is more common and implies the “existence

¹ Alexy 1994 speaks of *ordnungsgemäße Gesetztheit* ('proper positedness').

of something lawful”.

Are economics and legality related? They are indeed! Production criteria and patterns are often governed by the law, which, in turn, takes into account the needs of producers. This is the only legitimate relation between legality and economics.

Provided that they comply with the law, producers can make a profit without considering ethical principles, unless some vaguely ethical principle acquires a compulsory nature because it is enshrined in the laws (for example, there are laws which prohibit unfair competition, and provide a legal – not an ethical – definition of unfair competition, which proves that a kind of ethical principle is implied in the law, but it is not an abstract concept external and above the law. It is embodied in the law and subordinated to it. In this sense ethics is never above the law.

Although ethics and economics are unrelated and autonomous, they can learn something from each other. Philosophy has said many things about economics, and in particular political philosophy has said many things about political economics. A part of political philosophy believes in a neutral approach to ethics, rather than in a perfectionist one, which does not imply a particular stance in favour of a specific ethical model, but rather the analysis of the ways in which ethics interacts with other social subjects, such as law, politics and economics. This approach is known as metaethics and it is not a notion of ethics, but a theory of ethical notions. I believe that if legality is a legal conception and not an ethical definition of what is good, the relation between legality and economics is defined by legal parameters and it is the necessary prerequisite for any issue related to global justice. Precisely, it is the result of the intersection between the interest of producers and the interest of those who make production rules. These two interests may coincide if those who make the rules have a stake in the maximum efficiency of products. Utilitarians, both economists and philosophers, maintain that the interest in economic efficiency results from the calculation of individual benefits, and it is the maximisation of collective benefits. This calculation is often based on legality because it is the result of a legal deliberation and therefore it complies with the law.

Justice is related to economics too. The relation between legality and justice must take into account an economic point of view but the subject of global justice and global economy must be handled with care, whereas over the last decade this topic has been tackled with a sterile and over the top approach. Is it possible to shape a constitutional model of globalized economy based on the

Universal Declaration of Human Rights of 1948? This Declaration is not legally binding but has a moral value; it is not an international law treaty, but a legal instrument and a declaration of principles; as reported in the Preamble, it is a common model for States and peoples, and it has inspired many important laws. Although it is not legally binding, it contains a list of inalienable rights which by no means can be exercised against the goals and principles of the United Nations”.

As stated, the relation between legality and economics is satisfied – *exeat ethica* – when the production system is consistent with the laws that govern it. The problem is that the laws governing international trade often violate the human rights enshrined in the Declaration: they provide companies with a personality and a citizenship and deprive citizens of the right to be respected, to have a minimum wage and to work. Ethics is supposed to enter from the back door, but in the relation between legality and economics, access is only granted from the front door, and ethics is left outside. To implement global justice in line with ethics new goals in the international economy and new rules are called for to govern the relation between privatization and society. In other words, the economy should have a social goal, new global rules should replace deregulation and underpin the structural transformation of society. However, capitalism controls politics and hinders this change. Hence, political philosophy is called to develop new strategies, but I believe that a new model for the international economy and its goals is not a feasible option.

What shall we do, then? The economy is subject to production and efficiency rules. Any international goal pursued by the institutions must be tested against economic efficiency and productivity which come before justice. In this framework ethics no longer counts, unless it enters from the back door and along that slippery corridor called market. On the market, ethics ceases to be a lofty but useless philosophical concept and becomes useful merchandise, thus acquiring market value. To do so, ethics must become comprehensible and fungible. It must become a conception of ethics with a production cost and potential for profit and generation of wealth.

Thanks to its new unexpected reputation, ethics can be a success goal for all interested shareholders on the global market. On the one hand, it attracts human rights activists and do-goodism professionals. On the other hand, it entices global market entrepreneurs who are interested in

investing in this appealing product. Obviously this dual function of ethics in global justice is insensible to philosophy and to ethics itself. It is only relevant as a product which generates wealth and investors can have a stake in. In disregard of Kant, those who invest in ethics must offer Kant's average honest man, that is the global consumer, a precise product at an affordable price: the possibility to believe in a better world and the delusion to live in it. Global investors have realised they need to peddle ethics as a niche product instead of commercial junk, pretending it's slow food instead of poor fast food. What is most sly about it is concealing the fact that the true nature of ethics has been turned upside down. Ethics is increasingly sold as a precious philosophical concept in small practice doses. Anyone can buy their single portion of ethics, reflecting the best ideal to believe in or the best life to lead. Anyone can have their single luxury portion of ethics at a budget price.

Should we say that this paradox nullifies the principles of liberal economy? Certainly not. The latest successful trick of the old solid liberal economy is precisely this: consumers are made to believe that luxury is perfectly handy, that reason is not a strenuous and uncertain achievement of the individuals, but an additive to our monotonous daily life, easy to buy on-line, on tv or in any supermarket. What is peddled as ethics on the global market is *not* real individual ethics but a form of disguise, a deformed and pale reflex of the real thing. In the best case scenario, the global market offers a package with a certain notion of ethics, whereas it sells a cheap and common version wholesale. The same distorted ethics prevails in the field of global justice. All attempts to reconcile global justice and ethics in the framework of political justice boil down to two opposite approaches: discarding ethics altogether or adopting a conception of ethics.

If we embrace the first approach, which reflects a number of neutral political theories, we should proclaim our indifference and non-support to any polity or good governance ideal, such as democracy, thus ruling out ethics from politics. If we go for the second approach, we stand for a perfectionist theory of global justice which inevitably entails an explanation of why a global political system should be defined just from an ethical perspective. We should support an ethical ideal, and if we support the best possible ideal, that of non-violence, democracy and human rights, we should inevitably endeavour to impose it on all other ideals.

However, the conflict between the neutral approach and the perfectionist approach in the relation

between ethics and global justice is a fake opposition. Indeed, both neutralists and perfectionists are willing to accept only *some* ethical perspectives: neutralists shall accept those perspectives which are compatible with a liberal approach (the best example in this regard is John Rawls' attempt (Rawls 1999) to project the idea of a just society on a global scale²); perfectionists shall choose only one perspective among all those compatible with a liberal approach³. Therefore, this opposition is meaningless because it rules out other notions of ethics which are not compatible with liberal theories and are authoritarian or even violent, although they can and do provide other theories of global justice. What I'm trying to say is that any philosophical theory of global justice, whether we like it or not, is a conception of ethics per se. But, as such, by using an instrument unable to solve the problem (*a conception of ethics for global justice*), it is bound to contradict itself and fail. Hence, in logical terms, no theory of justice is suitable to be applied to global justice.

Perhaps a third approach is feasible, that is a global political system which should not be necessarily defined just due to ontological and structural flaws. "Just" with respect to what? If this system is not based on justice it could be based on law. It is not a similar solution to the "negative surrogate" described by Kant in this work on cosmopolitan theory. Nothing here can be a surrogate because there is nothing better to aspire to by a continuous approximation as in Kant's idea. Just like any global justice, the cosmopolitan world is a noble theory requiring a shared ethics, which we cannot pursue or dream of.

A global system is only viable if we stop to envisage it as a just system, which would load it with a pretentious burden. We should go back to our starting point, i.e. a global system bound by

² Rawls 1999. The attempt by Rawls here is to apply the idea of moral autonomy of individuals – as well as in Rawls 1971 – to the "liberal peoples". The point is that the idea of moral autonomy, derived from Kant, is connected to that of rational choice of moral principles that define both the senses of 'right' and 'wrong'. Precisely, these principles shape the relationships between individuals who are expected to each other as part of a sort of 'kingdom of ends'. The Kantian autonomy, according to Rawls, requires that an individual – a *person*, just in the Kantian sense of a free individual responsible for their actions, «a subject whose actions can be *imputed* to him» (Kant 1797: 16) – acting autonomously when the principles derived from his actions express in a "fully adequate" its nature of rational body, free and equal. In Rawls 1971, political obligation arises on the basis of reciprocity guaranteed by the State, which formally provides a benefit to all citizens because it creates an equivalent obligation, what justifies the political obligation and the authority of the state. It therefore seems difficult to translate immediately the theorem valid for the nation state in a valid one at the supranational level. Not surprisingly, a rebound of the Rawlsian theory is admitted by the same author in Rawls 1999: a society of people is (will never be) a company of peoples, since it consists only of those people who respect in principle the law of peoples, that is the agreement that you are given and accepted as a constraint of stability on the basis of good reasons such as moral learning, mutual trust and patriotism.

³ See Raz 1986 and Dworkin 1996.

international law that, in spite of its weaknesses and flaws, is, at least formally, governed by legal norms, and by economic rules, where the only ethics possible is a product with a high exchange value.

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