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Economics and Jurisprudence: Is John Rawls' difference principle just another form of supply side economics and can it be applied effectively in modern society?

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Abstract

The article discusses the possibility of supply side economics as an extension or recreation of John Rawls' difference principle. One of the key arguments of the difference principle is to permit economic disparity in a society as long as the least advantaged are benefitted in the best way possible. Through scrutinising the differences, similarities and results of applying each of these two theories, the author submits that the two cannot possibly be one and the same as on application vast disparity is revealed. The article makes this argument by highlighting examples of the application of a supply side economic theory in American history. Special attention is given to the United States as some economists have tried to use Rawls' reasoning behind the difference principle to justify the gap between the top 1% and the rest of the population.

I. Introduction

At first, it may appear that John Rawls' difference principle and the theory of economics are fairly similar, so much so that one could be said to be just one form of the other. Despite the fact that in recent years, particularly in the United States, some economists have tried to justify the growing gap between the rich and the poor by using the difference principle, on application, and once analysed in depth, these theories are rather different. To question whether these two ideas really have resemblance, this essay will take the reader on a journey, first addressing the basics of the difference principle and its criticisms, and then turning to the basic claims of supply-side economics and how they have been criticised. The essay will then consider these differences and similarities respectively, with examples from US history. The goal of this essay is to make the argument that although it is possible to draw a parallel between these two theories, they are rather different when applied.

II. The Difference Principle

John Rawls' rejection of utilitarianism resulted in the development of his own theory of distributive justice which did not rely on the conceptions of the good. Rawls starts out with two justice principles which he claims will be selected by rational individuals once they place themselves in the original position. The original position is a state of complete ignorance. This is achieved when the decision-making process within a society is not tarnished by factors like gender or class prejudice. This can be employed by using the maximin principle, in which individuals assume they belong to the class of people who would be worst affected once the "veil of ignorance" is lifted. Once this position is assumed, Rawls posits that rational people will only consider two principles.

The first principle is the liberty principle which allows for all members of society to have the privilege of basic liberties. The second principle has two parts. First is the difference principle, allowing for inequalities in distribution of primary goods within society, so long as this benefits the least advantaged in the best possible way. Second is the equality of opportunity which requires institutions to make positions available to all based on equal opportunity.[1] These two parts of the second principle must be considered together because equality of opportunity on its own is "intellectually unstable."[2]

For Rawls, the difference principle solves the injustice of unequal natural distribution. Zoltan Miklosi suggests that Rawls is responding to "the unfairness of unrestrained economic returns on native talent."[3] Whilst the ultimate goal

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[1] J. Rawls, *A Theory of Justice* (Revised Edition, OUP 1999), 266.

[2] N. Simmonds, *Central Issues in Jurisprudence* (3rd ed, Sweet & Maxwell 2008), 71.

[3] Z. Miklosi, 'Does the Difference Principle make a Difference?' Res Publica (2010) 16(3), 267.

is not a society with equally distributed wealth, the difference principle aims to redistribute the primary materials so as to benefit the least advantaged. Miklosi suggests that the least advantaged will be a group of "the least effortful and the least endowed, or a combination of lack of effort and talent".[4] Rawls accepts inequalities in such a society as long as the least advantaged are better off than they would have been without inequalities. Even if the status of the least advantaged is enhanced by a very small number, Rawls allows inequalities. However, inequalities which cause no harm yet do not result in benefits for the least advantaged are not allowed.[5] Rawls does not place a limit on how much better the status of the least advantaged should be. Furthermore, institutions within the society that must reflect the guidelines of the difference principle are crucial, yet individual conduct does not play much of a role.[6]

III. Objections to the difference principle

The most prominent objections against the difference principle come from Robert Nozick and Will Kymlicka. Nozick submits two objections to the difference principle. Rawls overlooks the distinctness of persons when he suggests that natural talents of the most advantaged should be a shared asset within the society so as to balance the lack of benefits for the least endowed.

Nozick equated Rawls' proposition to stealing and slavery arguing that the better endowed persons have full rights to everything that they possess and any profit they may reap, because they were better endowed by natural distribution.[7] The difference principle is considerably unfair to the naturally talented because it demands that they share not only their talents but the revenue they acquired with the rest of society. Granted that Rawls' main concern is for the least advantaged, natural talents, arguably, are the property of

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[4] [n 3] 267.
[5] [n 3], 265.
[6] [n 2], 79.
[7] R. Nozick, *Anarchy, State, and Utopia* (Blackwell Publishing 2010), 185-187.

those who possess them. Therefore, turning their property into a communal asset is unfair. Rawls' proposition would require gathering all goods and wealth within society and redistributing it among everyone, which for a start is not economically viable. Someone would always end up on the losing end and this would continue as a vicious cycle.

Kymlicka argues that the difference principle does not give enough consideration to personal choice and concentrates too much on the importance of natural inequalities.[8] People should rely on their ambition to fulfil their destiny rather than hope that their natural and social endowment will pave the way for their economic and social welfare.

IV. Supply-Side Economics

Supply-side economists advocate corporate and income tax cuts for the wealthy along with less regulation and involvement by the government, as a way to improve the economy.[9] There is no special attention given to the standard of living of the least advantaged. This theory is primarily based on Say's Law, "supply creates its own demand". These economists argue that leaving workers with a higher portion of their salary provides an incentive to contribute more labour which would result in more products, therefore increasing supply of goods available on the market. Also known as Reaganomics or the trickledown theory, the idea is that the more wealth the upper class accrues, the 1% of the population, the more of it will flow into the general economic pool and ultimately result in helping the least advantaged. E. C. Pasour Jr. explains the essence of supply-side economics as "increased tax rates deter economic activity, drive it underground, or cause it to switch into legal but untaxable outlets." [10] Supporters of this theory claimed that it was advantageous to the people as well as the government,

[8] W. Kymlicka, *Contemporary Political Philosophy: An Introduction* (OUP 1990), 70.
[9] J. Sloman and A. Wride, *Economics*, (7th ed, FT Prentice Hall 2009), 655.
[10] E. C. Pasour Jr., 'Supply-side Economics: A Return to Basic Principles?' Modern Age, (Winter 1982) 26(1), 58.

cautioning that higher tax rates motivated workers to find ways to conceal as much of their taxable income as possible. Quoting Gunnar Myrdal, Pasour listed Italy and Sweden as examples where higher tax rates resulted in a large portion of underground economic activity and emphasized that this was a growing problem in the USA as well.

V. Criticisms of Supply-Side Economics

The debate that supply-side economics is merely a rewording of elementary classic economic principles has been going on for several decades and its criticisms are copious. The majority of the opponents argue that cutting taxes is not the answer. Throughout American history, governments have turned to supply-side economics more than once to 'save the economy.' Has it worked and what were the consequences? During his first term, President George W. Bush's central proposal in 2000 was tax cuts. He vowed to decrease income taxes for every bracket. Four years later he claimed the tax cuts would help the economy by encouraging the public to spend money.[11]

According to Richard Kogan's analysis of underlying annual economic growth rates in the 1980s and part of the 1990s, the tax cuts had little effect. He demonstrates that the US economy goes through business cycle peaks and economic growth is the result of "more people working and more output per hour" rather than tax cuts.[12] Quoting a Republican analysis by the House Committee on Budget, Kogan stressed that the best tax incentive is "reduction of deficit"[13]. The tax cuts proposed by George W. Bush tended to benefit high income households and there was little, if any, benefit to middle class households, whilst the poorest saw no gain at all.

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[11] N. Gregory Mankiw, *Macroeconomics* (7th ed. Worth Palgrave Macmillan USA 2010), 296.

[12] R. Kogan, 'Does Cutting Tax Rates Increase Economic Growth?' (1996) http://www.cbpp.org/archiveSite/TXCT85.HTM accessed 27 February 2012

[13] Budget and Economic Analysis 1(3), House Committee on the Budget, U.S., House of Representatives, (1996)

VI. Differences

There are several differences between the two theories but there are only two glaring and crucial distinctions. At the onset of supply-side economics, beginning with Jean Baptiste Say and what became to be known as Say's Law, the main priority has always been to boost the economy and reduce the deficit. Even if the welfare of the least advantaged was mentioned, it was a secondary concern. In the US, supply-side economics saw a rise in popularity in the 1970s and its popularity continued growing in the 1980s. A majority of Wall Street economists were singing praises to the idea, even though many others, like E.C. Pasour were questioning whether this was really something new or merely "a return to basic principles."[14] Before George Bush Sr. came into the office as vice president, he called Reagan's proposals "voodoo economics."[15] Under the Reagan administration the gap between the rich and the poor grew continuously; many considered this the consequence of the tax cuts Reagan and his advisors so vehemently promoted.[16] The least advantaged, and under Reagan's administration these were unskilled workers, were affected the most and as a result of the new economic policies they lost their jobs. Those who were employed under the minimum wages saw a decrease in their salaries. Supply-side economics was endorsed as a safe policy that was going to benefit everyone in society. The result was less than satisfying.

According to the difference principle, the situation for all members of the society will improve and, both, the most advantaged and the least advantaged will be in the best possible position from where they started. Employing supply-side economics however, the upper class maintains their status while also retaining more of their income. At the same time, the lower class does not receive more benefits or higher

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[14] [n 10]
[15] BBC News, Reagonomics or voodoo economics?' (2004) http://news.bbc.co.uk/1/hi/world/americas/270292.stm accessed 27 February 27 2012
[16] [n 15]

wages; instead they are left hoping that the incentive provided for the wealthy will result in them investing more money in the economy, which in turn will result in higher productivity, which somehow will "trickle down" to the poor. Regardless of what any government has argued this does not work, and the recent economic crisis has made that even more obvious. Particularly in the US, the situation speaks for itself. Several Presidents, along with their advisors, beginning with Reagan, have been seduced by supply-side economics. President Reagan and President George W. Bush witnessed two of the worst economic recessions in American history. After tax relief has been provided for the wealthy, the lowest and middle class citizens have seen little benefit. Instead, unemployment has grown, and the standard of living has decreased with most average Americans left without health insurance coverage and many without jobs and without a home.

It appears that supply-side economists saw the difference principle as their panacea for making people believe in what they were selling. George DeMartino explains that the difference principle has been used as a "cover for unprecedented increases in global income inequality over the past three decades."[17] Accordingly, the two concepts cannot be the same nor could the difference principle be merely another form of supply-side economics. In his musings and explanations of the difference principle, Rawls sought a way to diminish the gap between the rich and the poor, even if it was only by a small amount. As long as the worst off were in a slightly better position than they would have been without the inequalities existing, for Rawls this was already a step in the right direction. DeMartino points out that "Rawls and other egalitarians would hardly approve" of the way the neoliberals have used the difference principle as a justification for allowing the upper class to become even more affluent.[18]

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[17] G. DeMartino, *Global Economy, Global Justice: Theoretical Objections and Policy: Alternatives to Neoliberalism* (Routledge 2000), 110.
[18] [n 17]

The second important difference is that under the supply-side economics theory, equality of opportunity is not guaranteed and not even considered. While the difference principle and the equality of opportunity form two parts of the second principle of distributive justice, they are more effective when considered together. If supply-side economists gave consideration to the idea of equality of opportunity, the economic theory might be more effective because then, it would account for the wellbeing of all members of a given society, rather than just focusing on improving the economy itself.

The difference principle is part of a hypothetical social contract that is meant to take place in a society unburdened by social prejudices and selfish motivations in decision making. Supply-side economics, even in a hypothetical situation, is unlikely to work in such a society. Moreover, supply-side economics has been applied throughout history by US and the UK, both largely capitalist societies. Application of the difference principle in a pure capitalist society is simply impossible.

VII. Similarities

Could it be possible to encounter any similarities between these two theories? Even at a first look, it is obvious that both allow for the wealthy to not only preserve their wealth, but also to acquire more income. While under the difference principle, Rawls outright allows for inequalities to exist within the society, as long as the least advantaged are benefitted even by a small measure, under supply-side economics inequalities are created and even justified by the government, and as a result the poor see no benefit whatsoever.

Overall the purpose of these theories is to improve society making everyone happier with their situation. However both these theories share the fact that in the long term, they inevitably fail in what they set out to achieve. Nozick highlights that despite the fact that the rich are continuing to grow their capital, they would soon realize that their wealth could be just as great without the social contract with the least advantaged.

Rawls response to this is the following. He believes that without the difference principle, the least advantaged would be unhappy with their situation, but this leads back to the aforementioned criticism of enslaving the most advantaged to turn their natural talents into a communal commodity.[19] Certainly, Rawls does accept that in reality his social contract would not be agreed to as demonstrated by supply-side economics implementation. Members of the upper class accept lower taxes and enhance their personal wealth, but they do not give incentives to the lower class on an equal scale. This style of managing the economy is clearly short lived and in the end can result in society as a whole suffering.

Within the last paragraph, another similarity is apparent, that of unfair wages. Rawls' theory would imply as stated, that those who are less talented would be placed in the best possible position. According to Pegu, this could result in unfair wages or unjust enrichment because the theory does not require a person to earn his wealth.[20] That person is guaranteed allocation of the best possible portion of wealth that exists within the society. Similarly, supply-side economics allows for unfair wages since one's efficiency does not determine one's wages; although in this case it is the lower classes who are left disgruntled. Evidently, this does not result in a fair society, nor does it improve the society much.

Supply-side economists can argue until they are blue in the face, but the idea of decreasing tax burdens for the most wealthy has not and will not aid the middle and lower classes to enhance their economic status. This has been demonstrated numerous times in American, as well as European history, particularly with the recent economic crises. Therefore the careful consideration of the two theories and analysis of their application to actual society

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[19] [n 2], 88-90.

[20] A.C. Pegu, *The Economics of Welfare* (3rd ed., MacMillan and Co. Limited 1929), 553.

reveals that although fairly different, the Rawls' theory could help improve supply-side economics efficiency.

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