ON JUST INSTITUTIONS AND DEVELOPMENT: RETHINKING GLOBALIZATION IN THE CONTEXT OF JUSTICE

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Abstract
A recurrent modern day narrative is that the expansion of people's freedom often tied to the democracy is the best form of government and that once the institutions of democracy are in place, a country is assured to thread the path of development. Unfortunately, the smoldering ruins of non-development of most countries in Africa and beyond after embracing this narrative tell us a different story. Yet the promoters of this narrative introduce another variable in the equation of development-enhancing-governance – corruption and injustice. Another look reveals that injustice and corruption are not lacking in any measure in the so-called developed countries. Put in the context of globalization, the underdeveloped/developing nations and the so-called developing nations are today permanently forced into an unequal relationship through globalization whereby the developing nations are encouraged to enter a relationship for the promotion of a world order they neither contributed in designing nor understand its rules of engagement. Yet the only countries that are not in the West that command respect today are those that defy this externally imposed while pasturing a homegrown definition of what is governance and the institutions necessary to foster it. Against the above backdrop, this essay argues in part that while no nation should re-invent the wheel, respecting the cultures and peculiarities of nations is the first step towards a peaceful co-existence which assures development. It further argues that the institutions of modern-day democracy by itself can never ensure development and that in deed, in some instances promotes lack of development. The essay is anchored on the understanding that history displays a great variety of arrangements and ideologies with regard to distributive justice and that indeed, what becomes justice, while constituted of some basic similarities is a human construction, and it is doubtful that it can be made only one way.
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Introduction

That the world falls short of being just is not in contention. Most thinkers do not expect a perfectly just world nor is there a general consensus among thinkers on what constitutes a perfect justice. Notwithstanding, "there is nothing so finely perceived and finely felt, as injustice," so says the little Pip of *Great Expectations* by Dickens. Despite this lack of consensus, we are constrained in the current world order cooperate and depend on each other. We are at a moment in history when our interconnectivity and interdependence seem most evident. An area in which this fact has played out is in man's care for the environment and the idea of sensitive dependence, evident in the problem of global warming, thus the often quoted maxim of the[1] The present awareness of man's interdependence is engendered,

strengthened and sustained by the continued advance of science, especially in the area of information technology, by which information earlier a privy of specialists are now in the open forum and by which otherwise distant persons share in the context and experiences that would have been impossible without these technologies, a situation described as the globalized world.

The Levin Institute[2] defines globalization as:

> A process of interaction and integration among the people, companies, and governments of different nations, a process driven by international trade and investment and aided by information technology. This process has effects on the environment, on culture, on political systems, on economic development and prosperity, and on human physical well-being in societies around the world.[3]

Relevant for our consideration from the preceding definition of globalization is its effects with respect to distributive justice and in particular on economic development and prosperity and on human and physical well-being in societies around the world.

One of the resultant effects of globalization is the suspicion that globalization promotes the interest of western nations especially the United States of America, who is a major driving force in information technology. While we may not venture into the particulars and details of these claims, we note howeverthat one of the major reasons for the suspicion is the fact that certain institutional structures as liberal democracy which is mostly identified with western civilizations is promoted as a prerequisite for development. Social justice is seen to be possible only in the context of some institutional structures; thereby throwing up the question as to whether this is really the case.

The foregoing is also consequent on the preoccupation of theories of justice in contemporary moral and political philosophy with the search for model institutional arrangements that engender perfect justice most of which favor liberal democracy. Noteworthy is that the resultant institutional arrangements are conceived within specific cultures which with the aid of globalization are transmitted to other cultures. Underscoring the promotion of such systems is the desire to replicate their successes in their place of origin to other places. Incidentally, this often fails to take note of the diversity of cultures and peoples in the target places. As such, while we must accept that "in the matter of distributive justice, history displays a great variety of arrangements and ideologies," it is at the same time arguable that "Justice is a human construction, and it is doubtful that it can be made only one way."[4] A brief consideration of the traditional theories of justice and development in philosophy throws more light on this.

On Just Institutions

Notwithstanding that justice has always being a preoccupation of philosophy, the subject of justice gained some remarkable currency during Enlightenment Philosophy. Indeed, in his book *The Idea of Justice* (2009), Amartya Sen noted that starting from the Enlightenment, and with the emergence of Thomas Hobbes, different political thinkers have grappled with the theory of justice. Their thoughts according to Amartya Sen[5] could be grouped into two broad categories.

a. Transcendental Institutionalism

This approach dates back to the work of Thomas Hobbes in the seventeenth century and is characterized by an effort to develop a theory or fashion a social contract with a focus on transcendental identification of the ideals of justice in two basic ways, viz theorizing on what is perfect justice and searching for the right institutions to bring about this kind of justice. Consequently, less emphasis is placed on the actual societies that would emerge from such institutions. The foremost theorists in this camp are Thomas Hobbes, John Locke, Jean-Jacques Rousseau and Immanuel Kant.These thinkers while varying in their detailsbuild up hypothetical contracts on which institutions are built to avert the chaos that will otherwise arise in the absence of any contract. In contemporary philosophy, the theories of such thinkers as Ronald Dworkin, David Gauthier, and Robert Nozick, share some features with transcendental institutionalism in their different forms of identification of just rules and institutions.[6]

b. Realization-Focused Comparison

Thinkers of this corpus on the other hand propose theories of justice based on realizations from actual institutions, behavior etc. with the aim of the removal of manifest injustice from existent societies. It is for this reason that they are typified as realization-focused. Among thinkers in this school of thought are Adam Smith, the Marquis de Condorcet, Jeremy Bentham, Mary Wollstonecraft, Karl Marx and John Stuart Mill.

c. John Rawls on Justice

Though justice continued to court attention during post Enlightenment Philosophy, discussions on justice as a subject of philosophy received a particular boost with the publication of the epic book of John Rawls, *A Theory of Justice* 1971[7], where he developed his concept of *Justice as Fairness* and with which came a myriad of other publications that have ensured a space in the domain of public discussion on justice. However, Rawls' privileging of institutions within the framework of particular nations, developed from agreements in the original position, tilts it in favor of the transcendental institutionalist/contractarian approach in his quest for the ideal nature of justice. Rawls himself specifically noted that "My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau, and Kant"[8]

d. Amartya Sen's Idea of Justice

Sen's idea of Justice makes a preference for the Realization focused Comparison. However, while sharing some similarities with this group of theorists, his theory differs from theirs in very significant ways. He specifically clarifies that the Idea of Justice is meant to articulate a theory of Justice in a very broad sense and departs from his predecessors in three unique ways:[9]

1. Finding a basis of practical reasoning that must include ways of judging how to reduce injustice and advance justice.
2. Advancing reasoned argument with oneself and with others that is characterized by impartial scrutiny that may still not eliminate conflicting and competing arguments. As such while there could still exist differing institutional arrangements, there could be congruency with regard to the promotion of justice and elimination of injustice across nations and different institutional arrangements.
3. Accepting that Justice is ultimately connected with the way people's lives go, and not merely with the nature of institutions surrounding them.

Proceeding from the above, while not denying that institutions must play a significant role in the pursuit of justice, justice is no longer defined based on institutions, but rather in terms of lives and freedoms that people desire and get.[10] This is more so bearing in mind that the institutions of state meant to ensure justice, function only when the citizens of the state act in line with the demands of such institutions. The theories of Transcendental Institutionalism presume the compliance of all citizens for it's functioning, which as it were, is also its limitation. Rawls as a matter of fact notes that "The other limitation on our discussion is that for the most part I examine the principles of justice that would regulate a well-ordered society. Everyone is presumed to act justly and to do his part in upholding just institutions."[11] Unfortunately however, the existence of these institutions does not necessitate the compliance of the citizens of the nation in which they exist. Thus, were there to exist a society without those institutions, and yet the citizens of that state were able to live lives devoid of injustice, it would still be a more just society. By extension, we can therefore argue that in societies that already have these institutions, justice would be better facilitated, by finding ways of ensuring that only policies that positively affect the lives and freedoms of individuals in the society are promoted. It was in recognition of this idea of justice that Sen would attempt to redefine development in the same perspective, giving rise to the now popular *Capability Approach* to development.

On Development

In answer to the question of what kind of a theory of justice in his *The Idea of Justice*, Sen noted that "It's aim is to clarify how we can proceed to address questions of enhancing justice and removing injustice, rather than to offer

resolutions of questions about the nature of perfect justice."[12] Along the same line, in the opening statement of his principal book, *Development as Freedom,* Sen goes on to note that "Development can be seen, it is argued here, as a process of expanding the real freedoms that people enjoy."[13] Arguing as above, Sen changed the point of focus from the nature of institutions that engender a perfect justice to expanding the capabilities of the human person as both the means and end of development, thus *Development as Freedom*. Paramount for our consideration here is that there is a shift from the search for the ideal institutions that promote justice, to seeking ways of promoting justice and removing injustice in concrete life situations of real persons by expanding their freedom to live in ways they love and choose. This implied a shift from the possibility of a perfect justice to the human person as the subject of justice. Sen here privileges the human person as the center of distributive justice and development. Viewed as such, whatever institutional arrangement we subscribe to becomes only an instrument for the administration of justice, a means and not the end of justice.

Conclusion

Thus far, we note that development generally encompasses both the end and means of making lives of peoples better. While economic growth remains crucial to development, beyond economic growth, development is also closely linked to human development in general—health, nutrition, education, sanitation etc. In this light, one of the strongest points of globalization is that it engenders and indeed promotes development. This is so because, with the access and exchange of information and resources engendered by globalization, comealso the opportunity for less developed countries and their citizens to develop economically and raise their standards of living by keying into the opportunities made possible by these contacts.

Notwithstanding the positive dimensions to globalization, the gains very often come at the expense of sacrificing the culture of the less developed nation or group in the effort and pursuit of economic growth.Culture in this sense is understood as shared history, mythologies, religion and value of a people. One of these values in the context of our discussion is a people's sense of justice and their choice of institutions for its promotion as well as what they call development. Any reinterpretation or restructuring of these points of reference of a people that does not take note of their peculiar *Inescapable Frameworks*[14], will always give rise to a dislocation from their *Moral Sources,*[15] which according to Charles Taylor is a constitutive good outside of us but which influences our choice of what we consider to be a moral good.[16]

Also in the context of our discussion, if a country is viewed to promote justiceonly when they accept such institutional arrangements as liberal democracy which in this sense becomes part of the measure of their development, it goes without saying that it can only come at the cost of trading-in part of their culture, their

value system. It is this situation that brings into focus the question as to whether there is only one institutional arrangement that promote justice and development? This question is also raised bearing in mind that the questions of injustice may only be connected with behavioral transgressions and not with institutional short comings and that this behavior is sustainable by touching base with the moral sources that find their expression in a people's culture.

A contextualization of the above brings to mind the situation of most countries in Africa. Despite the fact that most African countries are today democratic, the institution of democracy has failed to turn the tide towards development. In some cases, the very democratic institutions turn out to be a source of underdevelopment. A case in point is Nigeria, where the cost of maintaining the bureaucracy of such democratic institutions as the legislative arm of government has become a source of worry for the international community. Today the salaries of the members of the executive and legislative arms of government in Nigeria are among the highest in the world. This coupled with widespread corruption has ensured that the rich wealth generated from oil and other resources has failed to translate into remarkable development, since the gains have remained in the hands of multinationals and corrupt officials. Consequently, as noted by Louise Greenwood, "Nigeria, the largest African oil exporter, has earned an estimated $6 trillion from oil, yet 70 percent of its citizens live in poverty".[17] Unfortunately, Nigeria is not alone in this trend. Statistics from the *Human Development Report 2013* shows that in2012, the five countries with the lowest HDI (Human Development Index) were Niger, Democratic Republic of Congo, Mozambique, Chad and Burkina Faso, indeed 37 of the 46 states ranked as having low human development are located in Africa. Interestingly, these countries are democratic and most are blessed with rich mineral resources. It becomes necessary to ask why the democratic institutions are not able to engender good distributive justice and development? What is pertinent here is to underscore the point that institutions are not enough to engender distributive justice and development.

It is very important to note at this stage that institutions arenecessary for ensuring that people are able to lead the life they value, choose and enjoy. They also provide the platform for scrutinizing and prioritizing values through the opportunities they create for public discussion.[18] However, given that there is no unitary apprehension of justice nor of just institutions giving rise to the possibility for the existence of "… several distinct reasons of justice, each of which survives critical scrutiny, but yields divergent conclusions,"[19] it would only be right to assume that no one institutional arrangement can serve the needs of the divergent peoples of the world with divergent cultures. This assumption would also apply to even existing institutional arrangements as liberal democracy. For "If we hold democracy to be government by discussion, then it must be judged not just by institutions that formally exist, but by the extent to which different voices from diverse sections of the people can actually be heard."[20]

What the above calls for could be what Amartya Sen calls *plural grounding*[21], whereby for instance it is possible to have a strong sense of injustice on many different grounds, and yet not agree on one particular ground as being the dominant reason for the diagnosis of injustice.[22] This would be different from disengaged toleration or indifferent justice whereby each person is assumed to be right in his position without an attempt at justification for the others. What this entails is that there could exist several equally justifiable groundings for justice. It means grounding justice on a plurality of reasons and not on unreason, since "there may not indeed exist any identifiable perfectly just social arrangement on which impartial agreement would emerge."[23]

Also, bearing in mind that all the institutional arrangements today evolved over time, and still evolves, it becomes pertinent to note that all that is important is the continuous elimination of injustice, along the evolutionary curve, in such a way that people would be able to live in ways they love and choose. As such there could exist different motivations for public action, giving rise to the possibility of influencing practical action across borders through globalization while maintaining the order of the target society.[24] All it takes is accepting the possibility that there could be several reasonable positions. I would agree with Amartya Sen that:

> If democracy is not seen simply in terms of the setting up of some specific institutions (like a democratic global government or global elections), but in terms of the possibility and reach of public reasoning, the task of advancing – rather than perfecting – both global democracy and global justice can be seen as eminently understandable ideas that can plausibly inspire and influence practical actions across borders.[25]

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References

[1]E.N. LORENZ, "Atmospheric Predictability as Revealed by Naturally Occurring Analogues", *Journal of the Atmospheric Sciences*26 (4) 1969, 636–646.The name *Butterfly Effect* was coined by Edward Lorenz (1917-2008) based on the explication of the Chaos Theory, on the theoretical example of a hurricane's formation being contingent on whether or not a distant butterfly had flapped its wings several weeks before. Though the primary concern here was meteorology, the application of the Butterfly Effect has since gone beyond meteorology. Along the same line, the position of the butterfly is constantly adapted to suit different audiences and purposes.

[2]The Levin Institute is an institute of The State University of New York. The institute offers the Internet resource www.globalization101.org to promote a greater understanding of globalization. Incidentally one of the reasons given by the Institute as a motivation for the promotion of a greater understanding of globalization is the suspicion by some people that globalization is a vehicle for the promotion of American interest.

[3]See http://www.globalization101.org/what-is-globalization, assessed on 09/10/2013.

[4]M. WALZER, *Spheres of Justice, A Defence of Pluralism and Equality*, 1983, 4.

[5] See A. SEN, *The Idea of Justice*, 2010, 5-19.

[6]A.SEN, *The Idea of Justice*, 8.

[7]J. RAWLS, *A Theory of Justice,*1971. Revised edition, 1999.

[8]J. RAWLS, *A Theory of Justice,* 1971, 10.

[9]A.SEN, *The Idea of Justice*, ix-x

[10] Ibid., xii

[11]J. RAWLS, *A Theory of Justice,* 1971, 7-8

[12]A.SEN, *The Idea of Justice*, 2010, ix.

[13]A. SEN, *Development as Freedom*, 1999, 3.

[14] See C. TAYLOR, *The Ethics of Authenticity*, 1991, 31-41. I have in mind here the things the people have come to love and choose which informs their behavior and which is peculiar to them as a people with a culture and history.

[15] See C. TAYLOR, *Sources of the Self The Making of the Modern Identity*, 1989, 91-107.

[16]*Ibid.*

[17] Greenwood, Louise. "Are Africa's commodities an economic blessing?" BBC News. July 22, 2010.

[18]A.SEN, *The Idea of Justice*, 2010, xii

[19]*Ibid*., x

[20]*Ibid* ., xiii

[21]*Ibid* ., 2

[22]*Ibid* ., *2*.

[23]*Ibid* ., *15*

[24]*Ibid* ., 2.

[25]*Ibid* ., xiii