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On Marxism, Institutionalism, and the Problem of Labor Exploitation

George DeMartino

In Are Worker Rights Human Rights? Ric McIntyre explores the unintended manner in which rights discourse may impede the project to empower labor in today's globally integrated economy, while offering a synthesis of critical insights from the institutionalist and Marxian traditions. In his synthesis McIntyre draws on the related concepts of convention and class, on the one hand, and reasonable value and exploitation, on the other. This essay pursues that synthesis, and raises questions about what is gained and what is lost in the development of a theoretical account that respects the contributions of both traditions.

Key Words: Marxism, Institutionalism, Exploitation, Class, Richard McIntyre

Ric McIntyre's exploration of the theoretical and political significance of the ascendance of the discourse of human rights in the domain of labor struggles in the latter half of the twentieth century accomplishes many distinct objectives. First and foremost, *Are Worker Rights Human Rights?* (McIntyre 2008) examines the ways in which the subsumption of labor politics under the mantle of human rights actually interferes with a goal that many human rights advocates share—the goal of resisting the most egregious forms of economic oppression, especially those that arise in the context of the global extension of commodity chains. For many human rights advocates, first- and second-generation rights are complementary and additive. In this view, the goal of human rights advocates is to seek political and civil rights, including freedom of expression, habeas corpus protection, freedom of religion, and so forth, and at the same time to press for economic and social rights, like the right to employment and the right to strike. McIntyre demonstrates here why it is that the two bodies of rights might be based on orthogonal and even mutually exclusive bases, so that claims made in pursuit of the one may interfere with achievement of the other. In McIntyre's view, moral frameworks that are built upon the inalienable rights of the individual may actually restrict collective rights that are vital to resist economic oppression. For instance, reading the book one can't help but think about the way in which individual rights are invoked routinely in so-called right-to-work campaigns in the United States. These campaigns, framed entirely as the defense of individual rights, seek legislation that make it extraordinarily difficult for workers to achieve their collective right to form unions and bargain collectively. And if collective rights are in fact necessary for

eradicating the most egregious forms of economic exploitation, as McIntyre contends here, then human rights advocates can find themselves unwitting allies in strategies that deepen oppression. This trap can be avoided by understanding rights as conventional and not foundational. Doing so would allow us to be more attentive to the potentially contradictory effects of the rights discourses that we advance to seek justice and more agile in redefining rights as necessary so as to ensure that they achieve the objectives we intend them to serve.

Second, McIntyre explores carefully the Marxian and institutionalist traditions and unearths and mines a rich seam of complementarities between them that bear directly on the shared pursuit of the advancement of workers' interests. McIntyre draws equally on the two traditions to bring clarity to a terribly important, difficult, and pressing contemporary struggle: the struggle for worker rights in an increasingly internationalized economy. I will return to this matter at length below.

Third, the book demonstrates the relevance of and puts to use the concept of legal and especially "social distancing." This is among the strongest themes of the book. McIntyre examines the notion of social distance and uses it to demonstrate how it is that the most egregious forms of exploitation can occur both across the globe, and right before our eyes, without our taking notice and without our feeling the empathy that Adam Smith took to be so vital to the proper and just functioning of a market economy. McIntyre shows how social distancing accompanies legal distancing, through chains of subcontracting that don't just shift responsibility for fairness from some agents onto others but in fact and instead seem to efface responsibility altogether. In McIntyre's account, for instance, the multinational corporation that contracts with a merchant to supply it with goods presses that middleman to provide extraordinarily low supply prices. The merchant then shifts this burden for reduced prices onto the myriad industrial firms located across the globe. Intense competition between such firms leaves them little freedom to resist such demands, and so they push constantly to reduce their own costs by sweating their own labor.

The book correctly in my view relates social distancing to the Marxian notion of commodity fetishism, which entails an obscuring or erasure of the social relations of production that are transmuted into the apparent relation among things in the marketplace. Today the globalizing economy and a relaxed and permissive national and international legal framework exacerbate this erasure. Not least, it does this by making the taking of responsibility for workers' interests not just unprofitable, but seemingly impossible. Since "ought" implies "can," all actors along the commodity chain are to be forgiven for participating in a scheme that sweats labor since any other course of action would lead to their extermination by competitive forces. We can't hold them accountable for doing the inevitable, after all. And so, once a commodity chain is established with a Wal-Mart sitting atop it, there appears to be no freedom anywhere along the chain for actors to do other than what is dictated by economic pressures. We can't hold the sweatshop managers responsible for sweating labor since their doing otherwise would force them out of business, leaving their workers even worse off. And we can't hold any of the merchants in the chain responsible for putting such pressure on those from whom they buy since they, too, have no choice. Apparently, only consumers remain "free to choose," and so only they can be held accountable. But consumers can't begin to know what

practices give rise to and are embodied in the goods for which they shop—this is a consequence of the legal and social distancing that McIntyre explicates so well here—and so they are hardly in position to shop with a conscience. Moreover, they, too, face intensifying constraints from a shrinking budget and so they are to be forgiven for shopping Wal-Mart even if they suspect that the goods they buy there are tainted in one way or another.

I should note parenthetically that the notion of legal and social distancing is now being employed productively to explain other deleterious features of contemporary capitalism. For instance, Amartya Sen has recently deployed the concept to make sense of the causes of the current financial crisis. In his words,

The moral and legal obligations and responsibilities associated with transactions have in recent years become much harder to trace, thanks to the rapid development of secondary markets involving derivatives and other financial instruments. A subprime lender who misleads a borrower into taking unwise risks can now pass off the financial assets to third parties—who are remote from the original transaction. Accountability has been badly undermined, and the need for supervision and regulation has become much stronger. (Sen 2009)

What is particularly ironic about this insight is that the proliferation of “secondary markets” in the case of financial products and subcontracting relationships in the case of commodity production represents a substantial step toward the perfection of complete markets that neoclassical theory has always sought. In neoclassical thought, the proliferation of transactions ensures a more robust, efficient, and smoothly functioning market economy. Instead, we find that it is associated with and contributes to increased misery for workers worldwide while generating increased financial misconduct and economic disruption. Moreover, in both contexts we find that the completion of markets has induced a severe erosion of the moral sentiments (McIntyre’s social distancing) that Smith took to be so fundamental to the market economy.

Finally, the book explores how contemporary institutions and social movements, from the International Labour Organization to antisweatshop campaigns, might provide a way forward in resisting the oppression of working people at home and abroad.

There is much to talk about in connection with each of these contributions. In what follows I will examine two themes that are particularly provocative and productive.

The Foundation of Rights

As mentioned in passing above, McIntyre argues that many contemporary human rights advocates fail to realize that the concept of human rights is socially constructed and therefore conventional rather than timeless, universal, and objective. This leads to consequential errors when they try to advocate for worker rights. Not all worker rights correlate well with the predominant conceptions of human rights in currency today. Indeed, the predominant approach to human rights, which arose in response to slavery and later to physical aggression and genocide, identifies the individual as the only appropriate locus for theorizing rights.

Individual rights are taken to be foundational, full stop. But in the context of capitalist exploitation, individual rights not only fail to provide a basis for resisting oppression, but actually work to sustain exploitation. For effective resistance to exploitation workers need to draw upon a collective conception of rights that emphasizes the right to organize and bargain collectively, not an individual conception that features the right of the individual to own his own labor power and sell it on the labor market.

The problem that McIntyre identifies here strikes me as persuasive. But I'm not sure that the critique applies to all the various camps that speak today to human rights. Consider Robert Nozick, on the one hand, versus John Rawls, Amartya Sen, and Martha Nussbaum, on the other. Does this critique apply to all equally? In Nozick's case the answer is surely yes: his state of nature theorization leads to just the sort of conception that McIntyre identifies here. For him, the fundamental human rights consist of freedom from physical coercion, especially by the state. Nozick (1974) will claim that almost any state action violates rights—indeed, in his view, mandatory income tax that funds redistribution is tantamount to slave labor, and, in this view, so would be state legislation that allows union dues as a condition of employment. But it's certainly not true that Rawls, Sen, and Nussbaum ground their respective rights claims in this way. Indeed, Rawls's project is predicated on the presumption that different people hold different “comprehensive doctrines”—different conceptions of rights, interests, morality, social obligations, and so forth. Some take guidance from the word of a deity while others are insistent secularists. Hence, and this bears on the book, some presume a timeless, invariant, and essential basis for rights while others do not. Rawls's project entails theorizing a way of managing this diversity rather than attempting to deny or terminate it (Rawls 1985). Rawls's veil of ignorance and the rest are a means for discovering a basis for living together justly in a world where we can't presume an essence of the sort that McIntyre is imputing to human rights advocates.

The same can be said of Sen and Nussbaum. In much of his work on equality, justice, rights, and freedom, Sen largely avoids talk of foundations altogether (e.g., Sen 1992). Nussbaum, for her part, explicitly rejects what she calls metaphysical realism and argues instead that we can nevertheless make good judgments about matters like rights and interests through what she calls an Aristotelian essentialist approach—one grounded in empirical study and reasonable judgment (see Nussbaum 1992). Now, my sense is that the human rights movement is not widely populated with disciples of Nozick. Today the center of gravity in human rights circles is far more apt to rely on conceptions that are consistent with the work of Rawls, Sen, Nussbaum, and even Marx (see Tilly 1995). The work of these scholars might provide a useful bridge between rights discourse and the concerns over labor exploitation that animate McIntyre's book. And this might prove to be a productive area of inquiry among Marxian scholars in the years ahead.

The Integration of Marxism and Radical Institutionalism

McIntyre seeks in this book to forge a productive dialogue between Marxian and (radical) institutionalist thought. There is by now a good bit of work, by scholars on

both sides, that explores this terrain (see, for instance, Dugger 1989; Dugger and Sherman 1994; DeMartino 1999; and other essays in the symposium on this topic that appeared in the September 1999 issue of the *Journal of Economic Issues*). The centerpiece of McIntyre's contribution to this work is his engagement with sets of complementary concepts: the institutionalist notion of convention and the Marxian notion of class, on the one hand, and the institutionalist notion of reasonable value and the Marxian notion of exploitation, on the other. The book encourages us to think through the relationship between the terms that appear in each couplet, and how they can be integrated to yield a more productive avenue for confronting the injustice of the contemporary global economy.

Early in the book, the claim appears that class powerfully shapes conventions: "Class interest has its effects mostly indirectly through the formation of conventional knowledge. Here the Institutionalism economics tradition and the tendency in Western Marxism associated especially with the Italian theorist and labor leader Antonio Gramsci are not so far apart" (McIntyre 2008, 9). McIntyre explicates here the Gramscian notion of hegemony, and concludes as follows: "The precise workings of cultural hegemony differ from one society to another, but the key point is that a dominant capitalist economic class position is reproduced partly by creating conventional knowledge in which bourgeois values emerge as natural and normal" (9).

In this formulation, class interest and class power give rise to conventions and give particular meaning to the conventions that do arise. This is particularly true of the convention of human rights since its predominant meaning is entirely consistent with capitalist exploitation. But reading this, I find myself thinking that this can't be the end of the story that McIntyre is trying to tell—since in that case we would not have a synthesis of institutionalism and Marxism so much as a simple restatement of Marxian thought. Convention in this account appears to be subsumed to class: even if it enjoys some degree of relative autonomy, it does so only within limits set by class interests. What I'm after here is an apparent asymmetry between the two concepts—an asymmetry that would appeal to Marxists far more than it would to institutionalists. But this isn't McIntyre's stated intent or implicit approach throughout the book. And so there is a need here, it seems to me, for greater attention to the integration of the two concepts if the argument is not to be misread as a Marxian attempt to assert ownership over what is also a distinctly institutionalist idea.

In contrast, McIntyre's synthesis with respect to the matter of economic justice would seem to appeal much more to institutionalists than to Marxists. If I am reading the book correctly, McIntyre's goal here is theoretical clarity and political mobilization that would eliminate *super*-exploitation (the payment of wages below the value of labor power), not exploitation per se. I say this because he emphasizes the desirability of arrangements that would generate "reasonable value" as defined by John R. Commons and other institutionalists. In this tradition reasonable value reflects the price for a commodity (including labor power) that would obtain were contracting parties to have relatively equal bargaining power, or in Commons's words, equal ability to wait (Ramstad 1987). Strong labor organization could provide this by substituting a collectivity for individual workers on the selling side of the labor market, which might prevent the firm from reaching substandard wage agreement with the most vulnerable or desperate of workers. But so can labor regulation

(Commons's preference, owing to the difficulties facing the unions of his day in controlling the labor market) that empowers agencies to ensure appropriate labor standards. Such mechanisms are vital to prevent the destructive competition among firms predicated on sweating labor that otherwise ensues in a market economy. For McIntyre, the International Labour Organization is the best vehicle now available for this purpose. A substantially strengthened ILO, supported by a global antisweatshop movement in support of worker organization, could provide grounds for revitalized labor movements and the achievement of class justice across the globe.

My sense from the book is that McIntyre is after arrangements that would ensure reasonable value in the institutionalist sense, which would eliminate what Marxists would equate with the elimination of superexploitation. I have always been somewhat sympathetic to an institutionalist way of thinking on this matter, not least since it provides a tangible set of strategies that are consistent with Marxian concerns and also a potentially achievable set of policy targets that might indeed alter the balance of power between capital and labor. But then the Marxian tradition reminds me that even were we to achieve reasonable value as defined by institutionalists, we would still be left with exploitation in the traditional Marxian sense—with capitalist firms continuing to wrest the social surplus unjustly from the productive workers who generate it. Perhaps the substitution of reasonable value for freedom from exploitation simply indicates how diminished are Marxian expectations after thirty years of neoliberalism. On this, the book is largely silent, and the reader is left to wonder just how McIntyre would like us to think on these matters.

I should emphasize that this is not intended as an objection since the question explored here is a very difficult one. I am persuaded by McIntyre that there is a basis for some understanding across the institutionalist and Marxian traditions on the matter of economic justice, and yet it is not clear to me just how to integrate the two in this regard without losing the insights offered by the one or the other. It is instead a request to hear more from McIntyre in the future on this pressing question. I am curious to hear from McIntyre why he largely avoids discussion of exploitation in this book, while emphasizing reasonable value. Perhaps the silence here is strategic or pragmatic: perhaps the goal of a book that is attempting to make a more coherent and compelling case for labor rights is best achieved by focusing on superexploitation and the pursuit of reasonable value rather than by raising the far more contentious matter of exploitation. Or is it the case, instead, that McIntyre has come to believe that "reasonable value" is a normatively appropriate outcome even for those who view these matters through a Marxian lens? Is it the case that Commons is right and perhaps Marx is wrong in terms of what it is that should be sought in establishing just economic arrangements? It is noteworthy that McIntyre broaches in passing the concept of class justice, but he doesn't explore it here. This leaves me wondering whether he's making a case for defining the Marxian conception of "class justice" in terms of the institutionalist conception of reasonable value. Might there be something in Commons's approach to fairness that ought to be taken account of in Marxian discussions of justice? If so, what does this importation imply for the normative and theoretical status of exploitation?

It is by no means surprising that a book that is attempting a synthesis of distinct theoretical frameworks should borrow more heavily from one tradition in one area

and the other tradition in another. Indeed, this strikes me as one of the virtues of the book, which reflects McIntyre's abiding respect for both traditions. Nor is it surprising that the synthesis is incomplete in certain respects. What McIntyre's book demonstrates (among many other things) is that the project of reworking the Marxian tradition in light of institutionalist insights and the reworking of institutionalism to make room for Marx promises to be very productive as we confront old and new political challenges. This book represents a major advance in this regard. One hopes that McIntyre continues to push this project forward even if and especially because the challenges associated with it are so daunting.

In the meantime, *Are Worker Rights Human Rights?* offers us a powerful and insightful study of an extraordinarily important and difficult challenge—the challenge of establishing theoretical conceptions, political discourses, and practical strategies that can begin to reverse the global trend toward deepening economic oppression. McIntyre's book presses forward the emerging dialogue between the radical institutionalist and Marxian traditions while at the same time establishing space for a deeper integration of heterodox economics and the human rights movement than we have seen to date. One hopes that the book achieves wide audience among political economists and human rights advocates since the stakes in this matter are so terribly high.

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