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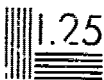
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ABSTRACT

The political economic ideas of philosophers John Rawls and Robert Nozick are compared in this paper, and their implications for mass media public policy are explored. The paper first examines the position of each philosopher, noting the major principles set forth in their works, historical antecedents for their ideas, and possible applications to the mass media. Rawls' position is that only inequalities that cause greater productivity and therefore greater benefits to all are justified, while Nozick maintains that since most inequalities are caused by innate or acquired individual differences in capabilities, individuals are entitled to what they have justly acquired. The paper then examines precedents for incorporating political economic theory into public policy, points out shared and individual weaknesses in the ideas of Rawls and Nozick, and discusses possibilities for developing reasonable compromises between the clashing values of equality and individual liberty in media system policy issues. (GW)

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"Mass Media Public Policy Implications of the Political Economy of Rawls and Nozick"

Paper presented to the Mass Communications and Society Division at the 1976 Association For Education in Journalism Annual Convention held at the University of Maryland, College Park, Maryland 20742.

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"Mass Media Public Policy Implications of the Political
Economy of Rawls and Nozick"

This paper assumes that there is some truth to the view expressed by the political economist John Maynard Keynes that "the ideas of economists and political philosophers, both when they are right and when they are wrong are more powerful than is commonly understood, indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back. . . Soon or late, it is ideas, not vested interests, which are dangerous for good or evil."

Not that it is necessary for a man to be practical to have ideas with practical applications, in an effort to persuade the "practical"

reader that at least some political economic philosophers have also been practical men, it may add some credibility to the above quotation that Keynes was also a self-made millionaire. He made several million dollars by trading in the international money market before getting out of bed in the morning.¹

In their personal lives I don't know how practical they are, but John Rawls and Robert Nozick have been busy academic scribblers of late. The paperback edition of Rawls' A Theory of Justice first published in 1971 by Harvard University Press is 600 pages,² and Nozick's 1975 Anarchy, State, and Utopia published by Basic Books runs close to 400 pages.³ Both Rawls and Nozick teach philosophy at Harvard University.

Obviously more important than their books' page lengths, the schools where they work, or their publishers, are their ideas and the attention they have attracted. Together they offer a framework for considering the difficult questions concerning allocation of and distribution of resources and inequality in the mass media. The general questions they are concerned with are whether inequalities are justified in a society, and if they are, what types and amounts of inequality. To summarize briefly at the outset Rawls' position is that only inequalities which cause greater productivity and therefore greater benefits to all are justified. Nozick's position on the other hand is that since most inequalities are caused by innate or acquired individual differences in capabilities justice demands the full entitlement of each individual to what he had justly acquired. Rawls emphasizes the value of equality. Nozick emphasizes the value of individual liberty. The existence of for

example, media oligopolies or large media salary differentials is a negation of Rawls' position. The existence of media anti-trust enforcement or public broadcasting is a negation of Nozick's position. These two values of equality and individual liberty clash in mass media systems as well as in the American society generally.

The intention of this paper is to describe and compare more fully their political economic ideas, consider the potential implications for the mass media, point out some of the weaknesses of their ideas, and discuss the applicability of this class of values for public policy alternatives in the mass media.

The Political Economy of John Rawls

The category of ideas one might consider Rawls' ideas within is of the liberal social welfare sort. The core of his political economy is his "maximin" principle. The principle states that public policy should move in the direction of maximizing the minimum level of welfare in social entity. Inequalities would be permitted only if they improved the positions of the most disadvantaged groups in the society. That is if it could be demonstrated that, for example, unequal compensations for more difficult or unpleasant work would improve the total welfare of a society as well as the least advantaged members of a society, then unequal incentives for such work would be desirable. An example might be the necessity to pay doctors specializing in performing autopsies more than stewardesses on international flights. More generally, if high progressive tax rates discouraged the most productive people in a society from

producing such that the benefits from such people accruing to the society and the most disadvantaged members of the society were reduced, the maximin principle would allow such productive people discouraged by smaller incomes to have larger incomes where different rewards for the same or increased productivity would result in some inequality. However, the emphasis would be on equality and maximizing the position of the least advantaged members of the society.

The historical antecedent of Rawls' maximin principle is the utilitarianism championed by Jeremy Bentham and James Mill, father of John Stuart Mill. The maximin principle is similar, but different. For the utilitarian public policy would be to take from the rich and give to the poor until the total satisfactions in a society were maximized. One takes from the rich not because the poor are entitled to some of what the rich own, but because the poor will benefit more from the redistribution than the wealthy would suffer. The major correction of the maximin principle to the utilitarian principle is its emphasis on the dynamics of motivation and productivity which requires some inequality.

Rawls' work is applicable to at least three sets of relationships connected with the mass media: audience-readership satisfaction, distribution of resources among media, and media worker compensation.

Who should the media strive to satisfy? The maximin principle would lean towards satisfying those who are currently least satisfied, but conditional upon maintaining the productivity of the more productive audience-readership segments. The maximin principle stresses differences in people, audiences, and readers. The implication is that there needs

to be some differences in editorial content in directions toward what the least satisfied and most productive people want rather than just what most of the people with greater disposable incomes want. Such an approach is quite different than the editor or publisher striving to please himself. The resultant audience reader satisfactions could conceivably be the same, but the editorial intention would be quite different. The intention of the maximin principle would also be quite different from the editorial policy designed to maximize circulation or advertising revenues. The maximin principle is somewhat similar to the advocacy editorial policy of helping the powerless. In any case, the maximin principle is probably different than the editorial guides most editors and publishers are used to dealing with.

The implications for American broadcasting intent is also interesting. Currently broadcasters are required by the Communications Act of 1934 to act for the "public interest, convenience, and necessity." That phrase has always been a great deal vague. The maximin principle goes directly towards establishing what the public interest is.

There are also implications of the maximin principle towards the allocation of resources among the media, that is, if one extends the maximin principle from its emphasis on individuals and groups to their legal fiction of the corporations. In such applications for example, one might shift resources from networks to affiliated stations, and from affiliated stations to UHF stations to cable operators and educational stations.

A third relationship the Rawls maximin principle may be applicable

to is wage differentials within the media. Currently, wages are determined generally by a combination market supply and demand and prestige of the type of work. I say combination because for example even if it is more difficult to find conscientious lavatory cleaners than conscientious copy editors, most organizations are reluctant to pay their bathroom cleaners more. And the market does seem to operate when comparing the average higher salaries of newspaper managers relative to reporters. Since more people want to be reporters than there are jobs, salaries for reporters tend to be low. Another example is the case of the television news anchor-man. In Boston salaries close to \$100,000 a year are not exceptional. Anchormen are paid not so much for their journalistic skills as for the audiences they build up that are loyal to their "personalities." They are "stars." The maximin principle would be assigned on the basis of maximizing the minimum benefits of the poorest paid employees subject to productivity constraints. There would probably be more equality. For example, much higher than average compensation would probably not increase dramatically the pleasantness, sex appeal, etc. of the anchorman's personality. However, the productivity constraint might very well be applicable to the advertising salesman's job performance.

The Political Economy of Robert Nozick

The category of ideas one might consider Nozick's ideas within is of the libertarian free enterprise sort. The core of his political economy is based on his three principles of: "The minimum state," "entitlement," and "rectification." Nozick characterizes his minimal

state as a type of protection agency to which citizens pay a fee for protection from force, theft, fraud, enforcement of contracts and so on. No one, as long as he does not infringe upon the rights of others, may be infringed in his person, liberty, or property without his own consent by the state or any other person. No more extensive a state than this can be justified. The entitlement principle holds that the distribution of resources in a society is just if everyone is entitled to the holdings they possess under distribution. A person or group is entitled to their holdings if they obtained them without either violating: the society's principles of how resources may be originally acquired; and, the society's principles about how resources may be transferred from one person to another. The principle of "rectification" states that original acquisitions or transfers that violate society's rules be cancelled. Rectification is a job for the minimal state.

The historical antecedent for Nozick's principles is the work of John Locke, except Nozick goes even further with respect to property rights than Locke. Locke had gone further than previous political economists in arguing for the existence of a natural right to property. However, in Locke's "social contract" he recognized the necessity of consenting with others to make a society under one government, whereby the individual puts himself under the obligation to the society to submit to the determinants of the majority. Nozick denies the right of a majority to take "entitled" resources from individuals or groups. Nozick also recognizes the right to sell oneself into slavery. Unlike Locke, Nozick recognizes the right to sell one's rights. Nozick attacks those liberals and democratic socialists who would "forbid capitalistic acts

between consenting adults." Entitled holdings are not constrained by any considerations of charity, fraternity, civic obligation, etc.

Nozick's principles are also applicable to the media relationships of: audience-readership satisfaction; distribution of resources among media; and, media worker compensation. The implications for the media are quite different from those of Rawls.

Whereas the maximin principle requires direction of editorial content efforts in the direction of equality constrained by productivity, Nozick would give publishers and license holders total content freedom without consideration of audience needs or wants, as long as the publishers and license holders acquired their property rights properly. Nozick's principles would probably require broadcasting ownership rights rather than license rights, and elimination of the requirement to broadcast in the public interest.

Similarly with respect to control of resources among media and salary differentials within the media organizations, Nozick's principles would imply retention and further accumulation and conceivably monopoly of resources by media rather than dispersion, and the most advantageous, even if exploitive, deals media owners could make for themselves with employees, rather than the relatively equal income distributions subject to the productivity of Rawls.

All this assumes that media owners are "entitled." If it could be demonstrated that media ownership was acquired or transferred through fraud or theft, the minimal state would remove all ownership rights from such owners. Thus, the implications of Nozick's ideas have the potential of being very much more radical than Rawls' ideas.

Nozick also argues that while he prefers his libertarian free enterprise minimal state society, other types of societies should be permitted to exist under the minimal state. For example, if the owners of the N.Y. Times wanted to transfer ownership rights to editorial and/or production employees who would operate the paper socialistically, the state should permit it, and both systems would flourish under the minimal state.

Discussion

Before considering the applicability of Rawls' and Nozick's ideas to media policy it is helpful to recognize that there are precedents for incorporating political economic theory into public policy. For example, the political economic ideas largely developed by Keynes between 1918 and 1940 revolutionized political economic public policy. Keynes' political economic ideas represented a compromise between Marxist elimination of capitalism and classical liberal free market independence of government planning.⁴ Referring to the work of Keynes, Roosevelt stated in his 1936 inaugural address "We have always known that heedless self-interest was bad morals; we know that it is bad economics . . . instinctively we recognized a deeper need - the need to find through government the instrument of our united purpose to solve for the individual the ever rising problems of a complex civilization. Repeated attempts at their solution without the aid of government left us baffled and bewildered. For without this aid, we had been unable to create moral controls over the services of science which are necessary to make science a useful servant instead of a ruthless master of mankind. To

do this we know that we must find political controls over great economic forces and blindly selfish men . . . we have made the exercise of all power more democratic; for we have begun to bring private autocratic powers into their proper subordination to the public's government . . . I see a United States which can demonstrate that under democratic methods of government, national wealth can be translated into a spreading volume of human comforts hitherto unknown!"

This political economic ideology expressed by Roosevelt and made economically feasible and respectable by Keynes represented a radical departure from traditional classical liberal capitalism. No longer would the least government be the best government. Government was to actively intervene in planning the private sector while permitting private ownership and improving the operation of the private sector.

In the period between 1890 and 1937 before the political economic ideas of Keynes and Roosevelt had been accepted, the Supreme Court held invalid 55 federal and 228 state statutes that called for government controls in the economy. The result was the negation of most of Roosevelt's New Deal legislation.⁵

A reversal in the Supreme Court's attitude towards Keynesian political economic legislation took place in 1937 after the publication and success of Keynes 1936 The General Theory of Employment, Income, and Interest.⁶ From 1934 to April of 1937 the court made 12 decisions holding that New Deal laws were unconstitutional. Starting in April 1937 the court upheld every Keynesian-Roosevelt New Deal program it considered, including some basically similar to those it had previously declared unconstitutional. These decisions were not made in response to Roosevelt's court packing

program. The changed decisions were made before Roosevelt's court packing plan was introduced.

According to the legal historian Bernard Schwartz "The decisions after 1937 recognized federal authority to regulate virtually every aspect of economic life." "By mid-century the welfare state had conquered American Law as it had taken over the rest of the the 'invisible hand' of Adam Smith was replaced by the 'public interest' increasingly determined by government and its agencies."⁷

The media were not exempted from "mixed economy" political economic control. In 1939 the Supreme Court declared in the *Associated Press vs. National Labor Relations Board* that "The business of the Associated Press is not immune from regulation because it is an agency of the press. The publisher of a newspaper has no special privileges to invade the rights and liberties of others . . . He may be punished for contempt of court. He is subject to the antitrust laws. Like others he must pay equitable and non-discriminatory taxes on his own business."⁸

The Keynesian political economic principle of government participation in the media for the public interest has taken many forms. Other examples are: The Communications Act of 1934, The Communications Satellite Act of 1967, the Newspaper Preservation Act of 1970, and the currently controversial "fairness doctrine" of the Federal Communications Commission.

Clearly, political economic ideas have affected public policy making in mass communications. The potential exists for similar effects of Rawls' and Nozick's ideas. Since such a potential exists we should examine the weaknesses as well as the descriptive elements of their ideas.

Shared Weaknesses of Rawls' and Nozick's Ideas

The major weakness of both Rawls' and to a greater extent Nozick's ideas is shared by many modern economists, the idea of the economic man. This economic view of man regards the ends people pursue as essentially non-rational, and that people can and do act rationally in their choice of means for attaining their non-rational ends. The difficulty with this view of man is that public policy must also be concerned with the worth of alternative ends. Rawls' and especially Nozick's objective is to provide a framework or system for handling conflicts in the ends people want in such a way that all people can satisfy their wants as much as possible. While their objectives are similar, the principles they offer are quite different, but they do not consider the ends as fruitful areas of political economic analysis. They do not offer guidelines about what we should want. Rather, they concentrate on developing principles for allocating resources without considering resources for what. Public policy is concerned with the worth of both means and ends.

Another weakness of both Rawls' and Nozick's ideas is that they do not formally consider their means principles in relation to first amendment rights of free expression and access to ideas. But that is not their intention. They are writing about general political economy and it is really too much to expect of them to relate their principles to every constitutional right. That is where the area specialist, in our case the mass media specialist, must take over from the general political economic philosopher. While Rawls' and Nozick's ideas share weaknesses, there are also weaknesses more peculiar to each.

Weaknesses in Rawls' Ideas

The major weakness of Rawls' principles are the difficulties in measurement and administration. For example, how does one adequately measure and identify a least advantaged audience? How does one design a program for maximizing the minimum welfare? Rawls is particularly vague on these points. But in a comparative sense how does one measure the public convenience, interest, and necessity measurements deriving from the Keynesian mixed economy model? Is that any easier? I suspect not much, if at all.

And how far should one take the maximin principle? For example, if all television employee incomes over \$20,000 were 95% redistributed would it be worth it if people whose incomes were less than \$10,000 benefited only \$100 more per year? Or for example, how far should one go in redistributing the resources of CBS among for example educational stations, if each station would receive only \$50,000 a year?

And how does one go about making concessions to encourage productivity among those who need incentives to perform in such a way to benefit the whole mass media system. Rawls is also quite vague on this point. Do commercial stations need greater financial incentives than educational stations?

Weaknesses in Nozick's Ideas

Nozick does not share to a large an extent the measurement weaknesses in Rawls' ideas largely because he does not ask us to measure as much. He puts the burden of proof beyond a minimum state on the advocates of going beyond the minimal state. However, he does have his own measure-

ment problems. How does one measure "entitlement." At one extreme one might argue that European whites stole most or all of the land in the U. S. from the Indians. And the land would need "rectification" to Indians.

Another weakness of Nozick's ideas is that they do not adequately consider unequal opportunity. Without "rectification" there can be no semblance of equal opportunity. Those people and groups that have resources, also have resources for further accumulation. The opportunities for further expansion in for example ownership of media would be easier for those with currently profitable holdings compared with those who had none or few. Now the principle of rectification would return for example property obtained through fraud to be redistributed. But what of the properties obtained internally through "legitimate" means with the credit of capital made possible by the initial fraudulent accumulation. How could the knowledge, education, and contracts of family members of media empires started under not so entitled circumstances be rectified? Such situations would probably not result in equal opportunity even if original now "entitled" accumulations were "rectified."

Nozick's ideas are also quite radical. The minimum state would require the dismantling of most regulatory agencies. Do we really want no programming, ownership, or labor regulations in the mass media? Should television and newspapers be permitted to promote heroin consumption to children? Should there be no public funding for artistic entertainment? Do we want to permit a single newspaper chain to own all the media in a town? Should a publisher have the right to interfere with labor elections or fire an employee because he joins a union, or hire unlimited student

interns below the minimum wage, or at no wage at all, and fire his older employees?

Nozick also assumes that the individual has adequate information to make choices. This ignores historical context and inequalities in information and persuasive power. For example, does the book publisher who sells out to a financial conglomerate with promises of continued editorial independence appreciate how a financial conglomerate acts toward profit centers that fall behind fluctuating corporate levels of expected returns? Can most newspaper readers appreciate the disadvantages of a newspaper that can afford to spend less than 10% of the promotional budget of a competing newspaper?

And finally, Nozick's claim that competing political economic systems can coexist within a minimal state is naive. As the Social Darwinists have pointed out; different legal, economic, and political environments favor different types of social organizations. For example, in the United States as both the conservative political economist Milton Friedman and the liberal democratic socialist John Kenneth Galbraith have pointed out our tax laws encourage unnatural growth of large corporations, including large media corporations over small.⁹ Since the taxes on capital gain are much less than the income taxes on dividends for upper income shareholders, including top management, they encourage their companies to retain and reinvest earnings internally rather than disperse them. Such a corporation has greater incentive for growth and therefore power over, for example, a newspaper that was owned by employees who were more concerned with their work and had smaller incomes which required more immediate dispersments with less left over for growth.

Conclusion

Unlike mathematical econometric ideas the question of whether Rawls' or Nozick's political economic ideas are better is ultimately a question of values, values that clash. Neither can mathematically prove that their principles are better. As Justice Oliver Wendell Holmes has said in referring to laws, but which is just as applicable about judging the worth of political economic ideas "The life of the law has not been logic; it has been experience. The felt necessities of the time, the prevalent moral and political theories, institutions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow men, have a good deal more to do than the syllogism in determining the rules by which men should be governed."

Among the public policy alternatives for resolving this fundamental clash of values are: a policy which elevates one value to supremacy over the other; a policy which combines the two values fully. Since there is such a fundamental clash of values here it is unlikely that a policy alternative can combine both values in their fullest states. Also since both values are fundamental it is unlikely that one or the other should be elevated to supremacy. This leaves us with the necessity of compromising the two values.

While recognizing that political economic theories are to a large extent value judgements and not proofs, we can have reasons for our preferences and which value to emphasize when considering compromises. I find Rawls' maximin principle attractive for three reasons. First, I value relative equality in allocation of resources. Second, the maximin principle builds on the tradition of Mill and Keynes in recognizing the

needs for more than the minimum state, the need to correct the tendency toward disequilibrium and imbalances in accumulation of resources; and third, the productivity constraint recognizes the self-interest nature of man as an important motivation. The maximin principle with all its operational difficulties compromises the socialist Keynesian positions of the need for government intervention to protect freedom and economic well being with the capitalist recognition that people act to a general extent in their own self-interest. What we need to do now is examine in much greater depth than I have been able to in this article the practical alternative compromise implementations before we make our judgements. One example of such an implementation and application of the maximin principle might be an amendment to the 1970 Newspaper Preservation Act. Currently the government is permitting newspapers to be exempted from certain anti-trust laws if they wish to share printing facilities as long as their editorial independence is maintained. The maximin principle might suggest going even further to require rather than permit large newspapers with excess printing capacity to share for a reasonable fee their printing facilities with smaller newspapers. The poorer group would be helped by the resources of the larger while the larger is also given a financial incentive-reward for helping the smaller and not to decrease their own productivity. Another potential application might be to tax the highly profitable network affiliated and owned stations a small percentage of their profits for the financial support of the educational stations. Again, smaller broadcasters would be helped by the most profitable stations, while less profitable commercial stations would be given a competitive advantage over the more profitable stations to improve their

productivity. These are just potential examples. The maximin principle should not be judged solely on them. New political economic ideas suggesting significant changes need time for debate and examination. It is hoped that this paper will encourage such consideration of Rawls' and Nozick's ideas within a media context, and stimulate the development of reasonable compromises between the clashing values of equality and individual liberty in media system policy issues.

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