

JUSTICE AND MARKETS

Hayek rejected justice arguments for and against the market. But his reasons do not logically rule out moderating market outcomes, argues **Richard Mulgan**

Questions about the morality of market outcomes lie at the centre of current political debate. All sides in politics, except for a few romantic utopians, value capitalist markets for the material wealth they produce. But they differ about the moral status of markets and how far governments should intervene in them for reasons of social justice and other moral purposes. Supporters of free markets, on grounds of principle, generally oppose any major intervention in the economy. But they need to face the widespread belief that markets tend to produce unjust outcomes. Markets, many people feel, may bake the largest cake but they do not always divide this cake fairly. Rewards often go to the undeserving few while the hard-working battlers are left to fight over the crumbs. How can this be fair? And if it is not fair, why should governments not intervene to correct the injustice?

Unjust outcomes

In the family, where children first learn their moral values, 'it's not fair' is one of the first social claims that small children make about each other. Parents typically try to make sure that each child receives a reasonable share of the family's resources and opportunities. Parents cannot correct all differences but they do intervene to remedy the worst inequities. Children are also told stories and watch television programs and movies in which people with kind hearts and selfless intentions prosper while the selfish go-getters are made to pay for their sins.

When young adults enter the larger community of work and the national economy, they naturally look for similar support and assistance from the authorities when hard work fails to pay off and

rewards go to those with good fortune and the right connections. In the interests of fairness and justice, they think, governments should intervene in the market. It is this rooted belief that markets, left to themselves, often deliver unfair outcomes that provides the fertile soil in which the various forms of social democracy flourish. Capitalism need not be superseded or overthrown—that utopian dream can be left to the socialist intellectuals—but it should, at least, be seriously modified in the interests of social justice. This is a central theme, for instance, in the Prime Minister's recent social-democratic tract in *The Monthly*.¹

Justice-neutral markets

How can this belief to be countered? In general terms, two approaches can be taken. One (the 'just deserts' view) is to deny that markets are actually unfair and to argue that market winners actually deserve their rewards while market losers have only themselves to blame. Markets, in other words, are moral institutions where people get their just deserts. The alternative line of argument (the 'justice neutral' view) is that market outcomes are neither just nor unjust. Markets are arenas of free exchange in which concepts such as fairness and justice apply only to the processes of exchange, for instance, whether property rights are respected,

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and not to the results of such exchange. Market players who complain of losing out are simply succumbing to envy, and should learn to accept their position with equanimity.

The best guide on the philosophy of the market is Friedrich Hayek, who is firmly in the second (justice-neutral) camp, denying the relevance of justice to market outcomes (as distinct from legal processes).² Hayek criticises the medieval schoolmen for following Aristotle in pursuit of the concept of a ‘just price.’ Market prices are actually settled by the interaction of supply and demand without reference to any notion of social value. Rewards go to those who are able to provide goods and services valued by others, particularly to successful entrepreneurs who can anticipate a new demand or market niche. As no one can fully understand or predict the behaviour of markets (Hayek’s core assumption), success or failure must partly be a matter of luck and accident. Hayek thus clearly rejects the ‘just deserts’ view that markets lead to just outcomes in the sense of rewarding individuals for their efforts.

Hayek similarly opposes the notion of ‘social justice,’ which is part of the later socialist tradition. Socialists and social democrats have regularly used the concept of social justice to support the view that governments should allocate wealth according to some notion of human need rather than allow market forces take their course. In response, Hayek argues that the concept of social justice is both philosophically illogical and politically dangerous.

Justice requires an agent

Applying social justice to a market is logically self-contradictory in Hayek’s view because justice can only be used to refer to actions or states of affairs that have been deliberately intended. Injustice, like other immoral acts and crimes, requires an unjust agent. Justice in the distribution of goods might make sense within a small group such as the family or in a small-scale tribe with leaders capable of allocating goods. When Agamemnon divided the spoils of war during the siege of Troy and kept the best slave-girl for himself, Achilles’ complaint of injustice was understandable. But such a distributive capacity is impossible within the spontaneous order of the modern market where outcomes are the unintended result of countless

individual actions. To call the distribution of wealth in a modern society unjust simply does not make sense. Indeed, the term ‘distribution’ itself is misleading because it suggests, falsely, that someone actually determined who would end up with what.

Besides being logically incoherent, the notion of social justice, according to Hayek, is also economically and politically dangerous. Any attempt to impose a pattern of distributive justice from the centre will fatally weaken the market by interfering with the essential signals of supply and demand. If we want the undoubted benefits of a capitalist economy, we must not tamper with its spontaneous workings. Intervention in the name of social justice will also destroy political freedom by imposing one particular view of human value on the rest of society and by requiring a massive state apparatus to administer it. As Hayek argues, controversially, in *The Road to Serfdom*, there is no essential difference between socialists and welfare-state social democrats on this point. Both are equally enemies of political freedom.

Hayek thus opts for a morally neutral view of who gets what in a market. To call the ‘distribution’ of wealth just or unjust is to speak illogically and dangerously. To criticise wealth distribution as socially unjust is to fall victim to envy, ‘the most anti-social and evil of all passions,’ according to John Stuart Mill.³ Kevin Rudd’s claim that Hayek believes ‘a person’s worth should primarily, and unsentimentally, be determined by the market’ is misleading because it implies that Hayek finds moral worth in the market.⁴ On the contrary, moral and social values are primarily to be exercised outside the market, in family life, and in the many voluntary associations, including charities, that citizens in a capitalist society have the leisure and means to enjoy. The market may determine a person’s initial material wealth but not his or her individual moral value.

Just deserts

If this position can be robustly secured, the fatal attraction of social justice as a ground for intervening in the market can be safely defused. However, doubts continue to surface. Hayek himself admits the difficulty of convincing people that market outcomes should not be judged in terms of fairness or justice. He notes the number of

pro-market thinkers and writers who have wanted to subscribe to the mistaken ‘just deserts’ view of markets. These range from Calvinist theologians, through social Darwinist philosophers to popular boosters of business people and their values. All have preached, in various ways, that markets reward virtue and effort. Capitalism’s winners naturally want to believe that they deserve their winnings.

Hayek also admits that such a belief might be socially useful. For capitalism to flourish, individuals must be motivated to engage in the entrepreneurial risk-taking on which markets depend. Unless people can see some connection between their own effort and the rewards of the market, why would they bother to seek out market opportunities? At the same time, people should not be misled by false myths. They should be forewarned that ‘inevitably some unworthy will succeed and some worthy fail.’⁵ This problem presents a ‘real dilemma.’ All we can say is that, on balance, personal skills and effort may tend to contribute more to success than accident and chance. But we cannot, in all honesty, go further than that.

Everything turns on the lack of individual intention behind market outcomes. Because no one intended them, they cannot be unjust.

Attempts to link market outcomes closely with individual moral worth or fairness will always fail and should therefore be abandoned. Hayek concedes, in a crucial passage, that:

the manner in which the benefits and burdens are apportioned by the market mechanism would in many instances have to be regarded as very unjust *if* it were the result of a deliberate allocation to particular people.⁶ (emphasis added)

If the pattern of wealth allocation in a capitalist market had been consciously determined by an Agamemnon (or a Stalin), it might qualify as unjust. In the last resort, everything turns on

the lack of individual intention behind market outcomes. Because no one intended them, they cannot be unjust.

This reliance on the presence or absence of deliberate intention for any ascription of injustice seems initially plausible. It accords with our commonsense view that inequalities due to accident or purely physical causes, such as differences in natural talent or appearance, are not grounds for just grievance. As Robert Nozick argued with typical self-confidence, the fact that he was a good-looking Harvard professor made him attractive to women and therefore aroused envy in other men. But they could not complain of any injustice. Similarly, failure on the stock market or choosing a job that becomes redundant, like losing on the horses, is a matter of bad luck—not unjust treatment.

Remedies after the event

One major difficulty in such arguments, however, is that they fail to deal with situations where remedies might be deliberately applied after the event to lessen the effects of inequalities due to natural or other unintended causes. That someone is born with a disability or loses a job may be an unintentional accident for which no one is to blame. But whether or not some agency, including a government, should intervene to remedy the misfortunate is certainly a matter of deliberate choice. Initial intuitions of fairness, in families and other small-scale groups, focus not only on the initial distribution of resources but also on the reaction to accidental inequalities and misfortunes. It is often seen as unfair for parents or other authority figures not to remedy inequities that have arisen accidentally.

This analogy of ameliorating accidental disadvantage allows a logical opening for claims of social justice against the market. By all means, the initial, spontaneous outcomes of the market may not be unjust because they are not the result of deliberate action. But choosing whether to intervene to moderate inequalities in the market is certainly deliberate and could be meaningfully described as just or unjust.

In response, the pro-market liberal can still fall back on the adverse economic and political consequences of intervening in markets in the

name of social justice. Intervention interferes with market signals of supply and demand. It also requires an army of bureaucrats who are a drain on the taxpayer. But the stronger, philosophical case that social justice is logically incoherent is harder to sustain. Once we concede that market allocations *could* be unjust if they were the result of deliberate action and that intervening to ameliorate such 'injustice' is itself a matter of deliberate choice, then market intervention in the name of social justice becomes logically possible.

This helps to explain the continuing attraction of social justice. When markets play such a major part of our lives, it may seem perverse to quarantine their outcomes from moral scrutiny. Indeed, as already noted, many pro-market advocates have wanted to claim that market winners and losers morally deserve their fates. More clear-sighted market theorists, such as Hayek, try to reject the connection between markets and just distribution and to characterise all appeals to social justice as 'the politics of envy.' But they cannot altogether silence the social disquiet.

In a recent issue of *Policy*, while rebutting Clive Hamilton's argument against capitalist acquisition, Peter Saunders documented the continuing appeal of socialism to intellectuals and the reluctance of so many social scientists to embrace the values of capitalism.⁷ Why should this be so? One reason, he suggested, echoing William Booth, the founder of the Salvation Army, is that the devil had always had the best tunes. Left-wing theories had the capacity to inspire idealists even if they failed to deliver what they promised. Capitalism, by contrast, lacked romantic appeal. The main attraction of socialist approaches for intellectuals lay in the 'fatal conceit' (Hayek again) of thinking that they could understand and control economic activity.

Social justice is another catchy tune in the devil's songbook. Less apocalyptic than revolutionary socialism, the principles of social justice simply apply people's sense of fair outcomes, first learnt at home, to the wider economic system in which they spend a large part of their lives and which has a major impact on their material wealth and sense of self. To deny the application of social justice to the market is a hard ask indeed. To accept it, however, can open the door to large-scale modification of market outcomes on moral grounds.

Endnotes

- 1 Kevin Rudd, 'The global financial crisis,' *The Monthly* 42 (2009).
- 2 Friedrich von Hayek, *The Mirage of Social Justice* (London: Routledge and Kegan Paul, 1976).
- 3 John Stuart Mill, *On Liberty*, chapter 4, quoted Hayek, as above, 98.
- 4 Kevin Rudd, as above, note 2.
- 5 Friedrich von Hayek, as above, note 3, 74.
- 6 As above, note 3, 64.
- 7 Peter Saunders, 'Why capitalism is good for the soul,' *Policy* 23:4 (2007–08), 3–9.