Readings in comparative sociology of law

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In Chapter III we examined the problems that plague most of the Third World -- that is, poverty and oppression; and how the Chinese leadership defined China's problem as a contradiction between the people's needs to satisfy their material demands and the low productive forces. In Chapter IV we examined methodology. The problem-solving methodology teaches us to explain a difficulty -- that is, to identify its causes -- before we propose solutions to it. In this and the succeeding two Chapters, we focus on the function of theory in guiding the discretionary choices the investigator makes in the course of problem-solving -- as to choice of difficulty to examine, range of explanations to explore, proposals for solution to suggest. In this Chapter, we examine some of the macro-theories advanced by economists to explain poverty and oppression in the Third World. The next Chapter discusses the legal analogues of those economic theories. The final Chapter of these three on economic theory and law reviews the problems confronting China today, and asks the reader to consider which theory seems to offer the best explanations for those problems, and therefore the best range of possible solutions to them.

By way of introduction, the first reading (from an article by Robert B. Seidman) explores the function of Grand Theory in the process of investigations looking towards the formulation of
critique of a legislative programme. The first substantive reading in this Chapter, excerpted from an article by Professor Neva Makgetla, identifies three schools of economic thought that address the problems of development, denoted as supply side, basic needs, and socialist.\(^1\) To understand these, she casts them into a problem-solving mode. Every theory, she argues, explicitly or implicitly offers a solution for a social problem. Explicitly or implicitly, they offer an explanation for that problem. In their choice of difficulty, their explanation and their proposed solution, they necessarily favour some segments of the society at the expense of others.

How can we test these theories? In principle, by converting them into explanatory propositions, we can test them against experience. Thus Makgetla's analysis enables us not only to compare and contrast these three theories, but also to determine from data which conform to reality.

\(^1\) Makgetla's article used Southern African examples. We have excluded the sections relating specifically to that area. Since her article appears equally applicable to the Third World, we have substituted (in brackets) the words "developing world" or similar terms.
In the Third World, most social scientists and governments define economic strategies in terms of goals: typically, in the 1980's, as some variant of a supply-side, basic-needs or socialist vision. In South Africa, too, [and other Third World countries], the debate about how best to eliminate apartheid [and other institutionalized constraints on indigenous economic actively] focused largely on the feasibility and desirability of these aims. Yet whether a strategy will work in a particular situation depends as much on the relevance of that situation of the underlying analysis as on its goals. To facilitate assessment of the three major strategies, this article reframes them as coherent explanations, and derives their propositions about the [the Third World].

Two broad conclusions emerge. On the one hand, each strategy identifies underdevelopment with the difficulties facing a particular social group. On the other, each blames underdevelopment on the pattern of resource allocation that arise from the economic or political disempowerment of that group. Not surprisingly, then, the theories generate widely divergent pictures of [the Third World].

The next section briefly discusses the methodology proposed as an alternative to the ends-means approach usually incorporated in development strategies. The rest of the paper employs that approach to reframe the supply-side, basic-needs and socialist arguments in general and in the [Third World] context.

I. AN ANALYTICAL FRAMEWORK FOR DEVELOPMENT STRATEGIES

Traditionally, economists identify policy-oriented theories with normative approaches, in which they first select desirable social goals, then discuss ways to achieve them. That defines an end-
methodology: to achieve A, do B. It has two drawbacks: it excludes research from discussion of the policy agenda; and it discourages assessment of the analysis that led to particular policy proposals. (See Margetta and Sandman forthcoming.)

By contrast, an analytical methodology rests on the belief that, at least implicitly, powerful theories parallel the procedures of practical policymaking. Each first selects a particular set of social problems, suggests the principle causes, and finally proposes measures to modify or remove them. (Frequently, these solutions ultimately reappear in normative guise, becoming the means to a desirable end rather than a solution to social problems.) This problem-solving methodology effectively demands that, before adopting a strategy, policymakers explore whether it addresses an appropriate social problem and identifies important causal factors.

In effect, the analytical methodology sees normative goals as the negation of particular social problems. Thus, every economic theory promises higher living standards and freedom. We may interpret them equally, however, as addressing particular technical and social restrictions on consumption and choice. Reformulating these restrictions as problems defines two implicit propositions - that they both affect an important social group and can be alleviated - whose validity depends on both facts and values.

Determining the social problems incorporated in each theory demonstrates the improbability of a durable national consensus around any strategy. Abstract goals may seem beyond reproach: who would quarrel with freedom and prosperity? But virtually every constraint on choice or consumption affects different social groups differently. In South Africa, for instance, different groups suffer from popular unrest, delays in debt-service payments abroad, low
profits or rising taxes, widespread poverty and a lack of economic and political rights. In the short run, no government could solve all these difficulties simultaneously, and so must please some at the cost of others.

Generally, normative arguments present the analytical foundation of a strategy solely to justify particular policy proposals. As a result, the analysis remains disjointed and largely implicit, and relies heavily on a restatement of general theory, with little attempt to assess its relevance to the case under consideration. Research aims merely to determine the most effective measures to carry out the strategy. Thus, researchers may discuss ways to eliminate state intervention in the economy or, alternatively, to establish state control of industry, without first exploring whether particular types of state intervention or private ownership actually caused the posited difficulties. If the theory neglects important causes of the difficulties addressed, however, the policy will fail.

In large part, uncritical acceptance of a development strategy follows from the economist's tendency to treat general theory as a compendium of abstract truths. In that case, the main criteria in assessing a theory become its internal consistency and ability to generate sound predictions. Carried to its logical conclusion, this approach permits policymakers to reject a theory only after it gives rise to ineffective measures (see Friedman, 1953). By contrast, the methodology proposed here treats general theories as a source, not of general truths, but of tentative explanations for widespread social difficulties.

In short, recasting general theories to discover their problem focus and analysis encourages more systematic evaluation of their relevance in particular situations. The next section therefore con-
siders the problem, explanation and solutions proposed by the three schools studied, in general and in the South African case.

II. DEVELOPMENT THEORIES IN A PROBLEM-SOLVING FRAMEWORK

In presenting general theories, this short article must ignore debates within each approach and neglect important caveats. Even in this condensed form, all three schools generate powerful and (usually) falsifiable hypotheses to explain underdevelopment in particular countries. In South Africa, various authorities have presented these propositions in whole or in part. While many do not identify consciously, politically or fully with a particular school, their arguments suggest the impact of the general paradigms.

A. The Supply-Side Approach

Supply-side theory rests on the fundamental models of neo-classical economics, which claim to apply in all economies. It essentially holds that economic stagnation results from the disempowerment of entrepreneurs to benefit government bureaucrats, workers and the poor. In this view, economic policy becomes a battleground between the imperatives of the market and those social groups dissatisfied with the market outcome. By extension, in South Africa inefficiency resulted from government coercion of entrepreneurial choice, in an attempt to protect and promote the interests of the white minority.

1. Supply-Side Theories in the Third World

For supply-side theory in general, low productivity, which combines with rising demand to generate inflation, forms the central social evil. In the Third World, the theory's adherents - many of whom were associated with the International Monetary Fund (IMF) in the '80s - argue that low productivity appears in stagnant national production per capita and balance-of-payments difficulties.
Supply-side theorists argue that in the long run low productivity affects everyone because it forms the main cause of poverty. In the short run, income inequalities may aggravate the position of the poor, but they represent a necessary reward for efficiency and growth, which will ultimately ensure higher living standards for all. These arguments lead supply-side theorists to reject pressure to equalize incomes. Instead, they endorse "austerity" measures designed to finance investment by reducing living standards for the majority.

To explain low productivity, supply-side theory points to inefficient resource allocation, which results primarily from inappropriate government action. It defines inefficiency in neoclassical terms as a situation where enterprises produce at relatively high cost and/or market supply does not equal market demand—that is, when shortages, oversupply or high prices by international standards prevail. Supply-side theory then argues that, at least in the absence of monopolies, to maximize their profits entrepreneurs must seek to cut costs and meet market demand. In effect, it maintains that, in the absence of government action, virtually all free markets in the real world approach perfect competition sufficiently to ensure efficiency. Inefficiency must therefore result from government interference in entrepreneurial decisionmaking, whether to control resources directly or to constrain individual choice.

In this view, first, when governments divert resources from enterprises they cut into productive investment, both by directing funds toward consumption and by maintaining high wage levels. In the process, they spend extravagantly on social infrastructure, administration and the military, as well as transfers to the poor, funded either by taxation or borrowing. For supply-side adherents,
these expenditures do not represent necessary inputs for economic expansion. Governments further undermine investment by maintaining high wages through support for trade unions, minimum-wage laws and high civil-service salaries, which pull up wage rates throughout the economy. The higher wages squeeze profits, and in supply-side eyes only profits can finance investment.

Second, supply-side theory holds that governments cause inefficiency by distorting market signals. In this view, long-run free-market prices must equal the cost of production, including the normal rate of profit required to attract investors. Consumers will then buy a good only when their desire meets or exceeds the social cost of producing it. In consequence, when entrepreneurs produce to meet market demand, they will both cut costs and equilibrate the costs of production with social utility. Third World governments interfere with this balancing act principally through price controls, subsidies and taxes, leading to excessive investment in some sectors, inadequate growth in others. In the name of non-market goals such as higher employment or defence, they may also use their power to compel investment in sectors where current market demand and profits remain low.

If the free market will bring about higher productivity, and that will benefit everyone, government intervention in entrepreneurial choice ultimately proves irrational and selfish. In supply-side theory, it reflects the lobbying power of special interests. In particular, the IMF held that Third World governments tended to favor urban workers over peasant and informal-sector entrepreneurs.

To support these propositions, supply-side adherents had to demonstrate that interventionist policies caused inefficiency. But many merely demonstrated that the presumed causes co-existed with
the predicted result, then argued that their general theory "proved" a causal relationship must exist in every case. For instance, in Zambia the IMF discovered that market shortages coincided with price controls, and argued that low prices discouraged production. In effect, it assumed significant elasticity of supply, an assumption contradicted by statistical analysis (see Hassan, 1986).

The supply-side analysis concludes, logically, that Third World governments should expand entrepreneurial control of resources by diminishing the power of state agencies. For instance, governments should cut real wages by eliminating price controls and ending support for trade unions. In the short run, supply-side theorists agreed that these policies might aggravate income inequalities and poverty. But over the long run, they argued, by empowering entrepreneurs - the only social group able to raise productivity - supply-side policies would ensure the increase in national output needed to improve living standards for all.
B. Basic-Needs Strategies for Development

The basic-needs approach explicitly rejects the supply-side emphasis on inefficiency, focusing instead on poverty. Its adherents normally agree that private entrepreneurship provides the motor for economic growth, but argue that only small, local producers can achieve broadly based expansion. It follows that the disempowerment of small-scale entrepreneurs ultimately causes underdevelopment. By extension, poverty in South Africa [and other Third World colonies], results from the manifold oppression of [indigenous] entrepreneurs, particularly peasants in the hinterlands and squatters in the cities.

1. The Tenets of the Basic-Needs Approach

The basic-needs strategy contends that economic policy in the Third World must remedy the inability of the "poorest of the poor" - perhaps 40 per cent of the population - to satisfy basic human needs for food, shelter, healthcare and education. That target group comprises poor peasants, informal-sector entrepreneurs and the unemployed, constituting what I will here term the peripheral sector. In effect, then, basic-needs adherents focus on the poverty of actual or potential small-scale producers.
Basic-needs theorists provide two responses to the supply-side argument that governments should ameliorate poverty solely by encouraging higher productivity. First, given massive income inequalities, higher productivity may benefit the majority little if at all. Second, where, as in the Third World, the rich prove inefficient or reluctant to invest in production, redistribution to more dynamic entrepreneurs should enhance efficiency. In this view, the prosperity of the Third World's elites arose less out of managerial virtue than out of state support at the cost of the poor.

Basic-needs theory explains the Third World's poverty as a function of economic dualism. On the one hand, the modern sector swallows the bulk of investment, but remains capital intensive and import dependent, and fails to provide essentials for production or consumption by the poor. As a result, its expansion generates only a limited domestic multiplier effect, barely stimulating employment. Meanwhile, the small-scale producers of the peripheral sector stagnate for lack of capital. Yet their reliance on domestic inputs and markets, as well as labor-intensive technologies, could ensure integrated and egalitarian growth.

Basic-needs theories ultimately blame this pattern of investment on the profound divergence of Third World economies from perfect competition. In contrast to supply-side adherents, they note not only inappropriate government intervention, but also massive income inequalities, high levels of monopolisation, factor immobility and the lack of information on investment opportunities in the peripheral sector (see Makgetla and Seidman, forthcoming).

Capital intensity and import dependency in the modern sector reflect the excessive prices of labor and local products. This situation arises in large part as modern-sector workers use their
disproportionate political and economic clout to secure their jobs and relatively luxurious living standards. To that end, they demand high wages, low fixed prices on agricultural goods, the lion's share of government spending on services and, through the overvalued exchange rate, cheap imports. Moreover, to encourage investment, governments often cut the cost of capital, typically through depreciation allowances.

Furthermore, the dominant private (largely foreign) and parastatal companies and banks enjoy monopoly profits, which reduces the need to risk innovative investment, sales or lending in the periphery. They may even use the government to restrict competition from smaller producers, for instance through licencing laws.

These market imperfections foster two vicious cycles. First, small-scale producers depend on simple, unproductive technologies with profits well below the modern-sector norm. As a result, given the risk-aversion of the modern sector, they can neither generate nor attract the investment needed to introduce more profitable technologies. Second, the huge income inequalities created under colonialism distort market demand. Foreigners and the tiny minority of prosperous urban consumers, who account for the bulk of consumption, reject the simple goods produced in the peripheral sector. In consequence, peripheral producers cannot profitably expand output.

This analysis suggests that to break the vicious cycle of poverty, governments must alleviate market imperfections, if necessary by intervening in entrepreneurial decisionmaking. Above all, they must eliminate restrictions on peripheral producers and funnel resources to them from the modern sector. On the supply side, this strategy would ensure broader employment and rising productivity. On the demand side, more equal incomes would expand the market for
simple local goods. At least initially, however, it would divert resources from the politically powerful businesses and workers of the modern sector. In consequence, while most Third World states adopted it in name, in practice they merely support local modern-sector businessmen against foreigners and provided a little credit and market for the peasantry.

C. The Socialist Analysis

Since socialist theories arose to explain the difficulties facing industrialised capitalist countries, deriving useful propositions for the Third World evoked modification and debate. In contrast to basic-needs and supply-side paradigms, the theory focused on a problem - the disempowerment of the majority of the population - that had non-economic aspects. It identified as root causes, not impairment of an ideal market, but rather ability of a tiny minority, whose power flowed largely from the nature of management, the market and the state, to control social resources in their own interests. In South Africa, then, socialists explained the economic and political oppression of the majority by examining the range of social institutions that gave tremendous power to a minority of capitalists in the state and private sector.
1. Socialist Theories in the Third World

For Marx, alienation, in the sense of individual powerlessness and isolation, constituted the central social evil. In capitalist economies, he argued it affected wage workers through low wages, inability to control working conditions, and the lack of political power. In the Third World, most socialists stress the poverty and political powerlessness of the majority. Peasant and informal producers enjoy greater control than wage workers over what and how they produce, but remain subject to the vagaries of climate and the market. And even where democracy exists formally, neither workers nor peasants really shape government decisions.

By focusing on the poorest of the poor, basic-needs adherents imply that, to some extent, everyone in the modern sector benefits from the status quo. By contrast, socialists argue that compared to the rich ruling class, wage workers suffer an unacceptable living standard. Thus, even if profits prove low and urbanites more prosperous than peasants, socialists consider wages inadequate.

Marx explains alienation as the result of the control - not legal ownership alone - that a minority of the population, whether private managers or government bureaucrats, exercises over the bulk of productive resources. This minority constitutes the capitalist class. In the enterprise, management dictates the product, conditions of work and employment of surpluses. At the national level, resource allocation accords with the interests of the wealthy, not with social needs. Finally, as profit becomes the principal motive for economic activity, workers and employers, consumers and producers lose all human empathy for each other, and deep social conflicts emerge.

Socialists conclude that the market does not protect freedom; rather, it reduces the power of society to allocate resources
rationally and collectively. Above all, it imposes a ceiling on wages. Where workers organise and insist on higher pay, employers go bankrupt or replace workers with capital or cheaper labor, often from abroad. Furthermore, where supply-side and basic-needs adherents suggest the state can establish flexible, competitive markets, the socialist paradigm assumes monopolised, rigid and speculative markets, where shifts in supply or demand cause large-scale unemployment.

For Marx, various related factors explain the persistence of minority control over resources. First and foremost, the state protects managerial control, notably through property laws. Furthermore, capitalists decide which technological advances to pursue. They encourage production methods that permit, indeed require, centralised control by a few skilled managers and technicians. Finally, the market's apparent implacability combines with conservative ideologies cultivated by the ruling class to blind most people to the possibility of more rational and humane economic systems.

In the Third World, most socialists focus on the structure, rather than the process, of production. Like the basic-needs school, they blame poverty on the disarticulation and dependency of Third World economies. But they suggest that the colonial state disrupted precolonial societies less to suppress competition than to generate cheap labor. In this view, by devastating peripheral incomes, colonial regimes enhanced the attractions of producing cheap cash crops for foreign trading firms or working at low wages for foreign-owned enterprise.

Socialists hold that given the small size of most Third World economies, a handful of interlinked private and state-owned firms necessarily controls industry and finance. Except in rare revolu-
tionary situations, that economic power ensures political dominance. To hold down wages, the top companies influence the state to suppress both workers' organisations and development in the peripheral sector. As a rule, they remain closely associated with foreign interests, which foster external dependency and extract capital through profit repatriation and, increasingly, payments on loans.

For socialists, monopoly power in the modern sector rules out investment in peasant or informal-sector enterprise. Thus, they contradict the basic-needs view that small-scale production is inherently profitable and dynamic. In their view, large-scale enterprises cannot control small-scale producers technologically, and so avoid them. Furthermore, many socialists assume that modern technologies require fairly large-scale operations. In that case, injecting capital into the periphery would merely enable a few producers to expand and join the modern sector. The majority would lose their land or markets, and become still more impoverished.

The only solution becomes the transformation of economic and political institutions to permit national or community control. As a first step, state institutions must be transformed to empower the majority. (That, of course, is easier said than done.) The newly democratic state can then guide investment to provide essential productive inputs and basic consumer goods, and markets for smaller producers. While these projects may not themselves return great profits in the short term, they should stimulate productivity and employment throughout the economy, raising living standards and investment on the national level.

Given their limited skills and funding, however, Third World states can attain operational control of only a few industries. They should therefore concentrate on those sectors, sometimes called
"commanding heights," that help define the overall structure of production and investment: finance, domestic and international wholesale trade, and basic industries. In other sectors, for instance primary-goods exporters, the state may encourage workers' ownership or retain private management, demanding only a larger share of profits. In the peripheral sector, producer cooperatives could adopt modern technologies without aggravating inequality.

These policies require that a significant group of people act to transform society because of ideals, not personal profit. In effect, socialists expect a politically motivated cadre to play the dynamising role that basic-needs and supply-side adherents assign private entrepreneurs.

CONCLUSION

Reframing development strategies in terms of a problem-solving methodology provides insight into their perspective, and opens the door for research to test their applicability and viability for particular countries. The theories disagree fundamentally about what problems policymakers should address, and what social relationships they can change. Given the concern of supply-side economics with efficiency, apartheid represents only one cause of economic problems; and a revolution might prove even more debilitating. In terms of the basic-needs approach, the poverty of the rural hinterlands and shantytowns calls for resolution through redistribution of income and productive assets by a more democratic state. An evolutionary procedure remains conceivable, however; and once the state estab-
lished greater equity, it should let the free market rule the econ-
omy. Finally; socialists concentrate on the powerlessness of the
majority, not only in the sense of poverty but also in terms of
their position in production and political processes. That approach
requires substantial changes in both political and economic
decisionmaking structures.

Even where they agree about specific facts, then, these three
schools arrive at very different analyses. In consequence, each
would eliminate apartheid through a unique reallocation of social
and economic power. In every African country, they would
similarly point to very different problems and explanatory proposi-
tions, and so propose widely divergent policies.

Endnotes

1 For a longer version of this article, see, Makgetla (1988).
2 For contributions to that debate, see for instance Thomas, 1986b;
Leatt et.al., 1986; Davies, 1987; Lipton, 1985; Nattrass,
1981; and articles in the popular press.
3 As McCloskey (1985: 8ff) points out, and inspection of most
introductory economics texts confirms, despite the reluctance of
modern economists officially to adopt them, Friedman's views
have remained influential.
4 On supply-side theory in general, see Thomas Swartz et.al., 1983.
For applications to the Third World, see IMF, 1985; IBRD, 1987,
especially Chapter 4; and Berg, 1982.
9 See, generally, Marx, 1967, 1978a and 1978b. On socialist devel-
opment theory, see, among others, Baran, 1957; Seidman, 1985,
10 The Labour Research Service (1987b) cites Lloyd George, writing
in The Beehive in 1874, to argue that workers should earn "not a
miserable allowance to starve on, but living wages."
NOTES AND QUESTIONS

1. Makgetla identifies three different theories of development: supply-side, basic needs, and socialist. What difficulty does supply-side theory identify as the difficulty that falls for explanation and solution? What class does supply-side theory tend to empower? What relationship exists between the difficulty identified and the class empowered? Ask the same questions of basic needs theory and socialist theory.

2. Compare and contrast the likely consequences of the development strategy offered by each of these theories as it will affect productivity and distribution.

3. Until 1979, the People's Republic of China had essentially excluded all foreign private investment from its territories. Critique that policy from the supply-side, basic needs and socialist perspectives. What alternative policy would each school have suggested?

4. On his first visit to China in 1987, Professor Milton Friedman urged China to drop all government price controls, and to sell all government enterprises to private purchasers. Rather than cut off the dog's tail inch by inch, he said, it is better to do it all at once. Critique the proposal from all three perspectives identified by Makgetla.