

A Relational View of Law and Economics:
Thinking of the Market as a Social Structure

Daniel K. Finn

Following several well-publicized factory disasters, which took the lives of hundreds of textile workers, the government of Bangladesh has moved to increase the minimum wage there, widely recognized as the lowest in the world (*New York Times*, 2013). Brought about by pressure from a largely European group of clothing brands and retailers, as well as from labor organizations in Bangladesh, the higher wage would entail an increase for the average worker from about \$38 a month to \$68. A 79% jump in wages has been decried by factory owners who claim it will cause bankruptcies, while others argue that workers need at least \$100 a month for simple necessities.

Economics 101 has long analyzed the effects of a price floor in the market for labor. A more complex analysis of the interrelation of government decisions and economic life has been provided by the sub-discipline of law and economics, which came into prominence in economics with the groundbreaking work of Ronald Coase (Coase, 1960). Nonetheless, the work of Coase and others has occurred within the neoclassical paradigm and has presented an unsatisfactory understanding of the nexus of law and economics from the point of view of many critics of the mainstream.

Heterodox economists have long recognized the many shortcomings of the orthodox approach in nearly all the sub-disciplines of the field, constituting a history of critique that stretches back at least to the work of T. E. Cliffe Leslie, who claimed that the work of David Ricardo “deserves a high place in the history of fallacies” (Leslie, 1876). During the nearly two centuries since Ricardo wrote his *Principles of Political Economy and Taxation*, scores of intellectual alternatives have been proposed, but none has succeeded in overturning the orthodox paradigm. Mainstream economists have consistently defended their complacency with the argument that there is no good reason to change until a better paradigm is offered. The difficulty for heterodox economists, of course, is that the definition of “better” is rooted in the methodological convictions underpinning empiricist social science.

One of the most interesting alternatives to be proposed in recent decades has been that of critical realism. This position is based in the work of British philosopher Roy Bhaskar (Bhaskar, 1975), who set out to overturn 250 years of the philosophy of science since the turn to empiricism brought about by David Hume (Hume, Selby-Bigge, & Nidditch, 1978). The leading advocate for critical realism within economics has been Tony Lawson, who has said that his “overall aim . . . is to bring reality (or more of it) back into economics” (Lawson, 1997, p. xii). A special issue of the *Review of Social Economy* (1996) helpfully assembled an array of essays addressing the relevance of critical realism for heterodox economics. At the same time, however, nearly all of Lawson’s work, and most of the conversations engendered around critical realism in economics

have been highly abstract, at the level of methodology, and very rarely at the level of actual economic analysis of real events.

This essay will not attempt a survey of the work that Lawson and others have provided concerning methodology. Instead, it will outline a critical realist conception of markets as social structures, relying on the work of critical realist sociologists. It will also employ an analysis of power provided by philosopher Thomas Wartenberg in order to understand the causal impact that prices have within the social structure we call the market. The conception of markets here described has two advantages. The first is that it understands markets in a more adequate, concrete, and relational way. The second is that its treatment of the effect of prices within markets will look quite familiar to mainstream economists, and as a result at least some of them may be tempted by a new paradigm. The result is a conception of both prices and laws as coercive characteristics of real economic relationships.

What Is Critical Realism?

As a view of how science operates, critical realism arose out of a frustration with the inadequacies of empiricist interpretations of what scientists do. Ever since David Hume in the mid-eighteenth century, philosophers of science have argued that we can only be certain of the data we perceive through our five senses. As John Stuart Mill put it much later,

We have no knowledge of anything but phenomena . . . We know not the essence, nor the real mode of production, of any fact, but only its relations to other facts in the way of succession or similitude. . . . Their essential nature, and their ultimate

causes, either efficient or final, are unknown and inscrutable to us. (Mill, 1866: 6)

Thus, Mill's definition of causality is typical of the tradition. The cause of a phenomenon is "the antecedent, or the concurrence of antecedents, on which it is invariably and unconditionally consequent" (Mill, 1874: 245). According to Bhaskar, this eclipse of real things in the world leads to a conception of scientific laws as causal forces. When I let go of a book I am holding, it hits the floor "because of the law of gravity."

Bhaskar objects to this construal of causality as consisting in an invariant sequence of events because, outside of the physics laboratory, invariant sequences of events almost never occur in the real world. That is, he argues, the scientist in the lab does not in fact think he's simply describing an invariant sequence of events, but is more robustly making a claim about how things "out there" in the real world actually operate. How else could one assume that patterns discovered in the "closed" system of the lab would also be effective in the "open" system of the real world? And because laws in the critical realist view of things are human descriptions of what's going on between real objects in the world, the book does *not* hit the floor "because of the law of gravity." The law of gravity is simply the scientist's summary of the ontologically real causal relationship between the earth and the book. As sociologist Christian Smith puts it, "scientific inquiry as a project should be concerned more with the structured properties of causal relations and mechanisms than with the regularity of observable sequences of events –

theorizing unobserved causal dynamics is what the best of science actually does and is more important than measuring the strength of association between variables” (Smith, 2010, p. 96).

Much more could be said about the philosophy of science here but the point for economists is that a critical realist economics would not claim that when oil drilling becomes more expensive, the price of gasoline will rise “because of the law of supply and demand.” Rather, the law of supply and demand identifies how things operate within real relationships in the economy. And the market itself is no longer simply an abstract mechanism or black box that presents individual consumers and producers with an array of options at various prices. The market is seen as a long chain of causal relationships, one of whose characteristics economists name as the function of prices.

What Is a Social Structure?

The central insight of critical realism is that science is about describing real things in the world, not simply our sense perception of them. Thus, in social life, critical realism judges individualistic interpretations – sometimes referred to as methodological individualism – to be deeply inadequate. But the implications of this conviction for how to describe the relationships within which market activity occurs have been largely unexamined by critical realist economists.

Tony Lawson argues that “the essence of science lies in the move, at any one level, from some manifest phenomenon to the structures which generate it”

(Lawson, 1997, p. 52). To gain understanding of real structures is clearly important to him. And because the market is itself a social structure, one might think that economists like Lawson who are committed to a critical realist approach to economics would begin by asking critical realist sociologists for advice about the character of social structures. Yet remarkably, this seems not to have occurred. Thus, this essay will next briefly summarize some of the elements relevant to economics in the work of four critical realist sociologists: Margaret Archer, Pierpaolo Donati, Douglas Porpora, and Christian Smith.

The British sociologist Margaret Archer begins with a critique of the individualism that characterizes a sizable part of social scientific research, particularly economics (Archer, *Realist Social Theory: The Morphogenetic Approach*, 1995, pp. 33-64). Consider the claim often heard after a national election that “the people have spoken.” While there is much truth to this claim it is also true that the outcome of the election – which party has how many seats in the legislature – is heavily influenced by the way in which voting districts are constructed, something political parties understand clearly in their efforts at gerrymandering. In the United States, the party that wins the White House usually does poorly in congressional elections two years later. Thus the downside for Democrats of Barack Obama’s election as president in 2008 was the election of Republican majorities in many state legislatures in 2010, after which, because of the 2010 census, legislative districts were redrawn. In the 2012 congressional elections, taken together, all Democratic candidates for the House of Representatives received one million more votes than did Republican

candidates, but the Republicans ended up with a 17 seat advantage in the House. The point here is not to criticize Republicans, since it was Democrats that invented gerrymandering in the first place, but to illustrate the error of methodological individualism in ignoring the independent existence and causal impact of social structures within which individuals make their decisions.

A similarly individualistic error is committed when economists believe they can adequately explain economic activity in markets by tracing it to the utility-maximizing decisions of consumers and the profit-maximizing decisions of producers.

Archer articulates the critical realist view in sociology that only persons are agents but that social structures have causal impact by means of the opportunities, restrictions, and incentives which they present to individuals who operate within them (Archer, 2014b). But what is a social structure? And how do they operate?

Social structures emerge from the actions of individual persons, always within the context of other social structures already in place. And what is “emergence”? Structures “emerge” just as water “emerges” from hydrogen and oxygen: two or more “lower” level elements interact or combine to form a new “higher” level reality which has characteristics different from those of the elements creating it (Smith, 2010, pp. 25-26). Thus social structures – whether a multinational business firm, a bowling league, or the market itself – have

characteristics that cannot be completely explained by the actions or intentions of the individuals involved in creating it.

American sociologist Douglas Porpora has described the four basic options within sociology for understanding the character of social structures. Some schools of sociology have seen structures as simply “patterns of aggregate behavior,” while others describe them as “law-like regularities that govern the behavior of social facts.” Others see them as largely “collective rules” structuring human behavior. The critical realist approach, taken by Porpora, understands social structures as “systems of human relationships among social positions” (Porpora, 1989). Let’s first consider a non-economic example.

A university is a social structure that contains many different kinds of relations, but the most basic is that between professor and student in the classroom. Here, some people enter into the social position of a professor and others into the social position of a student. While there is much that happens spontaneously in the classroom, and much that depends on the unique personalities of this particular professor and that particular student, all this occurs within the relationship between the pre-existing positions of professor and student into which those unique persons enter.

Consider a new PhD who takes a first job at an economics department. As that young assistant professor first enters a classroom, he encounters a number of *restrictions*. There are departmental requirements for what topics he must cover in an introductory course, university requirements that he must

give grades to her students at the end of the term, and legal requirements that can make sexual advances toward his students grounds for dismissal. Just as importantly, however, there are student expectations of professors that are a restriction as well. He needs to avoid droning on in a boring lecture, and he must assign readings, hold office hours, and provide answers to the students' questions. The students, on the other hand, also face restrictions. They must read what the professor assigns, take tests on the days scheduled, and sit respectfully in class taking in what the professor says.

Such restrictions do not operate in a deterministic way. Neither faculty member nor student is forced to do things in accord with these restrictions. The assistant professor could give absolutely boring lectures and the student could refuse to do the reading, but these restrictions mean that each will pay a price. Thus, the pre-existing relation between the position of professor and the position of student exercises its causality *through* the choices of persons who take on those positions.

The same is true for the *opportunities* which the relationship of professor and student provides to those persons taking on those positions. Our new assistant professor gets to structure the class, invent creative ways to explain economics to the uninitiated, and devise her own grading criteria (though within the general restrictions of the department and student expectations). Students face the opportunity to learn from a well-informed economist and to contribute to their earning of a college degree. Here too, this relationship

among positions has causal effect not in a deterministic way but by holding out possibilities that can be taken up (or not) by the persons involved.

And the same is true for the *incentives* that are built into the relationship between professor and student. Our assistant professor has an incentive to teach well, both because his department and university require this for tenure and because he'll have a more enjoyable relationship with students. The student has an incentive to perform well on the tests, and perhaps even in classroom discussion if the class is small enough.

In all these cases either professor or student could resist the causal impact of restrictions, opportunities, and incentives, but this will indeed have other, typically negative, effects in their lives. This, of course, is how social structures are maintained. Because resistance entails a price, most people most of the time make decisions that avoid significant costs and provide significant benefits. They "go along" and sustain the existing social structure by their compliance.

There are many other relationships among social positions within a university, for example, between professor and department chair or professor and tenure committee. This latter relation additionally generates a relationship between professor and journal editors, since the professor faces, for example, the incentive to get articles published, the opportunity of financial help in presenting preliminary drafts of papers at conferences, and various restrictions which journals typically place upon prospective authors.

To summarize, only persons are agents but social structures have causal impact upon the decisions of agents by means of the opportunities, restrictions, and incentives which are built into the relationships among social positions that constitute those structures. This causal impact is not a matter of determinism, as any agent can ignore opportunities, resist restrictions, or act counter to the incentives the agent faces. But in each case the agent will be worse off for doing so and this basic fact of life is the source of the causal power that the structures generate.

The Market as a Social Structure

Mainstream economists will find quite acceptable this sort of talk of individuals making decisions in the face of opportunities, restrictions, and incentives. But economists will have to stretch to wrestle with the underlying insight – the “realism” in critical realism – that these opportunities, restrictions, and incentives are not simply present in a sort of disembodied opportunity set, as neoclassical economics describes them. Rather, they are generated by relationships that are ontologically real, in the sense that the relationship between the position of professor and the position of student is real, it exists prior to the entrance of any particular faculty member or student into those positions, and it is susceptible to analysis as a real “thing” in the world.

Thus, from the critical realist perspective, the market is a social structure. That is, it is a system of social relationships among pre-existing social positions that individual persons move into and out of during the

ordinary economic activity of the day. A typical person might go to work at 8 AM, entering there into various pre-existing social positions, each in relation to other pre-existing social positions. There is the relationship of an employee with his immediate supervisor, and potentially a separate relationship with other persons in authority in the firm, whether the human resources director or his boss's boss. There is also the relationship of an employee with a coworker, and depending on the job a relationship with customers or suppliers of the firm. In each of these social positions, the individual faces opportunities, restrictions, and incentives, some of which have direct impact on his income, but many of which have other sorts of effects that can be equally important in decision making, such as a sense of being treated fairly or of camaraderie or of performing a worthwhile service within the community.

We will turn presently to distinguish the effects of prices in these social relationships among pre-existing positions, but for now it is important to note that the easily-monetized opportunities, restrictions, and incentives – like prices – that economists tend to focus on are generated by the same social relationships that generate the non-monetary causal impacts that an employee faces. This means that an economic paradigm that focuses narrowly on something like wages not only stops short of understanding how wage-related opportunities, restrictions, and incentives arise from social relationships but it also fails to recognize that the monetary dimensions of a worker's decisions are quite naturally only some of a wide array of causal impacts arising from the

same source and affecting that worker's employment-related decisions. It's like analyzing voting patterns without attention to gerrymandering.

The Italian sociologist Pierpaolo Donati has employed the notion of the market as a black box to describe the unfortunate limitations created by the refusal of neoclassical economics to investigate the character of markets (Donati, 2014, pp. 63-66). Because what occurs inside markets is invisible, some options of consumers and producers are rarely considered. Market actors are also citizens and can influence whether and how the rules governing markets can, for example, prevent abuses.

There is, however, an additional advantage to the critical realist analysis of markets as social structures. Not only does it provide a way to understand more deeply the character of any individual's involvement in economic markets, but it also allows for a more adequate description of the far flung character of markets in a globalized world.

Let us take the example of a typical consumer who, let us assume, goes to a Macy's department store to buy a shirt that has been manufactured in Bangladesh. Here the consumer enters into a pre-existing position in a long chain of social relationships among pre-existing positions that extends from the consumer to the seamstresses. (And, of course, the chain extends beyond these actors to all those involved in producing the cloth, thread, and cotton, as well as others involved in the production of the inputs to production employed all along the chain.)

The consumer interacts with the clerk in the department store and each faces opportunities, restrictions, and incentives built into the consumer/clerk relationship, elements that exist independently of the two particular persons interacting with each other. To take but one example, the consumer at Macy's is not free to bargain over a price, even though in some other places in the market such haggling is quite acceptable. The clerk also faces restrictions, for example, the need to be unflappable even in the face of an irate customer, perhaps something she would never do in other parts of her life.

In turn, the clerk has a relationship with her supervisor. But here too we must distinguish between the impact of social structure (those opportunities, restrictions, and incentives arising from the relationship of those two social positions) from the personal qualities of the two unique persons who hold those positions. Employing a shorthand summary, then, we know that the supervisor has a relationship with the store manager, who has a relationship with the corporate purchasing manager who decides which shirts Macy's will purchase for sale. This person has a relationship with the marketing head of a clothing brand, who in turn has a relationship within that firm with corporate buyers, who in turn relate to the manager of a clothing factory who is in relationship with the floor supervisor who oversees the work of the seamstresses who produce the shirt our consumer buys.

Each one of these relationships between pre-existing social positions is a link in a long chain of causally structured relationships that make up the market for shirts. Neoclassical economics shows little interest in all these

details for granted, as if the only thing that mattered is that there is a price for and availability of shirts when the consumer walks into Macy's. But if we look inside the black box of the market we can clearly tell that each of these links in that long chain of relationships is causally dependent upon and causally essential to what we call the market for shirts. How individual agents react to the opportunities, restrictions, and incentives in each of these relational links is critically important for whether and how the market for shirts operates.

Of course, the dimension of all this that neoclassical economics focuses upon concerns prices, whether for cloth or thread or sewing machines or seamstresses' time or ocean transport or the wages of clerks or the ultimate price of a shirt. It is the proposal of this paper that prices, and particularly prices as they change, should be understood as presenting incentives, and either opportunities or restrictions, depending on whether the most recent change in price, has improved or threatened the individual's economic well-being.

On the one hand this sort of analysis fits quite easily with the neoclassical paradigm, since a change in price generates greater efficiency because both winners and losers alter their behavior with a mind to improving – or minimizing the damage to – their economic well-being. On the other hand, this analysis calls for a stretching of the neoclassical paradigm because prices are generated within social relationships among positions and because those same relationships generate many other economically-significant opportunities, restrictions and incentives other than prices.

Causal participation in global markets

Many people, particularly those committed to reducing economic injustice in the world, criticize international trade as the fundamental cause for a variety of disasters in developing nations such as factory fires or the collapse of factory buildings to which we have referred above. Economists understand the benefits of international trade in ways most others do not, and often judge these sorts of arguments against trade to be shallow. From the mainstream point of view, the lack of enforcement of minimal building codes that lead to fatal factory fires is understood as a form of government failure, not market failure.

Yet, a broader, structural analysis acknowledges the role that markets play in such disasters. As the *Wall Street Journal* (2012) reported following the November 2012 death of 112 garment workers in the worst industrial fire in the history of Bangladesh, the testimony of one of the managing partners of the firm that owned the factory makes clear the role of market forces: “It’s hard to continue to improve factory compliance and safety when there is ever increasing downward pressure on the prices that global retailers are willing to pay.” Here is a clear identification of the structural power of prices causing harms to workers by threatening the economic well-being of those who manage productive assets.

There are clearly moral judgments to be made in such conversations, but the focus of this essay – and of critical realist economics – is on causality. Economics itself need not enter into the moral analysis entailed in deciding

whether a consumer who buys a shirt made in Bangladesh has any *moral* complicity in the death of Bangladeshi seamstresses in such disasters. But the discipline of economics ought to be able to answer the question as to whether and how the consumer is *causally* responsible, articulating the causal relationship between the consumer and the seamstress and attempting to make sense of how the consumer's interest in buying a good quality shirt at a low price is related through this long chain of causal relationships to a seamstress's choice to work at a factory without reliable fire exits. The mainstream paradigm understands the market as an abstraction that, largely without explanation, simply presents a different opportunity set to each market participant, rendering invisible the real causal relationships that constitute the market as a social structure.

In order to understand how both prices and laws are part of the constraints that characterize the social structure of the market, it will be helpful to develop a more adequate understanding of power, particularly coercive power.

Power in social life

In his book, *The Forms of Power*, Thomas Wartenberg (1990) provides a "field theory" of power. "It treats an agent's power over another agent as a field *within* whose effect the subordinate agent acts" (Wartenberg, 1990, p. 71). This notion of power as a field of influence is analogous to that of a magnetic field, where the magnet alters a space, causing motion for susceptible objects within that space. Similarly, persons with power over others typically exercise that

power through their influence on the actions of “third persons” who make up the social space surrounding the person subject to that power. In classic example, tyrants and mob bosses have power over others because their enforcers will carry out any threats they make. Translating Wartenberg’s formulation into the language of economics, the definition of power is this: A social agent A has power over another agent B if and only if A constrains B’s opportunity set (Wartenberg, 1990, p. 85).

Wartenberg identifies three types of power: force, coercion, and influence. Force is a physical intervention by one person to prevent another from doing something. You yourself might use force, for example, to physically restrain a hysterical neighbor to prevent her from re-entering her burning home to look for a missing child. Coercive power occurs when one person threatens a penalty unless another person acts in a certain way, and this form of power will be the focus of our inquiry. Influence is the effort to persuade someone to think or do something while that other person is also subject to one’s coercive power. The efforts of university professors to persuade their students of the truth of some principle without coercion are complicated by the power which the professor wields by giving a grade.

Coercive power is the power of a threat: do this or you will pay a penalty. Coercion itself occurs if the second person chooses to change his behavior instead of paying the penalty. That is, coercion occurs only if the threat is successful. One can “resist coercion” by deciding not to change one’s behavior and instead pay the penalty, but the penalty is the result of coercive power.

The words “coercion” and “threat” are replete with negative connotations in our culture, and many scholars unfortunately use them as if it were always morally objectionable. But most threats are quite moral. Parents regularly help their children by telling them that they must do something or the child will pay some penalty. College professors announce an implicit threat with every syllabus they distribute, indicating that the student will receive a failing grade if he or she does not complete the course requirements satisfactorily. Your local police force threatens you with a speeding ticket if you exceed the speed limit on the way to a meeting you’re late for. And just about every club threatens you with eviction if you do not pay your dues. We are subject to coercive power many times every day and in most cases this is completely unobjectionable.

It is important to note that many of these threats are never articulated orally, and sometimes not even in writing; they are simply understood as the rules of the game, embodied in social structures, in the pre-existing relationships we enter into. This is an important part of the civility and morality of coercive power when exercised well. Parents, teachers, police officers, and club secretaries would all prefer that ordinary human relationships go on smoothly without any need to enforce penalties. Thus although coercive power is part of the software of all organizations, allowing daily life to boot up, it is a sign of dysfunction of those very organizations when penalties are so frequently imposed that the coercive power moves from a background condition rarely noticed to a foreground reality. In a well ordered nation, for example, citizens voluntarily submit truthful tax returns, knowing

that they could be severely penalized if they didn't, but paying the taxes they owe with no more angst than accompanies the need to pay the bill for lunch in a restaurant.

Thus, we can extend Wartenberg's insights and recognize the presence of an implicit threat – coercive power – as one form of the restrictions created by social structures that constrain the opportunities of persons within them, that is, within the relationships that persons have when they take up pre-existing social positions, such as diner/waitress, citizen/government, or professor/student. In ordinary social life, coercive power in the form of such tacit threats is nearly ubiquitous, generating incentives to act in one way or another. This does not mean that this coercive power is the dominant feature of these many relationships but simply that it is present, typically in the background, and that in most cases it operates morally as an ordinary part of daily social life.

This insight into coercion is critical for a proper understanding of the relation of law and economics. Many in the United States, particularly libertarians, talk as if only governments and criminals coerce others. But the penalties entailed in good laws, like those in good parenting and good teaching, are typically in the background and uncontroversial. Other motivations and sentiments take the foreground. Both governments and parents coerce; both make threats.

The implication of this insight for law and economics is that both laws and prices coerce.

The coercive power of prices in the market

When a particular price rises or falls, signaling a change in market conditions, there are some market participants who now have more attractive options and others with less attractive ones. In the language of social structures, one group faces increased opportunities while the other must grapple with new restrictions. We will focus here on the latter case.

In the same way that we can understand universities to exercise coercive power in the implicit threat which each professor's syllabus makes to each student in every classroom, we can similarly recognize the coercive power that markets exert implicitly through the price system: either change your behavior to reduce the damage about to be caused by some particular change in market conditions or this change will make you considerably worse off. Consider the classic case of a frost in the coffee plantations of Columbia.

Well developed markets for coffee and efficient financial markets make it possible for experts to predict fairly accurately how much a pound of coffee at the grocery store will rise in price due to the frost that occurred three nights ago in Columbia. Neoclassical economists often explain this rise in price as a result of the law of supply and demand. But as critical realists argue, that economic law is simply our description of what is occurring within the social structure of the market. There is no doubt that the underlying cause of change

is not a scientific law but a reduction in supply by Colombian coffee plantations and a subsequent willingness of coffee brokers to pay more per kilo of raw coffee beans, and that this higher price is then relayed through the long chain of relationships among social positions that connect the coffee plantation with the grocery store on the corner. Thus, for example, a firm that roasts and grinds coffee beans will face a restriction that emerges in its relation to, say, another firm that imports coffee from Columbia. Coffee roasters reluctantly pay a higher price for particular Colombian varieties, but may also switch to coffee beans grown in Africa or Asia.

Employing the language above from Wartenberg, we can recognize that in each of these links in the chain that makes up the market for coffee, the change in price is experienced as a threat, as a coercive force, in response to which all market participants make subsequent decisions. It is in this sense that we can understand prices as both presenting opportunities to some and essentially coercive in their constituting a threat to others. It is, of course, this threat that brings about standard neoclassical economic efficiency in the market: those who place the highest value on the now higher-priced product will continue to purchase it while others will turn to substitutes.

The key insight here is that market prices generate efficiency because they are threats, because they are one of the restrictions generated in market relationships that exercise coercive power.

Implications of a Critical Realist view within economics

We can now relate these insights into social structures and the coercive power of prices to the underlying question at the beginning of this essay: how might law and economics be better understood by means of a critical realist perspective?

We saw that the relationship between professor and student was characterized – or structured – by a number of opportunities, restrictions, and incentives. Restrictions here include everything from student expectations, to departmental course requirements, to sexual harassment laws created by the state legislature. Each of these restrictions is coercive, in the sense that it entails an implicit threat to the professor: either comply with the expectation or you will pay a price. There is a significant difference in the price to be paid for non-compliance, but each is an example of the coercive power that impinges on any individual who takes on the role of professor.

Similarly, market relationships – whether between the consumer and the clerk at Macy's, or the seamstress and her floor supervisor, or the coffee plantation owner and coffee broker, or the local coffee shop and its supplier – are structured, with opportunities, restrictions, and incentives to be faced by any person who takes on one of those pre-existing social positions. Restrictions include everything from expectations of how business is ordinarily conducted, to newly higher prices, to civil laws that regulate these particular economic transactions. Here too, each of these restrictions is coercive, in the sense that

any participant faces a threat: either act in light of these restrictions or you will be worse off.

Because market participants take on a social position in one link of a long chain of relationships that make up the market, the opportunities, restrictions, and incentives they face in such a position are to a large extent dependent upon real market conditions in other links in the chain. But the influence of those distant conditions is always mediated through the concrete relationships of each link. Thus, for example, a coffee shop owner, experiences the effects of both the frost in Columbia and the state laws that govern small business as restrictions built into the position of owner of a coffee shop. That same person might forget completely about both issues when at home in the position of parent or at in Macy's in the position of a consumer.

A critical realist view of markets as social structures can thus provide a new starting point for understanding the relation of law and economics. It has two primary advantages for heterodox economists. On the one hand, and most importantly, it provides a better description of markets, addressing both the economic and the non-economic dimensions of interactions in economic life in a single paradigm. On the other hand, it maintains the neoclassical insistence on the importance of prices in leading both consumers and producers to alter their behavior in ways that move toward greater efficiency.

This approach will, of course, require mainstream economists to stretch from an abstract and empiricist view where laws cause things to occur and

instead take up a realist position that recognizes scientific laws as our human summaries of what is occurring among real things in the world. In social and economic life, those real things are relationships, particularly relationships among pre-existing social positions. The decisions of individuals get made not simply in the face of an abstract opportunity set. Individuals decide what to do in the face of the opportunities, restrictions, and incentives they face in the various social positions they take up in daily life.

Economists are not well equipped to make a moral judgment about whether the government of Bangladesh should or should not raise the minimum wage. However economists ought to be able to describe the chain of causal relationships that links the consumer at Macy's to the seamstress in Bangladesh who makes that shirt, whatever the wage may be. Critical realism provides an explanation of those causal connections and holds out the possibility of a re-conceived view of law and economics.

References

"After Fire, Pressure on Bangladesh". (2012, December 15-16). *Wall Street Journal*, p. B1 & 4.

"Bangladesh Takes Step to Increased Lowest Pay". (2013, November 4). *New York Times*.

Archer, M. (1995). *Realist Social Theory: The Morphogenetic Approach*. Cambridge: Cambridge University Press.

- Archer, M. (2014). "Structural Conditioning and Personal Reflexivity: Sources of Market Complicity, Critique, and Change". In D. K. Finn, *Distant Markets, Distant Harms: Economic Complicity and Christian Ethics* (pp. 25-53). New York: Oxford University Press.
- Bhaskar, R. (1975). *A Realist Theory of Science*. London: Verso.
- Coase, R. H. (1960, October). "The Problem of Social Cost". *Journal of Law and Economics*, pp. 1-44.
- Donati, P. (2014). "The Morality of Action, Reflexivity, and the Relational Subject". In D. K. Finn, *Distant Markets, Distant Harms: Economic Complicity and Christian Ethics* (pp. 54-88). New York: Oxford University Press.
- Hume, D., Selby-Bigge, L., & Nidditch, P. (1978). *A Treatise of Human Nature*. New York: Oxford University Press.
- Lawson, T. (1997). *Economics and Reality*. London: Routledge.
- Leslie, T. E. (1876). "On the Philosophical Method of Political Economy". *Hermathena*, 2.
- Mill, J. S. (1866). *Auguste Comte and Positivism* (second ed.). London: N. Trubner and Co.
- Mill, J. S. (1974). *A System of Logic, Ratiocinative and Inductive: Being a Connected View of the Principles of Evidence and the Methods of Scientific Investigation* (eighth ed.). New York: Harper and Brothers.
- Porpora, D. V. (1989, June). "Four Concepts of Social Structure". *Journal for the Theory of Social Behavior*, 19(2), 195-212.
- Smith, C. (2010). *What Is a Person? Rethinking Humanity, Social Life, and the Moral Good from the Person up*. Chicago: University of Chicago Press.
- Special Issue on Critical Realism. (1966, Winter). *Review of Social Economy*, 54(4).

Wartenberg, T. E. (1990). *The Forms of Power: From Domination to Transformation*. Philadelphia:
Temple University Press.