Seattle University School of Law Digital Commons

Faculty Scholarship

2007

Reality, Theory, and a Make-Believe World: The Fundamentalism of the "Free" Market

Carmen G. Gonzalez

Daniel Bonilla Maldonado

Colin Crawford

Follow this and additional works at: http://digitalcommons.law.seattleu.edu/faculty

Part of the Law and Society Commons

Recommended Citation

Carmen G Gonzalez et al., Reality, Theory, and a Make-Believe World: The Fundamentalism of the "Free" Market, 5 *SEATTLE J. SOC. JUST.* 499 (2007).
http://digitalcommons.law.seattleu.edu/faculty/405

This Article is brought to you for free and open access by Seattle University School of Law Digital Commons. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Seattle University School of Law Digital Commons.

Reality, Theory, and a Make-Believe World: The Fundamentalism of the "Free" Market

Daniel Bonilla Maldonado
Colin Crawford &
Carmen G. Gonzalez

Starbucks, the Seattle-based coffee retailer and merchandiser, began a campaign not long ago called "The Way I See It." In the campaign, inspirational, feel-good sentiments from celebrities and "ordinary" folks are printed on the sides of its millions of coffee cups, for the consumer to read and consider. The campaign is undeniably clever. It gives the coffee drinker something to reflect upon and implicitly connects Starbucks to these thoughts—suggesting that Starbucks is also a purveyor of Good Ideas.

One recent entry in the "The Way I See It" campaign—number 221 to be exact—came from one Carlos Rivera, identified in English on the cup as the "General Manager of Coope Tarrazú, a coffee-farming cooperative in Costa Rica." The Way Rivera Sees It is as follows: "Sustainable production is something that the producers of Tarrazú do because they realize that it is the only way to assure that the new generations can produce coffee, have better living conditions and continue to live in the Tarrazú region."

What is particularly striking about this message is not its incontestable truth; indeed, the term "sustainability" is so widely used these days that the notion is uncontroversial without further definition. Rather, what is unusual about this message is that it appeared on the sides of (presumably) thousands, if not millions, of Starbucks coffee cups—*printed in Spanish.*[1]

The Starbucks coffee cup is connected to the theme of this conference because it is a symbol of economic globalization. Regrettably, much of this unprecedented expansion of global commerce has occurred under the auspices of "fundamentalist" thinking about the benefits of the "free

market" as the engine of economic advancement. In many corners of the globe, and particularly in so-called "less developed" countries, free market fundamentalism (known more commonly as the neoliberal economic model) can be crudely characterized as a move to privatize sluggish state sectors and minimize government interference in the market in order to achieve economic prosperity. The "fundamentalist" thinking that this conference sought to examine and critique, however, is also characteristic of the so-called "developed" nations, as evidenced by the efforts of former U.S. President Bill Clinton and British Prime Minister Tony Blair to promote market-based economic reforms.

What does this have to do with a Starbucks coffee cup? In brief, that coffee cup represents the benevolent depiction of globalization that this conference and the papers published in this volume seek to interrogate. Appropriately, the coffee cup comes from a company based in Seattle (the physical home of the *Seattle Journal of Social Justice*), a city within the territorial boundaries of the United States. The coffee cup was designed to carry a product for which the host country of the conference, Colombia, is justly famous, and which represents one of the country's prime, legal export crops. In addition, the cup reflects that even in the United States, where English has long been regarded as the linguistic glue holding the country together, the increasingly heterogeneous nature of the U.S. population necessitates corporate sensitivity to the tastes—and language preferences—of its ever-widening customer base. More questionable is whether Starbucks, with its enormous influence on world coffee markets, is truly committed to "sustainable" coffee production (like that said to occur in Costa Rica at Tarrazú) in all of its coffee purchasing.

As the papers collected in this volume make clear, notwithstanding the public relations campaign represented by Carlos Rivera's views on the side of a Starbucks coffee cup, the failure of states, corporations, and international trade and financial institutions to address the negative social, economic, cultural and environmental consequences of "free market"

policies has had adverse repercussions on the lives and livelihoods of much of the world's population. Indeed, as many of the papers suggest, the market may not in fact be "free" at all, but an ideological construct that harms millions and metaphorically imprisons them in low-paying jobs with poor working conditions and in unhealthy living environments.

The papers collected here represent a wide range of disciplines, positions and philosophies, and reflect the views of scholars from five countries (Argentina, Brazil, Colombia, the United States and Venezuela).

The works themselves can be roughly divided into four general categories, although there is unquestionably overlap between these categories. First, the papers of Frank Garcia and Maria Paula Saffon provide a critical look at the theory of free trade and the extent to which it corresponds to social and economic reality. For example, Garcia questions whether the neoliberal trading system can be described as "free" in any meaningful sense. He concludes that the rhetoric of free trade is often used to mask transactions and interactions characterized by exploitation, coercion, and predation. Similarly, Saffon's paper helps us understand the role of the judiciary in cementing this notion of "freedom." Saffon examines whether judicial enforcement of social and economic rights can serve as a means of resisting neoliberal ideas and policies or whether the enforcement of such rights ultimately legitimates neoliberalism by mitigating some of its harshest social consequences. Saffon's paper deftly moves from theory to specific examples, using the decisions of Colombia's Constitutional Court as a case study and locating the Colombian situation in the larger context of global financial and political pressures.

In an equally theoretical vein with similarly great practical implications, Alejandro Nadal's piece makes a powerful case against the "law and economics" ideology that has besotted so many policy-makers and legal scholars in recent decades. As Nadal demonstrates with exquisite skill, the theoretical underpinnings of the dominant interpretation of law and economics have serious flaws, and often generate unjust results. Thus,

Nadal asks us to reconsider the very bedrock upon which rest so many of the justifications for free market policies and their legal and regulatory manifestations.

Second, the papers of Elvia Arriola and Claudia Lozano powerfully demonstrate that free trade has cultural and social consequences that can exacerbate physical violence against vulnerable populations. These papers study the darker side of one of the celebrated benefits of trade liberalization: greater employment opportunities for women. An often celebrated feature of globalization is that it has allowed women to increase their earning power as multinational corporations relocate to poorer countries to take advantage of lower labor costs. In their studies of different cultural contexts and conditions, Arriola and Lozano demonstrate that a tragic consequence of these supposedly more open markets is that women become ever more powerless, ever less free, as they are subject to increased domestic violence, physical harm, and even death. Thus, their papers suggest, free trade policies may reinforce male dominance rather than leading to true social and economic equality.

Third, in the context of global environmental degradation, Kristen Sheeran's paper reflects another major theme of the conference, the social and environmental consequences of free trade. Sheeran examines the need for equity as well as efficiency in finding solutions to climate change. Like many of the other conference papers, Sheeran's piece emphasizes the need to rethink the "free" in "free trade" in order to ensure that market-based mechanisms to reduce greenhouse gas emissions in any post-Kyoto climate change treaty do not reinforce poverty and inequality.

Fourth and finally, a number of the papers collected here, like the presentations delivered at the conference, may be understood as case studies on the consequences of free market economic reforms. Thus, for example, Diogo Coutinho and Alexandre Faraco's paper on the deregulation of telephone markets in Brazil highlights the impacts of this regulatory reform on the poorest sectors of their society, and those who are most physically

remote from the centers of power. Conversely, Alan Cibils and Rubén Lo Vuolo provide a revisionist look at the Argentine debt crisis, documenting the nation's decision to reject the received wisdom of global financial institutions in order to protect the interests of Argentine citizens. As Cibils and Lo Vuolo demonstrate, Argentine authorities concluded that it was unjust for the nation to abide by the rules of a financial game set by "developed" countries on a playing field that was, from the start, anything but fair and level. Finally, Roldan Muradian analyzes the impact on Mesoamerica of China's increasingly important role in international trade. Muradian concludes that trade liberalization, which pits regions of the world against one another, is likely to harm poorer nations by preventing them from diversifying and industrializing their economic base.

In sum, these papers reflect a range of thinking about the "freedom" that the free market is said to bring, from deeply analytical reflections to more focused case studies. In this, they reflect an equally rich series of panels and discussions that happened over three days spent in Bogotá, in May 2006. These conversations, held in the comfortable surroundings of the tranquil campus of the Universidad de los Andes, went well beyond the confines of the papers presented here, and it is a pity that circumstances did not permit the full range of interesting presentations to see the light of day. Nonetheless, it is fair to say that the present volume captures the richness of that encounter, one that welcomed scholars from seven countries and nearly as many disciplines, including law, economics, sociology, anthropology and psychology.

Before closing this introduction, it is important to acknowledge some of the support that helped make this conference possible. Dean Dennis Lynch and the University of Miami School of Law provided financial support essential to assure the participation of scholars from the global South, as did Dean Kellye Y. Testy and the Seattle University School of Law. The encounter could not have been possible at all without the inspiration and support—financial, intellectual, and ideological—of Latina & Latino

Critical Theory, Inc.,[2] and particularly its guiding spirit, Professor Frank Valdes. The Law Faculty of the Universidad de los Andes and its Dean, Eduardo Cifuentes, were amiable and generous hosts, and one could hardly ask for a more gracious reception. Following the conference, we were all terrifically impressed by the energy and intelligence of Erin Crisman-Glass and the editorial staff of the *Seattle Journal for Social Justice*. Finally, we would be remiss if we did not record our mutual pleasure at this chance to work together. It is a rare experience for three busy people to undertake work on a project with near total unanimity of purpose and seamless execution of a shared vision. Such experiences are not routine in academic or any other kind of work, and we are grateful to one another for the opportunity to have spent that time working together.

We very much hope you enjoy and benefit from the essays that follow, and invite you to join us in future meetings of the South-North Exchange on Law, Theory & Culture, an annual project of "LatCrit, Inc."

---

[1] La producción sostenible es algo que los productores de Tarrazú hacen porque se dan cuenta que es la única manera de asegurar que las nuevas generaciones puedan producir café, tener mejores condiciones de vida y permanecer como ciudadanos de la región de Tarrazú.

[2] http://www.latcrit.org/