COMMENTARY: KENNETH DAVIDSON, AN HISTORICAL APPROACH TO COMPETITION ADVOCACY IN MARKET ECONOMIES

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COMMENTARY

September 11, 2007

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AN HISTORICAL APPROACH TO COMPETITION ADVOCACY IN MARKET ECONOMIES, a commentary on the failure and success of efforts to introduce sustainable competitive economies

Abstract

This Commentary presents an analysis of how market economies have developed and the role of competition laws in that development. The analysis traces the rise of rich market economies in Western Europe and the United States during the industrial revolution. The analysis is designed to explain how these countries became rich and what poorer counties would have to overcome in order to emulate the richer countries.

AN HISTORICAL APPROACH TO COMPETITION ADVOCACY IN MARKET ECONOMIES

Kenneth M. Davidson

Despite current problems in the American credit and stock markets, it remains almost taken for granted that individuals in countries with market-based competitive economies will continue to benefit from economic growth and a rise in their standards of living. This assumption appears to be true if we focus on Rich Nations or rapidly developing nations like the Asian Tigers or China and India. But the overwhelming majority of countries are poor and their economies are either stagnating or declining. Understanding why most countries remain poor and what is required for them to break out of their current status using a market economy is complex; but I hope to show how that transition was accomplished by Rich Nations and why it is so difficult for Poor Nations to follow that path. Armed with this understanding, it may be possible for Poor Nations to build viable market economies. Rich Nations, as discussed below, are defined by average incomes and include countries with significant segments of their populations that are poor. Similarly, average incomes define Poor Nations even though segments of their population may be very rich.

In the past twenty years, more than a hundred nations have passed competition laws. Some have enacted these laws in response to suggestions (or requirements) of foreign trading partners or international organizations. Others have passed competition laws in hopes of stimulating the development of their economies and improving the standard of living of their populations. These nations seek to replicate the wealth of market-based industrial and post industrial economies. At least some of the countries seem to believe that their economies can be made more productive by adopting competition laws similar to those of Rich Nations. Regrettably, the enactment of a competition law is not in itself a blueprint for creating the desired transformation of an economy. Indeed, not one of the Rich Nations in the world had a competition law at the time that it became a rich market economy.

Moreover, countries find it difficult to apply the words and concepts used in competition laws unless that country already has a functioning market economy. For these purposes, a market economy could be described as one in which investors, rather than the government or an oligarchy, decide what businesses will be started and what will be produced, and consumers decide what they will buy and at what price. The words of a competition law describe only forbidden outcomes of actions, outcomes that inhibit the ability of business to enter markets or deny the consumers the right to choose products they might want to buy. Competition laws prohibit the anticompetitive effects of business actions, they generally do not prohibit particular actions. To have a concept of why an action is anticompetitive we need experience with a competitive market that words alone do not convey.

This difficulty was illustrated for me years ago at the US FTC where I worked for over 30 years. I was asked to advise the new director of a Latin American competition agency about enforcement techniques used at the FTC. The director told me a story about her first week in office so that I would understand better the challenges her agency faced. In her first week, a delegation of poultry sellers from the city's central market came to her office to congratulate her and offered their assistance. They said they had seen her televised speech about competitive prices and had been impressed. They said they had all agreed to charge only the competitive price *because it was the fair price*, if she would just tell them what that price was. Of course, no one could predict what the competitive price would be until competition existed between poultry sellers. This group did not lack intelligence, but they had no experience with competitive markets. They had no basis on which to think about the dynamics of markets; consequently, the prohibitions of the competition law had no meaning to them. They did not realize they were asking the director to set or "fix" the price of a product in violation of the competition law that she was trying to enforce.

Lest you think this an isolated example, I have encountered this kind of problem even among decisions by officials of new competition agencies in transitional economies. In one case, a former soviet country delegated privatization decisions to its competition agency. When the agency privatized the national cement industry it allocated the plants to four geographically separated companies. The country then had four cement companies but each was a separate local geographic monopoly.

Proponents of competition laws in Poor Nations sometimes show the same lack of understanding of markets. Consider a discussion I had with a consumer rights NGO in Southeast Asia. The NGO had invited me and several other international competition consultants to dine the night before a conference about enacting that nation's first competition law. The NGO was strongly in favor of the law. Its representatives at that dinner included lawyers, doctors, accountants and university professors. To get a feel for the issues that concerned them, I asked for an example of a bad business practice that could be eliminated by the passage of a competition law and the establishment of a competition agency. The example offered to me concerned the city's water company. As part of a national privatization project, the water company had been sold by the government to a private company. The private company was successful in that it was profitable, but the NGO officials complained that the water cost more, was less clean and that the service was slow. It was their expectation that a competition commission would be able to make the situation better.

This was a less naive opinion than you might think. Those who promote competition laws frequently argue that competition promotes lower prices and better quality. And so it does if there is adequate competition. Unfortunately, there was no competition to the water company, and probably no possibility of creating a competing water company. I explained that situation required regulation and could not be cured by competition.

These examples do not demonstrate that people in transitional economies are unique in lacking an easily applicable, clear theory of competition law. The hundred year history of competition law in the United States and the more recent history in the EU demonstrate similar absences of consistency in enforcement (how much, if any, is appropriate) and on competition theory (what constitutes a violation). At least as late as the 1950s, the governments of Germany and Japan explicitly approved the formation of business cartels. Today, there is a general consensus in market economies that the market, not business groups or governments, should decide which businesses will survive. Even so, the United States, despite its long antitrust history, has felt it necessary to rescue failing banks, a hedge fund, and an automobile company. Moreover, there are continuing disagreements between the EU and the US on the application of competition law, for example, on the proposed merger of GE and Honeywell and the ongoing monopoly cases against Microsoft. Only recently has there been agreement on some basic questions such as the legality of charging high prices by a business that has lawful monopoly power.

Fortunately, there appears to be increasing consensus on how market economies have developed and what kinds of institutions need to be in place for a market economy to continue to function. As a teacher at the University of the West Indies, as author of a paper for the Asian Law Institute, as a consultant in Armenia, I have suggested an instant-mix recipe for a market-based economy. It begins with a cooking metaphor about the essential ingredients needed to make a competitive economy. They include:

1. Private property rights including the right to sell and transfer ownership.

2. The right to contract and enforce contract to sell or buy.

3. A set of legal rules that allows the creation of business entities such as partnerships and corporations.

4. The establishment of rules allowing businesses to raise capital by selling shares or borrowing money.

5. The creation of bankruptcy procedures that facilitate the reincorporation of assets and talents of persons who worked for failed businesses.

6. Trust between market participants and enforcement of the rule of law where participants fail to meet their contractual promises.

After explaining the economic role of each of these ingredients, I have suggested that if you cook these ingredients, and stir them together, you should create a competitive economy. Unfortunately, this simple recipe recommended by me and similar recipes by distinguished development experts have not resulted in a proliferation of successful market economies.

To understand how market-based economies have developed and why the instant-mix recipe has not been fully successful, it is helpful to look at the history of the Industrial Revolution. The bare outline of the Industrial Revolution that created the market economies is well known. In 1800, the preindustrial societies of Western Europe and North America were overwhelmingly rural and agricultural societies and by 1900 they were overwhelmingly urban industrial societies. The 19th Century transition toward industrialization was accelerated by the development of new energy sources and other technological innovations. First water power, then steam engines, then electricity, then internal combustion engines transformed factory production. The areas served by these factories were dramatically enlarged by new transportation and communications technologies. Trains and powered ocean freighters could coordinate long distance delivery by telegraph, telephone and ultimately wireless electronics.

The productivity of agriculture, manufacturing, transportation and communication supported each other and gave every sector a broader scope. Farmers became more productive as a result of mechanization and could market crops and livestock to more distant places because of faster, cheaper, more reliable transportation. The costs of farm machinery -- plows, harvesters, etc – were reduced by mass production in factories and mass transportation by railroads and ocean freighters. Building railroad tracks, locomotives, passenger and freight cars required the development of the iron, coal and coke industries. The availability of steel and power made possible tall buildings, bridges, tunnels, household plumbing, sewers and elevators. Ordinary people bought multiple washable cotton outfits to replace wardrobes that previously consisted of a single woolen outfit.

The mechanism for spreading this industrialism is also familiar. The Industrial Revolution started in the United Kingdom. It was copied and in various ways expanded by the Americans, the Germans, and the French. American history records Samuel Slater as the English workman who memorized the workings of English textile mills and sold the technology in 1790 to an American mill owner. Slater's emigration and sale of the designs were unlawful but quickly copied in the United States. Later in the 19th Century, other European countries obtained their technology more easily from Britain. Their business people were permitted to view British industry and both copied and improved on British technologies. Under Czar Peter the Great, and during the Soviet Era under Lenin and Stalin, Russia hired Western Europeans and Americans to modernize its industry. At the same time, Japan sent teams of experts to Europe and the United States to discover their production techniques.

It quickly became clear, however, that copying technology was not sufficient to create a self sustaining industrial society. Peter the Great and the Soviets made enormous efforts to equal or outperform Western economies; but (with notable exceptions, such as, space technology and nuclear weaponry) even with assistance of foreign experts, even with espionage, , the Russians were unable to match the economic performance of market economies. The Japanese efforts, prior to the end of World War II, were less than fully successful.

Why the industrial revolution created sustained development only in Western Europe and North America is something of a mystery. Marxists and Communists argued that Western European colonial empires and imperialism prevented development in the Third

World. These analyses were effectively refuted after WWII, after decolonization was completed. Rich Nations with market economies then argued that the problem of many Third World countries was created by their decision to follow the Soviet centralized planning model. Five decades later, after transferring more than $ 2.3 trillion in foreign aid and technical assistance from Rich Nations to Third World countries, only a handful have attained economic productivity comparable to those in Western Europe and North America. It seems that advice and the instant-mix recipe has not been sufficient.

The solution to this mystery may be contained in a growing literature that seeks to answer the question of what is the source of continuing growth in market economies and why have other economies fail to grow as quickly. A small sample of titles illustrates the barriers and bridges to market economies: William Easterly's, *The Elusive Quest for Growth*(2001) and *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (2006), John Kay's *Culture and Prosperity: Why Some Nations are Rich But Most Remain Poor* (2004); David Landes, *The Wealth and Poverty of Nations: Why Some are So Rich and Some So Poor* (1999); Benjamin Friedman, *The Moral Consequences of Growth* (2005); Amartya Sen's *Development as Freedom* (1999); Charles Wheelan's, *Naked Economics: Undressing the Dismal Science* (2002); Kenneth Dam's *The Law-Growth Nexus: The Rule of Law and Economic Development;* and Jared Diamond's *Collapse* (2005), and *Guns, Steel & Germs* (1996). Also, Thomas McCraw's 2007 biography, *Prophet of Innovation: Joseph Schumpeter and Creative Destruction*, has made the ideas of this early 20th Century theorist accessible to a new generation of readers who seek to understand the growth of market economies. You will find lists that are very similar to my instant recipe in both McCraw's biography and the Landes book. Wheelan devotes a chapter to these topics and adds the necessity of sensible monetary and fiscal policy because so many Poor Nations have destroyed their economies by the abuse of these economic tools.

These writers agree implicitly, and often explicitly, that there is a divide in the world between "have" and "have not" nations and that there are only a few "have" nations. In *Culture and Prosperity*, John Kay's 2003 list ranks nineteen nations as rich, 107 nations as poor, and twelve as intermediate. The divisions are made on the basis of per capita income of each group of nations. The list of rich nations begins with Switzerland and ends with Italy which had a *per capita* income of about half that of Switzerland. The twelve intermediate countries had per capita incomes of between one-eighth and one-half the incomes of Swiss. The remaining 107 nations had lower *per capita* incomes.

This data is presented as a way of thinking about Global wealth and poverty. It does not pretend that the average income figures portray precise difference in standards of living or that the three categories describe dramatically different economies for those nations whose incomes border other categories; rather it seeks to present a summary sketch. Others have suggested that the rich might include as many as 25 or 30 nations. Also, one might look at other measures of wealth: productivity rates, median income levels, education rates, or life expectancy. The rich/poor patterns would be substantially similar.

Agreement that the rich/poor division exists does not explain why it persists. There is little dispute that the Rich Nations all have market based economies, that 13 of Hay's list of 19 rich nations are located in Western Europe and that, with the exception of Japan, all the rest – US, Canada, Australia, Singapore, and the Hong Kong Trade Zone – were previously British Colonies. Looking at the non-Western rich countries, one might conclude that the common law heritage of the United Kingdom provides a key element that fosters market-based growth and development. Kenneth Dam examined decades of research in poor countries on the influence of civil law versus common law. He found no economic advantage flowed to poor nations that adopted one or the other legal model.

Thus there appears to be no discernable advantage to former British colonies in Africa, Asia or the Caribbean over former Spanish colonies in Latin America, or the French, Belgian, Portuguese or Dutch colonies in Africa or Asia. This may not be entirely surprising in view of the fact that the different legal systems seemed to have little influence on successful economic growth rates in Western Europe. For Dam, the acid test is China which has had the highest sustained rate of economic growth over the past decade. It also has only a rudimentary judicial structure that is both opaque and more responsive to pressures by political officials than to citations to written law. Dam suggests that the Chinese economic growth does not contradict the need for a rule of law or the recipe of other essential ingredients. Rather, he notes that the development of essential institutions of a market economy is an evolutionary process that took hundreds of years to develop in Western Europe and the United States. He suggests that China is only at the beginning of that process. He opines that in the future it will be required to develop transparent decision-making procedures and the rule of law in order to sustain its economic growth.

The historical evolution of market economies is even more central in McCraw's biography of Schumpeter and his ideas. Schumpeter perceived that market economies had to overcome deeply held pre-industrial cultural values that were designed to limit social or economic mobility. The notion that everyone had a place and station in life and that changing that order represented a threat to society was deeply ingrained in Western religion and philosophy. A market economy became viable only after the Protestant reformation, the British Civil War, the progress of science (from Galileo to Newton to Darwin) and the development of philosophy (from Locke to Rousseau to Mill). Those made the ideas of personal autonomy, ownership of private property and the rule of law more acceptable.

The Industrial Revolution had to overcome not only ruling elites, but also guilds, cartels and monopolies. "Prussia did not liberate its serfs until 1805, and Russia not until 1861. The United States did not outlaw slavery until 1865, Brazil until 1888, Saudi Arabia until 1962." Liberation did not happen all at once. The franchise expanded slowly in Britain during the 19th Century. Women were guaranteed the vote in the early twentieth century in the United States and Britain. For Swiss women, the vote came after the middle of the century. As one of my college history professors suggested, it was "revolution by hiccup," a process that was neither smooth nor consistent. Or as Amartya Sen would say, we have to think of "Development as Freedom."

In addition to describing the nature of the cultural gap that separated market economies from preindustrial societies, Schumpeter repeatedly emphasized two aspects of the emerging economic order that based itself on the idea of progress. The first was the role of the entrepreneur and the second was the key role that credit played in allowing entrepreneurs to introduce product and process innovations.

Henry Ford was an archetype of the Schumpeterian entrepreneur. Ford is, of course, the creator of the Model A and T automobiles that were reliable and inexpensive, and altered both the production and consumption patterns of the United States. Ford bankrupted two companies before he founded the successful Ford Motor Company in 1903. He formed the three companies on money from investors and lenders. He revolutionized manufacturing with his assembly line and paid his workers a salary twice that of other businesses. His new technology destroyed centuries of horse drawn technology including horse breeders, horseshoe makers, wagon makers, street cleaners and many others. He was a visionary who saw that mass production of cars could only exist if there were mass consumption. Blinded by his success, he almost bankrupted the Ford Motor Company in the mid-1920s by refusing to alter the format of the 1908 Model T. Finally, in 1927 when the Model T was still the best selling car in the nation, he had to shut down all Ford operations to meet the challenge posed by rapidly growing sales of General Motors cars. It took a year for Ford to retool his factories to give Ford customers the choices offered by GM such as closed hard roof sedans, cars painted various colors, and other accessories.

Ford and others like him could only create businesses in an environment in which the technology for their product existed and in which capital markets had developed to a point where he could obtain funding to make repeated attempts to produce a new kind of transportation product. New sources of capital were the key to the development of new industries. The British acquisitions of American railroad bonds were crucial to the development of transcontinental lines. Even that capital was insufficient and needed to be supplemented by United States land grants to the railroads. The Singer corporation's sewing machines were so immediately profitable that it could finance both its new factories and the consumer purchase of its machines by installment sales. Singer was an exception. Most industries, however, required the development of capital markets and the banks. The capital markets and industry were transformed in response to product innovations, new production systems and new ways of organizing businesses, wars, scandals, and depressions. Mergers and cartels created the fear of Big Business. That fear persuaded Congress to pass antitrust (competition) laws in 1890 and again in 1914. They were designed to prohibit cartels and monopolies from raising consumer prices and preventing other firms from competing. Public fears during the 1930s Great Depression brought the modern Federal Reserve System, securities regulation, and labor rights.

Ford's two failed auto companies and the spectacular success on his third try illustrate a now well-known phenomena about the American capital markets. Investors have been predictably overoptimistic about new technology companies. Between 1900 and 1908 over 500 automobile companies were formed and 300 failed. Like the computer bubble that crashed in Silicon Valley in the late 20^{th} Century and the car craze at the beginning of that century, the irrational exuberance of stock and capital markets in the United States and other market economies have been noted from before 19^{th} Century to the present. The lure of investing in new technologies is the potentially enormous profits that can be earned by success. A stock, the business school professors tell us, is worth the present value of the corporation's anticipated future earnings. Unfortunately the future is hard to predict so individuals who pick only one stock as the next winner are likely to lose their money. But in larger capital markets where risk is spread over many businesses, investors, more often than not, benefit from a total gain to the economy that is the result of new more productive innovations.

As Ford, Edison, Bell, Carnegie, Sears, Eastman, Singer, Dupont and others marketed new products, they changed the way Americans lived. Many turn of the 20^{th} Century political groups, especially the self styled Progressives, mourned the rise of concentrated power of Big Business. The abuse of that industrial power took a toll on the environment by pollution and on labor and consumers by unsafe working conditions and products.

Schumpeter noted more clearly than his contemporaries that the most significant effect of these industrial innovations was to destroy over and over again the institutions of preceding eras. History has supported Schumpeter's view. Lifetime employment by the railroads was ended when automobiles, airplanes, buses and trucks took away most of their business. The stable cost, price, productivity wage agreement between the American big three automobile makers and the United Auto Workers died after great success in the 1950s because of the challenge, first by European automakers and then by the much more formidable Japanese competitors. The dominant American steelmakers of the first half of the 20^{th} Century have been replaced by more efficient Japanese and Korean steelmakers. At a time when entire American communities were suffering from the closure of huge obsolete steel plants, South Korea was importing coking coal from Western Pennsylvania to power their more efficient steel factories. GE and RCA, two of the leading makers of vacuum tubes, that made mass production of television, radios and computers possible, no longer make vacuum tubes or any of those products. RCA no longer exists and GE is now primarily a huge and successful financial conglomerate.

We can drive across the Northern parts of the United States and see unending miles of abandoned industrial plants, depopulated cities, and cities and towns with high unemployment. The United States, once the world's leading producer and exporter of virtually all industrial and consumer products, now no longer makes consumer electronics or basic steel, and imports products ranging from textiles to foods to toys. The northern United States is known as the rust belt because so many of its manufacturing buildings have been left to rust. But the image of the United States as a nation in steady decline is wrong. Not only has the United States maintained one of the highest per capita incomes in the world, it has consistently had one of the lowest unemployment rates of any industrial country in the past forty years. The heavy industries have been replaced by computer and biotech industries in Silicon Valley, Boston's Route 128 and North Carolina's Research Triangle. The textile mills of New England have been converted to condominium homes and artists studios. To be sure, the transition has not been smooth.

There have been large population migrations within the United States and disparities of income have increased as the rich have become richer. But they are often a new rich benefiting from new kinds of technologies.

Schumpeter called this "creative destruction." Looking at individual workers or individual businesses, market success or career success appears to be short-lived, even fleeting. This is a world in which even the populations of the rich countries are uneasy about their security. However, measuring the United States economy or the Global Economy over the past one hundred or two hundred years demonstrates erratic but rapid economic growth, economic growth that has exceeded population growth.

This historical picture adds to, but is consistent with, the recipe for an instant market economy. History emphasizes the necessity of scientific advances and an educated public that can see the potential benefits of innovations and an educated population that can learn how to produce the products. Education has long been a staple of international development efforts but often the results of education have been viewed as ironic. When engineers or PhDs graduate, or return to their country of birth with a foreign degree, they sometimes find that there are no jobs for persons with their skills. These educated unemployed, who find no role in their economies, often become the source of radical movements. However, as two recent additions to the list of Rich Nations, Ireland and Singapore, illustrate, a country with an educated population can quickly be transformed into a Rich Nation if it has or creates the other elements of instant market recipe, even if it has a small population and virtually no natural resources.

Ireland, a traditionally poor European country, had the legal institutions needed for a market economy, an educated workforce, and honest and effective governmental institutions. It lacked the larger diversified capital market needed to finance new industries and the consumption markets to buy mass produced products manufactured by new industries. It gained both of the missing elements when it joined the European Union.

Singapore, in contrast, when it ceased to be a British colony in the late 1950s, had even less territory or population than Ireland, an uncertain legal structure, poverty, illiteracy and disease. This tiny island was transformed by an authoritarian, but democratic, government from a Third World country to a Rich Nation in less than 40 years. Singapore is sometimes mocked as a rigid, fake democracy where everything including, chewing gum in public, is forbidden. That characterization ignores the fact that the ruling party has won free regular elections since the founding of the country. It has won these with substantial, but not suspiciously large, margins. The government of Singapore has consistently invested heavily in health care, sanitation, education, transportation, housing and government services, such as port facilities, roads and light rail transport. It has encouraged, but not funded, business development. It has a dynamic market economy.

These two countries are of special interest to my students in the West Indies who are seeking a Masters in International Trade Policy. Their concern is whether small countries with few natural resources can become Rich Nations. I assure them that it is possible for nations to become and remain rich without either starting rich or having large amounts of natural resources. Indeed the economic history of the post WWII era suggests that wealth and abundant natural resources can be disadvantages in the modern world. The absence of a viable market economy in oil rich countries like Saudi Arabia, Libya, Nigeria, and Venezuela does not portend well for their futures. Other commodity rich countries like Argentina and New Zealand had their agriculture-based economies devastated by international competition. Chile's tin and copper riches also faded, but its economy has been restored by a more diverse market oriented economy.

Following WWII Western Europe benefited from some funding by the American Marshall plan, but this was, at the most, seed money that was dwarfed by the resurgent European economies. In the 1960s, the world marveled at the German Economic Miracle. The 1970s brought the Japanese Economic Miracle to global attention. The failing American steel industry actually complained these countries had an advantage over the US, because American bombers had destroyed all the steel plants of those countries that had been built before WWII. Germany and Japan were forced to build more efficient steel plants than the Americans if they were to compete in the world market. The Japanese compulsion to become more efficient was even greater because they had fewer natural resources.

The economic miracles spread in the 1980s and 1990s to small, resource-poor, South East Asian nations, such as, South Korea, Taiwan, Thailand, and Malaysia. Now, it is relatively small areas of the giant countries of China and India that bear the economic miracle mantle. They have developed industries outside of Hong Kong or Bangalore without huge resources or domestic riches.

Entrepreneurs, inside and outside each of these countries, have sought, and found, business opportunities in each of these economies that they could exploit on the world market. The explanation that each of these countries has experienced an economic miracle seems to be overworked. Experience and history suggests that, even in the Caribbean, my students can find entrepreneurs who could make their economies grow.

The emerging consensus I spoke about earlier suggests that growth is possible any place, but that it is choked off in most countries by corruption. Corruption, however, is too common a phenomenon to explain the division between rich and poor. Corruption, or something very like it, is endemic in the United States and other Rich Nations, although its extent is not the same everywhere. The American local police are continually subverted by payments from illegal gambling, prostitution, drugs and protection rackets, but corruption in the federal government seems less extensive, and rarely an issue in the judiciary or in antitrust enforcement. Big businesses have recurrent scandals, like illegal no-bid government contracts, the Enron and WorldCom frauds, and antitrust cartels like Christie's and Sotheby's or the ADM lysine conspiracy. The capital markets have regularly been found to include cheaters in the banks, in the brokerage firms, in the security analysts and in the mutual funds.

Consequently, the simple persistence of corruption, at least in low dosages, may not prevent economic growth. It appears that corruption like diseases of the body are always with us. But as sanitation, vaccines, pharmaceuticals and other health care can restrict illnesses, so the fight against corruption and crime may allow market economies to grow robustly.

The archetypes of poor countries are both the kleptocracies of Africa and the oligarchies of Latin America. Development experts often blame the economic stagnation of these Poor Nations on bureaucratic corruption or inertia. Charles Wheelan describes a 2000 study of business regulation in 75 nations:

> Registering and licensing a business in Canada requires a mere two procedures compared with twenty in Bolivia. The time required to open a new business legally ranges from two days, again in Canada, to six months in Mozambique. The cost of jumping through these assorted government hoops ranges from 0.4 percent of GDP in New Zealand to 260 percent of GDP in Bolivia. The study found that in poor countries like Vietnam, Mozambique, Egypt, and Bolivia an entrepreneur has to give up an amount equal to one to two times his annual salary (not counting bribes and the opportunity cost of his time) just to get his new business licensed.

Who benefits from these excessive regulations? The answer, apart from recipients of bribes, is that the elites of those poor countries, and other vested interests that do not want change in the existing order. Religious leaders, business leaders, labor leaders, military leaders, criminal leaders are often the first and most adamant in resisting change. Stifling change may lead to economic decline of a country, it may lead to revolution, it may lead to rampant crime or even civil war, but, in the short run, those who benefit from the existing structure of society retain their position. Industrialization was a revolution in Britain. The landed Lords and the craftsman guilds resisted the change to the factory system. The Luddites broke in and smashed machinery and hounded some of the new rich manufacturers out of England. It takes faith, courage, or *or the lack of alternative choices*,for elites or the middle classes to give up their privileges for the lottery of the market.

Henry Ford is perhaps a good example of how quickly an entrepreneur, once successful, can turn into a reactionary advocate of the *status quo*. In twenty-five years, he went from being a man of very modest means and the most dynamic advocate for change in America to becoming rich and conservative in his business practices and his political and social views. Richard Hofstadter, a distinguished historian of the Progressive era, noted that Progressives like President Teddy Roosevelt were drawn in significant part from America's old rich who viewed with alarm the growing power of new industrial giants like Rockefeller, Carnegie, Duke, and Morgan. They joined together with Populists, consumers and workers to push for antitrust legislation in 1890 and again in 1914.

This reaction to Big Business scandals is typical of the United States and other market economies. The most common reaction to corruption or other kinds of overreaching by elites is reform, not acceptance of abuses or choosing charismatic autocratic leaders of the left or right. Reform requires constant policing. New elites find new ways to undermine the rights and powers of the public. As a consequence, the public must support continuing prosecutions, passage of new responsive legislation and continuous reinterpretation of old laws to meet the challenge of new abuses. It is the changing nature of the threat to the market and to the rights of people that requires competition laws to evolve to remedy those abuses.

It is a 20th Century idea that changes in society are never ending and that, therefore, countries need laws that are designed to respond to change. Aside from the United States, no country had an antitrust or competition law during most of the 20th Century. In the 19th Century, many political, economic, and legal thinkers assumed that the industrial and scientific revolutions that they were witnessing were a prelude to a static world based on the discovery of immutable truths. Early in the 20th Century, the scientific expectations were shattered by Einstein and Quantum mechanics. Only the Great Depression of the 1930s and the aftermath of WWII destroyed the political and economic illusions. As a result of the economic crisis of the Great Depression, almost every industrial country in the world looked for the strong political leader who could control and direct the economy of their country. During that depression popular opinion became afraid of the unreliability of the market economy and looked for something more stable.

After Hitler, Mussolini, Lenin and Stalin, many people in the industrial world decided that authoritarian rule is inherently dangerous. As British Lord Acton said near the end of the 19th Century, “Power tends to corrupt and absolute power corrupts absolutely.” But the trauma of the Great Depression left much of the industrial world skeptical of an unregulated market. The United States opted for regulation of trains, trucks, air travel, taxis, electricity, hospitals, banks, capital markets and insurance companies. Western Europe experimented with nationalizing large industries and other forms of central planning. Slowly, during the second half of the 20th Century, the industrial nations moved to privatize most nationalized industries and eliminated the pricing and entry regulation of many other industries; and, by 1970, most of the industrialized nations passed competition laws. The result was not the creation of the unregulated economy celebrated by neoclassical economists. The mixed economies of the Rich Nations generally included national health insurance and retirement insurance, product and production safety requirements, business disclosure requirements, pollution controls, public police and fire departments, national armies, public education and much more. Nevertheless, with Keynesian economics, and a variety of regulations of the capital markets, the industrial nations have abandoned central planning, and relied more and more heavily on large number of individual decisions to make their markets to grow and sustain their economies. As they did, so they became even richer relative to Poor Nations.

For purposes of thinking about the economic development of Poor Nations, the point is not to emulate specific policies adopted by particular Rich Nation; rather it is to understand the enormous difficulty that Rich Nations have had committing their economic destinies to the anonymous decision-making of the market. Each industrial country has a different culture and has taken a somewhat different path to become a Rich Nation. Poor Nations cannot become rich by trying to follow in the exact footsteps of any Rich Nation, because each country starts with a different culture and faces a technologically different Global Economy.

Nevertheless, there is reason to believe that the instant-mix recipe for a market economy can work. It is not a question merely of passing laws. The Soviet constitution guaranteed free speech, but the reality was different. The reality in Poor Nations must be reflected not only in laws that protect and encourage markets. The reality must also avoid the temptation to direct the investment decisions that can be done by the market. That commitment to the market does not mean a Poor Nation cannot protect its environment or the health and safety of its population, but it does mean that the Poor Nation needs to let entrepreneurs make the specific investment decisions.

The competition laws are a supplement to this. They are designed to prevent this generation's entrepreneurs from stifling the entrepreneurs of tomorrow. Competition advocacy is a somewhat broader concept that includes both the barriers to competition created by private businesses and the barriers created by the joint action of busineses and governments. The word of a competition law or textbook will not provide correct answers. A market economy arises only when parts of an existing culture overcome historical rigidities and incorporate the value of competition.