



# SECTION ON SOCIO-ECONOMICS NEWSLETTER

December 2009

Number 35

## Section on Socio-Economics Annual Meeting Program

Thursday, January 7, 2010

Hilton New Orleans Riverside

(Cosponsored Sections Minority Groups and Poverty Law)

### “Economic Recovery and the Obama Presidency”

<b>8:45 - 9:00</b>	<b>Welcoming Remarks</b>
9:00 - 9:30	Plenary: Preview of Day’s Program
9:40 - 10:40	Concurrent Sessions
	1. Efficiency, Distribution, and Growth
	2. White Collar Crime’s Contribution to Financial Crises
	3. Workplace Mobbing and Academic Freedom: The Socio-Economic Connection
	4. The Relationship of Faith and Law: The Example of Corporate Law
10:50 - 11:50	The Socio-Economic Road to Economic Recovery
12:00 - 1:00	
<b>Luncheon Address:</b>	
<b>Robert A.G. Monks</b>	
<b>General Partner, Lens Governance Advisors</b>	
<b>“Corporate Governance, Fiduciary Duties, and Social Responsibility”</b>	
(See Details Page 6)	
1:10 - 2:10	Corporate Governance, Fiduciary Duties, and Social Responsibility
2:20 - 3:20	Concurrent Sessions
	1 Emotions and Behavior
	2. Redefining Regulation in the Post Neoclassical Era
	3. Socio-Economic Perspectives on the Concept of Efficient Breach
	4. Socio-Economics and the Critical Schools
3:30 - 4:25	Deans’ Forum on Socio Economics
4:30 - 5:30	<b>The Future of Socio-Economics</b>

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<i>(Society of Socio-Economists)</i>	
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**2010 Annual Meeting of the  
Society of Socio-Economists**  
(Co-Sponsored by  
**Tulane University School of Law**)

9:00 a.m. to 5:00 p.m.  
Wednesday, January 6, 2010  
Hilton New Orleans Riverside

**“Economic Recovery,  
the Obama Presidency,  
and Other Socio-Economic Issues”**

All AALS Registrants and Friends Welcome!

(See Details Page 8)

\*\*\* Please copy, post, and send to others \*\*\*

**Section on Socio-Economics  
Annual Meeting Program**

*Thursday, January 7, 2010*

**“Economic Recovery and the Obama Presidency”**

**8:45 - 9:00 Welcoming Remarks**

Donald Polden (Dean, Santa Clara) - Section Chair

**9:00 - 9:30 Plenary: Preview of Day’s Program**

Robert Ashford (Syracuse) Program Chair

**9:40 - 10:40 Concurrent Sessions**

**1. Efficiency, Distribution, and Growth**

Morris Altman (Economics, New Zealand, *Journal of Socio-Economics*)

Robert Ashford (Syracuse)

Paul Davidson (Editor - *Journal of Post Keynesian Economics*)

Steve Ramirez (Loyola - Chicago)

Charles Whalen (Economic, Utica College, Editor *Perspectives on Work*)

**2. The Criminal Causes of the Economic Recession**

Regina Burch (Capital) - Moderator

William Black (Missouri - Kansas City)

Timothy Canova (Chapman)

Lydie Nadia Cabrera Louis-Pierre (St. Thomas - Florida)

Ellen Podgor (Stetson)

**3. Workplace Mobbing and Academic Freedom**

**The Socio-Economic Connections**

Mark A. Schneider -Moderator (Sociology -Emeritus, Southern Illinois)

Tim Blessing (History - Political Science, Alvernia)

Joan Friedenber (Bilingual Education, Florida Atlantic University)

Richard Peltz, (Arkansas - Little Rock)

Kenneth Westhues (Sociology, Waterloo, Canada)

**4. The Relationship of Faith and Law: The Example of Corporate Law**

Lyman Johnson (Washington and Lee and St. Thomas- Minneapolis) Moderator

Sarah Duggin (Catholic University)

David Opderbeck (Seton Hall)

Gordon Smith (Brigham Young)

Susan Stabile: (St. Thomas - Minneapolis).

**10:50 - 11:50 The Socio-Economic Road to Economic Recovery**

Paul Davidson (Editor, *Journal of Post Keynesian Economics*)

James Galbraith (LBJ School of Public Affairs, Texas)

Chairman of the Board, Economists for Peace and Security)

***Robert A.G. Monks***

***"Corporate Fiduciary Duties,  
Governance and Social Responsibility"***

**Luncheon Address . . . . . 12:00 - 1:00 p.m.**

**Plenary Session . . . . . 1:10 - 2:10 p.m.**

**( See details Page 6 )**

**\*\* Tickets must be purchased from the AALS by Wednesday, January 6, 2010 \*\***

**Annual Meeting Program**  
(continued)

***“Economic Recovery and the Obama Presidency”***

- 1:10- 2:10**      **Corporate Governance, Fiduciary Duties, and Social Responsibility**  
Robert A.G. Monks (General Partner, Lens Governance Advisors)  
Continuation of Luncheon Address
- 2:20 - 3:20**      **Concurrent Sessions**
- 1.      Emotions and Economic Behavior**  
Jeffrey Harrison. (Florida) - Moderator  
Susan Bandes (DePaul)  
Jeremy Blumenthal (Syracuse)  
Christopher Buccafusco (Chicago - Kent)  
Peter Huang (Temple)  
Terry Maroney (Vanderbilt)  
Leonard Riskin (Florida)
  - 2.      Redefining Regulation in the Post Neoclassical Era**  
Nancy Levit (Missouri - Kansas City) - Moderator  
June Carbone (Missouri - Kansas City)  
Rebecca Bratspies (City University New York)  
Judith Daar (Whittier)  
Martha Ertman (Maryland)  
Radhika Rao (Hastings)
  - 3.      Socio-Economic Perspectives on the Concept of Efficient Breach**  
Joe Perrillo, (Fordham)  
Ed Rubin (Vanderbilt)  
Irma Russell, (Dean, Montana)
  - 4.      Socio-Economics and the Critical Schools**  
Tayyab Mahmud (Seattle)  
Robert Westley (Tulane)
- 3:30 - 4:25**      **Deans’ Forum on Socio Economics**  
Robert Ackerman (Wayne State)  
Jim Chen (Louisville)  
Dennis Honabach (Northern Kentucky)  
Peter Pitegoff (Maine)  
Donald Polden (Santa Clara)  
Edward Rubin (Vanderbilt)  
Irma Russell (Montana)  
Kellye Testy (Washington)
- 4:30 - 5:30**      **The Future of Socio-Economics**  
A Roundtable with All Program Participants

***2010 Annual Meeting of the Society of Socio-Economists***  
**(Co-Sponsored by Tulane University School of Law)**

**9:00 a.m. to 5:00 p.m., Wednesday, January 6, 2010, Hilton New Orleans Riverside**

**All AALS Registrants Welcome !**

**(See details Page 8,)**

## PROGRAM DESCRIPTION

**“Economic Recovery and the Obama Presidency”**

Overview: The Fourteenth Annual Meeting of the AALS Section on Socio-Economics features thirty-five participants including, six law school deans, thirty law professors, six economists, two criminologists, two sociologists, and one highly successful businessman and shareholder activist. This year's luncheon speaker is Robert A.G. Monks, well known around the world for his great contributions to the reform of corporate governance. A number of the sessions will focus on macro-economic issues related to the current recession by considering what business and government have done, and should do, to fulfill their responsibilities. The program provides a rich array of sessions on socio-economic theory and practice regarding a diverse range of law-related economic issues that will prove both accessible to the law-teacher generalist and satisfying to those schooled in economic theory.

**8:45 - 9:00 Welcoming Remarks –**

Donald Polden, (Dean Santa Clara, Section Chair)

9:00 - 9:30 Plenary: Preview of Day's Program

In this session, presenters from all the day's sessions will provide brief cameo descriptions of the sessions that will follow.

**9:40 - 10:40 Concurrent Sessions****1. Efficiency, Distribution, and Growth**

Socio-economists recognize that (1) at best the maximization of efficiency is only one component of wealth maximization, and (2) wealth distribution matters not only normatively but also positively in understanding efficiency and growth. The growing wealth and poverty of nations (which was the subject of Adam Smith's inquiry) is not synonymous with maximizing efficiency. Closely related to the distinction between efficiency and growth is the meaning of unutilized productive capacity in a time frame in which technology and capital investment are variables dynamically related prices. In this session, three panelists explain these principles in way understandable both to veterans and novices in economic theory, and discuss some of the normative implications that flow from these principles.

**2. White Collar Crime's Contribution to Financial Crises**

Conventional economics has typically ignored "control fraud" -- frauds in which the person that controls a seemingly legitimate entity uses it as a "weapon" to defraud. White-collar criminology, however, has developed multidisciplinary theories to explain why epidemics of control fraud occur and how such epidemics contribute to financial bubbles and crises. Criminologists draw heavily on economic theory in synthesizing their multidisciplinary theories about control fraud. Their socio-economic theories have proven effective in identifying control frauds, the conditions that create criminogenic environments most likely to produce hyper inflated financial bubbles, and effective praxis that could improve regulation, enforcement and prosecution.

**3. Socio-Economics and Academic Freedom**

Many socio-economists recognize important connections between economics and academic

freedom. As the aftermath of Katrina and the current recession has shown, in cases of "economic exigency" academic institutions have broader latitude in discharging faculty members and freezing their salaries. In light of substantial litigational transactions costs, the economic asymmetry between academic institutions and individual faculty members and the economic fears that faculty members face resulting from the reputational harm from protesting institutional actions also influence the quality of academic freedom. In addition, as the Supreme Court has recognized, orthodoxy can cast a pall on the exercise of academic freedom. Economic orthodoxy is no exception to this rule. Given these considerations, important academic research reveals that group dynamics can play an important role in inhibiting the exercise of academic freedom.

In this session, the research literature on workplace mobbing (ganging up on a workmate by managers, co-workers, and/or subordinates) will be summarized in relation to the field of Socio-Economics, and then critically applied to a specific conflict in 2007-08, involving a professor at an American law school.

**4. The Relationship of Faith and Law: the Example of Corporate Law**

Socio-economics recognizes that faith in a higher power can affect economic behavior, as well as social behavior more generally, and that large numbers of citizens in the U.S. and other countries are people of faith. How does this relate to law? Do various areas of the law acknowledge or ignore, impede or permit, the influence of these socio-economic facts? Are there promising avenues to explore, and pitfalls to be avoided, in studying the interplay of faith and law? These subjects will be explored through the example of corporate law – where scholarship and jurisprudence seem to contain little recognition of faith's influence – with the expectation that the panel's discussion will broaden beyond corporate law, to explore potential lines of inquiry in the faith/law area.

**10:50 - 11:50 The Socio-Economic Road to Economic Recovery**

This session will consider what has been done and what should be done to promote recovery and sustainable, green growth.

**Program Description (Continued)*****Robert A.G. Monks****to Speak on****“Corporate Fiduciary Duties,  
Governance and Social Responsibility.”*****Luncheon Address 12:00 - 1:00 p.m.****Plenary Session 1:10 - 2:10 p.m.****(Details page 6.)****(Luncheon Tickets Must Be Purchased  
In Advance From AALS)****1:10- 2:10 Corporate Governance,  
Fiduciary Duties, and Social Responsibility**For the program description, please see  
Luncheon Address description above.**2:20 - 3:20 Concurrent Sessions****1. Emotions and Behavior**

An emerging field in legal scholarship concerns the impact of emotions on decision making and reactions to decisions that are already made. For example, feelings of happiness, pride, and shame can have an impact on the decision making process. In other instances, individuals are happy or at least content with outcomes that others would find unacceptable. This session brings together a number of scholars who are interested in the impact of emotions on decisions and on reactions to decision. In a "round table" type format they will discuss their current interests and where this type of research may lead. Important connections to socio-economics will emerge from the discussion.

**2. Redefining Regulation in the Post Neoclassical Era**

A consensus is emerging that markets are not necessarily self-regulating and the mindless deregulation of the neo-classical era has reached an intellectual dead end. Nonetheless, no agreement has emerged about the appropriate role of regulation in the new era or how it can be made to work. There is little confidence in regulators as "neutral" experts removed from the political arena or in regulation as an exercise in interest group politics that inevitably gives more voice to the better organized and better funded. With particular focus on the issues of the environment and assisted reproduction, this panel will explore new approaches to regulation that leave open the use of market mechanisms to expand the range of individual possibilities while restraining the inevitable abuses that occur with any profit driven activities.

**3. Socio-Economic Perspectives on the Concept of Efficient Breach**

What right do you “get” by entering a contract? Under limited circumstances, the remedy for a breach of a contractual promise is specific performance; but the default rule is “the benefit of the bargain,” measuring damages by the cost of obtaining a substitute performance in the market to cover for breach of the obligation. Neoclassical theory can be used to argue that efficiency

can be maximized by breaching contracts when the breach results in the transfer goods and services to someone who presently values them more than the value attached by the parties to the original contract at the time of contracting. Much “law and (neoclassical) economics” scholarship suggests that contract law is about the value that parties place on performance and that a change in valuing of performance may mean a breach is efficient. By focusing on valuation at the time of breach, this neoclassical approach grounds the remedial value at the time a breaching party decides to breach. Those who object to the theory of efficient breach emphasize the value of “certainty in contracting” or in other words, the value of obligation itself. The value of the obligation includes both positive and normative dimensions, which the neoclassical approach to wealth maximization does not consider. Contract law, by contrast, protects obligations with the positive effects of (1) enhancing trust, confidence, and security in markets; (2) reducing litigation and other transactions costs, and (3) promoting respectful, cooperative, virtuous behavior – all of which contribute to wealth maximization in ways that are distinct from the market-oriented allocational efficiency approach described above. The normative aspects of protecting the bargain can be expressed in many ways. They include the virtues just mentioned and the fact that protection of the obligation is in harmony with the law’s damage theory. This panel will focus on the continuing debate about the purposes of the default rule of damages (as compared to the specific performance alternative) to answer the question of “what is the right created by contracting?”

**4. Socio-Economics and the Critical Schools**

Socio-Economics as way of understanding law-related economic issues and as a paradigm for the organization and allocation of assets, resources, responsibilities, and opportunities, generally has been viewed by critical scholars as a “kinder, gentler” version of the neoclassical economic paradigm, a characterization that is not necessarily complimentary. However, socio-economics and critical legal studies, critical race theory, LatCrit theory, feminist legal theory and queer theory share many of the same concerns about the distributive consequences of mainstream economic theory, and all of these approaches aspire to the goals of protecting human dignity and promoting economic justice. This panel will offer a preliminary examination of the areas of commonality and conflict between socio-economics and the critical schools.

**3:30 - 4:25 Deans’ Forum on Socio Economics**

Six law school deans supportive of socio-economics share their views on (1) the importance of the socio-economic approach in legal education, (2) ways to enhance the understanding and use of socio-economic analysis in legal education, and (3) things that law deans can do to promote socio-economic teaching, scholarship, and service at their schools.

**4:30 - 5:30 The Future of Socio-Economics**

All the day’s participants will join in an open roundtable to discuss future of socio-economics.

***Robert A.G. Monks to Speak on  
Corporate Fiduciary Duties,  
Governance and Social Responsibility.***

**Luncheon Address . . . . . 12:00 - 1:00 p.m.**

**Plenary Session . . . . . 1:10 - 2:10 p.m.**

Robert A.G. Monks is a prominent business man, corporate and investment advisor, shareholder activist, and a leading champion of corporate reform throughout the world. His principal occupation is the development of ideas harmonizing corporate energies with the long-term interests of global society. He is the founder of Lens Governance Advisors, a law firm that advises on corporate governance in the settlement of shareholder litigation.

After graduating from Harvard College, Cambridge University, and Harvard Law School, Mr. Monks embarked upon an exemplary career in business and public service. He founded a number of successful firms, including LENS, an investment fund that has developed a profitable “institutional activist” mode of investment. He has served as member of the board of directors of ten publicly traded companies. His public service includes his role in the U.S. Department of Labor as Administrator of the Office of Pension and Welfare Benefit Programs, having jurisdiction over the entire U.S. Pension system. By appointment of President Reagan, he also served as a founding Trustee of the Federal Employees’ Retirement System and Director of the United States Synthetic Fuels Corporation.

Over the past twenty years, Mr. Monks has spoken, written, and testified widely on corporate governance matters with a special concern for the social interests that corporations exist to serve. These materials are largely available at [www.thecorporatelibrary.com](http://www.thecorporatelibrary.com). He has also authored a number of books including *Corporocracy* (a must-read for business law professors) and a novel entitled *Reel and Rout*.

Mr. Monks’ contributions to socially constructive, profitable, ethical corporate business practice have been recognized with numerous awards including ones from *Director Magazine*, *Financial Management Association*, *Investor Relations Magazine*, and the International Corporate Governance Network. His tireless efforts as a corporate reformer inspired the biography *A Traitor to his Class*, by Hillary Rosenberg.

In a luncheon address, followed by a plenary session, on the subject of ‘Corporate Fiduciary Duties, Governance and Social Responsibility,’ Mr. Monks will describe “the happy culmination of a quarter of a century effort to provide global definition of the obligation of fiduciaries who collectively are majority owners of publicly traded companies” which is reflected by the publication in July 02 2009 of a report by the Asset Working Management Group of the United Nations. This publication reflects the growing recognition “that fiduciary responsibility with respect to portfolio securities includes the ‘responsibility of ownership’ minimally expressed through voting and engagement with management.” An earlier 2005 report articulated the scope of this responsibility to include integrating environmental, social, and governance issues (“csg issues”) into institutional investment, but tempered the responsibility by advancing it as something fiduciaries *could* do. The 2009 Report “changed the vocabulary to what shareholders may be required to do,” Mr. Monks observes, “If the trustee/owners insist that esg factors be included in the valuation of securities, managers – whose compensation depends importantly on share price – will respond in society’s interest.” Noting that management requires measurement, and that “many externalities are difficult to quantify and more difficult to attach numerical consequences,” Mr. Monks says, “There is need to development a language of accounting that includes in the ‘cost of goods soled’ as much as possible of the totality of external costs associated with the manufacturing process....Failure to incorporate external costs into price makes every customer and every purchaser of stock an *enabler* of socially detrimental behavior.”

**Join Today!****Section on Socio-Economics**

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Chair: Donald Polden, (Dean and Professor,  
Santa Clara)

Chair-Elect: Richard Markovits (Texas)

Web Site for all Programs (1996-2009)

&lt;&lt; journaloflawandsocioeconomics.com &gt;&gt;

Opinions expressed herein are not necessarily those of  
the Section and do not necessarily represent the  
position of the AALS.**Definition of Socio-Economics**

Socio-economics begins with the system, but is embedded in society, polity, culture, and nature. Drawing upon economics, sociology, political science, psychology, anthropology, biology and other social and natural sciences, philosophy, history, law, management, and other disciplines, socio-economics regards competitive behavior as a subset of human behavior within a societal and natural context that both enables and constrains competition and cooperation. Rather than assume that the individual pursuit of self-interest automatically or generally tends toward an optimal allocation of resources, socio-economics assumes that societal sources of order are necessary for people and markets to function efficiently. Rather than assume that people act only rationally, or that they pursue only self-interest, socio-economics seeks to advance a more encompassing interdisciplinary understanding of economic behavior open to the assumption that individual choices are shaped not only by notions of rationality but also by emotions, social bonds, beliefs, expectations, and a sense of morality.

Socio-economics is both a positive and a normative science. It is dedicated to the empirical, reality testing approach to knowledge. It respects both inductive and deductive reasoning. But it also openly recognizes the policy relevance of teaching and research and seeks to be self-aware of its normative implications rather than maintaining the mantle of an exclusively positive science. Although it sees questions of value inextricably connected with individual and group economic choices, socio-economics does not entail a commitment to any one paradigm or ideological position, but is open to a range of thinking that treats economic behavior as involving the whole person and all facets of society within a continually evolving natural context.

Unique among interdisciplinary approaches, however, socio-economics recognizes the pervasive and powerful influence of the neoclassical paradigm on contemporary thought. Recognizing that people first adopt paradigms of thought and then perform their inductive, deductive, and empirical analyses, socio-economists seek to examine the assumptions of the neoclassical paradigm, develop a rigorous understanding of its limitations, improve upon its application, and develop alternative, perhaps complementary, approaches that are predictive, exemplary, and morally sound. With modest amendment, this description of socio-economics was the substance of the petition signed by more than one hundred twenty law professors from over fifty AALS member schools, to establish the AALS Section on Socio-Economics. It serves as the constitution of the Section.

**Socio-Economic References**

1. Paul Stern, "The Socio-Economic Perspective and Its Institutional Prospects," *The Journal of Socio-Economics*, Volume 22, No. 1, 1993, pp. 1-11.
2. Richard Coughlin, "Whose Morality? Which Community? What Interests? Socio-Economic and Communitarian Perspectives," *The Journal of Socio-Economics*, Volume 25, 1996, pp. 135-55.
3. Robert Ashford, "Socio-Economics: What Is Its Place in Law Teaching?" *Wisconsin Law Review*, Volume 1997, p. 611-623.
4. Jeffrey L. Harrison, "Law and Socio-Economics," Volume 49, *Journal of Legal Education*, 224 (1999).
5. Richard E. Hattwick, "The Future Paradigm for Socio-Economics: A Call for Papers," Volume 28, *The Journal of Socio-Economics*, 1999, pp. 511-532.
6. Robert A. Solo, *The Philosophy of Science, and Economics* (1991) and *Economic Organizations and Social Systems* (2000).
7. Steve Keen, *Debunking Economics - The Naked Emperor of the Social Sciences* (2001).
8. Socio-Economics and Corporate Law Symposium: The New Corporate Social Responsibility, 76 *Tulane Law Rev.* 1187 (2002).
9. Symposium: Teaching Law and Socio-Economics 41 *San Diego Law Review* 1 (2004).
10. Lynne Dallas, *Law and Public Policy: A Socio-Economic Approach* (2004).

**2010 Annual Meeting of the  
Society of Socio-Economists**

(Co-Sponsored by  
**Tulane University School of Law**)

9:00 a.m. to 5:00 p.m.  
Wednesday, January 6, 2010  
Hilton New Orleans Riverside

**“Economic Recovery, the Obama Presidency  
and Other Socio-Economic Issues”**

(All AALS Registrants and Friends Welcome!)

*Featured Speakers*

**Michael Alan Bernstein**  
*Provost, Tulane University*  
*Ph.D. (Economics)*

**“The Great Depression - Then and Now”**

**Paul Davidson**  
*Editor, Journal of Post Keynesian Economics*  
*Ph.D. (Economics)*

**“The Path to Global Prosperity”**

**James Galbraith**  
*LBJ School of Public Affairs*  
*Chairman of the Board*  
*Economists for Peace & Security*

**“Socio-Economics, Peace, and Security”**

***Partial Listing of Additional Participants***

Morris Altman (Editor, Journal of Socio-Economics), Robert Ashford (Syracuse), Paul Barron (Tulane University), Tim Blessing (History - Political Science, Alvernia), William Black (Missouri - Kansas City), Christopher Bruner (Washington and Lee), Timothy Canova (Chapman), June Carbone (Missouri - Kansas City), Mitch Crusto (Loyola - New Orleans), Wendy Duong (Denver), Joan Friedenber (Bilingual Education, Florida Atlantic), Joan Heminway (Tennessee), Claire Dickerson (Tulane), Lydie Nadia Cabrera Louis-Pierre (St. Thomas - Florida), William Lovett (Tulane), David Millon (Washington and Lee), Richard Peltz, (Arkansas - Little Rock), Steve Ramirez Loyola - Chicago), Mark A. Schneider (Sociology - Emeritus, Southern Illinois), Edward Sherman (Tulane), Judd Sneirson (Florida), Ben Templin (Thomas Jefferson), Kenneth Westhues (Sociology, Waterloo, Canada), Robert Westley (Tulane), Charles Whalen (Economics, Utica College)

***Program Schedule***

9:00 - 9:30 Welcoming Remarks  
 9:30 - 11:30 Economic Recovery and the Obama Administration (includes a 10-minute break)  
 11:30 - 12:30 Socio-Economics, Economics and "Law and Economics"  
 12:30 - 1:45 Lunch:  
 1:45 - 3:45 Concurrent Sessions (includes a 10-minute break)  
     1. Why Socio-economics is essential to Save Economics and the Economy.  
     2. Corporate Fiduciary Duties, Governance and Social Responsibility  
     3. Socio-Economics and the Critical Schools  
     4. Socio-Economics and Academic Freedom  
     5. Other Socio-Economic Issues  
 3:45 - 4:30 Socio-Economics, Peace and Security  
 4:30 - 5:00 The Future of Socio Economics