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LAW, LEGISLATION AND LIBERTY

*A new statement of the liberal principles
of justice and political economy*

Volume 2

THE MIRAGE OF SOCIAL JUSTICE

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'SOCIAL' OR DISTRIBUTIVE JUSTICE

So great is the uncertainty of merit, both from its natural obscurity, and from the self-conceit of each individual, that no determinate rule of conduct could ever follow from it.

David Hume*

Welfare, however, has no principle, neither for him who receives it, nor for him who distributes it (one will place it here and another there); because it depends on the material content of the will, which is dependent upon particular facts and therefore incapable of a general rule.

Immanuel Kant*

The concept of 'social justice'

While in the preceding chapter I had to defend the conception of justice as the indispensable foundation and limitation of all law, I must now turn against an abuse of the word which threatens to destroy the conception of law which made it the safeguard of individual freedom. It is perhaps not surprising that men should have applied to the joint effects of the actions of many people, even where these were never foreseen or intended, the conception of justice which they had developed with respect to the conduct of individuals towards each other. 'Social' justice (or sometimes 'economic' justice) came to be regarded as an attribute which the 'actions' of society, or the 'treatment' of individuals and groups by society, ought to possess. As primitive thinking usually does when first noticing some regular processes, the results of the spontaneous ordering of the market were interpreted as if some thinking being deliberately directed them, or as if the particular benefits or harm different persons derived from them were determined by deliberate acts of will, and could therefore be guided by moral rules. This conception of 'social' justice is thus a direct consequence of that anthropomorphism or personification by which naive thinking tries

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to account for all self-ordering processes. It is a sign of the immaturity of our minds that we have not yet outgrown these primitive concepts and still demand from an impersonal process which brings about a greater satisfaction of human desires than any deliberate human organization could achieve, that it conform to the moral precepts men have evolved for the guidance of their individual actions.¹

The use of the term 'social justice' in this sense is of comparatively recent date, apparently not much older than a hundred years. The expression was occasionally used earlier to describe the organized efforts to enforce the rules of just individual conduct,² and it is to the present day sometimes employed in learned discussion to evaluate the effects of the existing institutions of society.³ But the sense in which it is now generally used and constantly appealed to in public discussion, and in which it will be examined in this chapter, is essentially the same as that in which the expression 'distributive justice' had long been employed. It seems to have become generally current in this sense at the time when (and perhaps partly because) John Stuart Mill explicitly treated the two terms as equivalent in such statements as that

society should treat all equally well who have deserved equally well of it, that is, who have deserved equally well absolutely.

This is the highest abstract standard of social and distributive justice; towards which all institutions, and the efforts of all virtuous citizens should be made in the utmost degree to converge.⁴

or that

it is universally considered just that each person should obtain that (whether good or evil) which he deserves; and unjust that he should obtain a good, or be made to undergo an evil, which he does not deserve. This is perhaps the clearest and most emphatic form in which the idea of justice is conceived by the general mind. As it involves the idea of desert, the question arises of what constitutes desert.⁵

It is significant that the first of these two passages occurs in the description of one of five meanings of justice which Mill distinguishes, of which four refer to rules of just individual conduct while this one defines a factual state of affairs which may but need

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not have been brought about by deliberate human decision. Yet Mill appears to have been wholly unaware of the circumstance that in this meaning it refers to situations entirely different from those to which the four other meanings apply, or that this conception of 'social justice' leads straight to full-fledged socialism.

Such statements which explicitly connect 'social and distributive justice' with the 'treatment' by society of the individuals according to their 'deserts' bring out most clearly its difference from plan justice, and at the same time the cause of the vacuity of the concept: the demand for 'social justice' is addressed not to the individual but to society—yet society, in the strict sense in which it must be distinguished from the apparatus of government, is incapable of acting for a specific purpose, and the demand for 'social justice' therefore becomes a demand that the members of society should organize themselves in a manner which makes it possible to assign particular shares of the product of society to the different individuals or groups. The primary question then becomes whether there exists a moral duty to submit to a power which can co-ordinate the efforts of the members of society with the aim of achieving a particular pattern of distribution regarded as just.

If the existence of such a power is taken for granted, the question of how the available means for the satisfaction of needs ought to be shared out becomes indeed a question of justice—though not a question to which prevailing morals provide an answer. Even the assumption from which most of the modern theorists of 'social justice' start, namely that it would require equal shares for all in so far as special considerations do not demand a departure from this principle, would then appear to be justified.⁶ But the prior question is whether it is moral that men be subjected to the powers of direction that would have to be exercised in order that the benefits derived by the individuals could be meaningfully described as just or unjust.

It has of course to be admitted that the manner in which the benefits and burdens are apportioned by the market mechanism would in many instances have to be regarded as very unjust if it were the result of a deliberate allocation to particular people. But this is not the case. Those shares are the outcome of a process the effect of which on particular people was neither intended nor foreseen by anyone when the institutions first appeared—institutions which were then permitted to continue because it was found that they improve for all or most the prospects of having their needs

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satisfied. To demand justice from such a process is clearly absurd, and to single out some people in such a society as entitled to a particular share evidently unjust.

The conquest of public imagination by 'social justice'

The appeal to 'social justice' has nevertheless by now become the most widely used and most effective argument in political discussion. Almost every claim for government action on behalf of particular groups is advanced in its name, and if it can be made to appear that a certain measure is demanded by 'social justice', opposition to it will rapidly weaken. People may dispute whether or not the particular measure is required by 'social justice'. But that this is the standard which ought to guide political action, and that the expression has a definite meaning, is hardly ever questioned. In consequence, there are today probably no political movements or politicians who do not readily appeal to 'social justice' in support of the particular measures which they advocate.

It also can scarcely be denied that the demand for 'social justice' has already in a great measure transformed the social order and is continuing to transform it in a direction which those who called for it never foresaw. Though the phrase has undoubtedly helped occasionally to make the law more equal for all, whether the demand for justice in distribution has in any sense made society juster or reduced discontent must remain doubtful.

The expression of course described from the beginning the aspirations which were at the heart of socialism. Although classical socialism has usually been defined by its demand for the socialization of the means of production, this was for it chiefly a means thought to be essential in order to bring about a 'just' distribution of wealth; and since socialists have later discovered that this redistribution could in a great measure, and against less resistance, be brought about by taxation (and government services financed by it), and have in practice often shelved their earlier demands, the realization of 'social justice' has become their chief promise. It might indeed be said that the main difference between the order of society at which classical liberalism aimed and the sort of society into which it is now being transformed is that the former was governed by principles of just individual conduct while the new society is to satisfy the demands for 'social justice'—or, in other words, that the former demanded just action by the individuals while the latter

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more and more places the duty of justice on authorities with power to command people what to do.

The phrase could exercise this effect because it has gradually been taken over from the socialist not only by all the other political movements but also by most teachers and preachers of morality. It seems in particular to have been embraced by a large section of the clergy of all Christian denominations, who, while increasingly losing their faith in a supernatural revelation, appear to have sought a refuge and consolation in a new 'social' religion which substitutes a temporal for a celestial promise of justice, and who hope that they can thus continue their striving to do good. The Roman Catholic church especially has made the aim of 'social justice' part of its official doctrine;⁷ but the ministers of most Christian denominations appear to vie with each other with such offers of more mundane aims—which also seem to provide the chief foundation for renewed ecumenical efforts.

The various modern authoritarian or dictatorial governments have of course no less proclaimed 'social justice' as their chief aim. We have it on the authority of Mr Andrei Sakharov that millions of men in Russia are the victims of a terror that 'attempts to conceal itself behind the slogan of social justice'.

The commitment to 'social justice' has in fact become the chief outlet for moral emotion, the distinguishing attribute of the good man, and the recognized sign of the possession of a moral conscience. Though people may occasionally be perplexed to say which of the conflicting claims advanced in its name are valid, scarcely anyone doubts that the expression has a definite meaning, describes a high ideal, and points to grave defects of the existing social order which urgently call for correction. Even though until recently one would have vainly sought in the extensive literature for an intelligible definition of the term,⁸ there still seems to exist little doubt, either among ordinary people or among the learned, that the expression has a definite and well understood sense.

But the near-universal acceptance of a belief does not prove that it is valid or even meaningful any more than the general belief in witches or ghosts proved the validity of these concepts. What we have to deal with in the case of 'social justice' is simply a quasi-religious superstition of the kind which we should respectfully leave in peace so long as it merely makes those happy who hold it, but which we must fight when it becomes the pretext of coercing other men. And the prevailing belief in 'social justice' is at present prob-

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ably the gravest threat to most other values of a free civilization.

Whether Edward Gibbon was wrong or not, there can be no doubt that moral and religious beliefs can destroy a civilization and that, where such doctrines prevail, not only the most cherished beliefs but also the most revered moral leaders, sometimes saintly figures whose unselfishness is beyond question, may become grave dangers to the values which the same people regard as unshakable. Against this threat we can protect ourselves only by subjecting even our dearest dreams of a better world to ruthless rational dissection.

It seems to be widely believed that 'social justice' is just a new moral value which we must add to those that were recognized in the past, and that it can be fitted within the existing framework of moral rules. What is not sufficiently recognized is that in order to give this phrase meaning a complete change of the whole character of the social order will have to be effected, and that some of the values which used to govern it will have to be sacrificed. It is such a transformation of society into one of a fundamentally different type which is currently occurring piecemeal and without awareness of the outcome to which it must lead. It was in the belief that something like 'social justice' could thereby be achieved, that people have placed in the hands of government powers which it can now not refuse to employ in order to satisfy the claims of the ever increasing number of special interests who have learnt to employ the open sesame of 'social justice'.

I believe that 'social justice' will ultimately be recognized as a will-o'-the-wisp which has lured men to abandon many of the values which in the past have inspired the development of civilization—an attempt to satisfy a craving inherited from the traditions of the small group but which is meaningless in the Great Society of free men. Unfortunately, this vague desire which has become one of the strongest bonds spurring people of good will to action, not only is bound to be disappointed. This would be sad enough. But, like most attempts to pursue an unattainable goal, the striving for it will also produce highly undesirable consequences, and in particular lead to the destruction of the indispensable environment in which the traditional moral values alone can flourish, namely personal freedom.

The inapplicability of the concept of justice to the results of a spontaneous process

It is now necessary clearly to distinguish between two wholly

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different problems which the demand for 'social justice' raises in a market order.

The first is whether within an economic order based on the market the concept of 'social justice' has any meaning or content whatever.

The second is whether it is possible to preserve a market order while imposing upon it (in the name of 'social justice' or any other pretext) some pattern of remuneration based on the assessment of the performance or the needs of different individuals or groups by an authority possessing the power to enforce it.

The answer to each of these questions is a clear no.

Yet it is the general belief in the validity of the concept of 'social justice' which drives all contemporary societies into greater and greater efforts of the second kind and which has a peculiar self-accelerating tendency: the more dependent the position of the individuals or groups is seen to become on the actions of government, the more they will insist that the governments aim at some recognizable scheme of distributive justice; and the more governments try to realize some preconceived pattern of desirable distribution, the more they must subject the position of the different individuals and groups to their control. So long as the belief in 'social justice' governs political action, this process must progressively approach nearer and nearer to a totalitarian system.

We shall at first concentrate on the problem of the meaning, or rather lack of meaning, of the term 'social justice', and only later consider the effects which the efforts to impose *any* preconceived pattern of distribution must have on the structure of the society subjected to them.

The contention that in a society of free men (as distinct from any compulsory organization) the concept of social justice is strictly empty and meaningless will probably appear as quite unbelievable to most people. Are we not all constantly disquieted by watching how unjustly life treats different people and by seeing the deserving suffer and the unworthy prosper? And do we not all have a sense of fitness, and watch it with satisfaction, when we recognize a reward to be appropriate to effort or sacrifice?

The first insight which should shake this certainty is that we experience the same feelings also with respect to differences in human fates for which clearly no human agency is responsible and which it would therefore clearly be absurd to call injustice. Yet we do cry out against the injustice when a succession of calamities

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befalls one family while another steadily prospers, when a meritorious effort is frustrated by some unforeseeable accident, and particularly if of many people whose endeavours seem equally great, some succeed brilliantly while others utterly fail. It is certainly tragic to see the failure of the most meritorious efforts of parents to bring up their children, of young men to build a career, or of an explorer or scientist pursuing a brilliant idea. And we will protest against such a fate although we do not know anyone who is to blame for it, or any way in which such disappointments can be prevented.

It is no different with regard to the general feeling of injustice about the distribution of material goods in a society of free men. Though we are in this case less ready to admit it, our complaints about the outcome of the market as unjust do not really assert that somebody has been unjust; and there is no answer to the question of *who* has been unjust. Society has simply become the new deity to which we complain and clamour for redress if it does not fulfil the expectations it has created. There is no individual and no co-operating group of people against which the sufferer would have a just complaint, and there are no conceivable rules of just individual conduct which would at the same time secure a functioning order and prevent such disappointments.

The only blame implicit in those complaints is that we tolerate a system in which each is allowed to choose his occupation and therefore nobody can have the power and the duty to see that the results correspond to our wishes. For in such a system in which each is allowed to use his knowledge for his own purposes the concept of 'social justice' is necessarily empty and meaningless, because in it nobody's will can determine the relative incomes of the different people, or prevent that they be partly dependent on accident. 'Social justice' can be given a meaning only in a directed or 'command' economy (such as an army) in which the individuals are ordered what to do; and any particular conception of 'social justice' could be realized only in such a centrally directed system. It presupposes that people are guided by specific directions and not by rules of just individual conduct. Indeed, no system of rules of just individual conduct, and therefore no free action of the individuals, could produce results satisfying any principle of distributive justice.

We are of course not wrong in perceiving that the effects of the processes of a free society on the fates of the different individuals are not distributed according to some recognizable principle of

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justice. Where we go wrong is in concluding from this that they are unjust and that somebody is to be blamed for this. In a free society in which the position of the different individuals and groups is not the result of anybody's design—or could, within such a society, be altered in accordance with a generally applicable principle—the differences in reward simply cannot meaningfully be described as just or unjust. There are, no doubt, many kinds of individual action which are aimed at affecting particular remunerations and which might be called just or unjust. But there are no principles of individual conduct which would produce a pattern of distribution which as such could be called just, and therefore also no possibility for the individual to know what he would have to do to secure a just remuneration of his fellows.

The rationale of the economic game in which only the conduct of the players but not the result can be just

We have seen earlier that justice is an attribute of human conduct which we have learnt to exact because a certain kind of conduct is required to secure the formation and maintenance of a beneficial order of actions. The attribute of justice may thus be predicated about the intended results of human action but not about circumstances which have not deliberately been brought about by men. Justice requires that in the 'treatment' of another person or persons, i.e. in the intentional actions affecting the well-being of other persons, certain uniform rules of conduct be observed. It clearly has no application to the manner in which the impersonal process of the market allocates command over goods and services to particular people: this can be neither just nor unjust, because the results are not intended or foreseen, and depend on a multitude of circumstances not known in their totality to anybody. The conduct of the individuals in that process may well be just or unjust; but since their wholly just actions will have consequences for others which were neither intended nor foreseen, these effects do not thereby become just or unjust.

The fact is simply that we consent to retain, and agree to enforce, uniform rules for a procedure which has greatly improved the chances of all to have their wants satisfied, but at the price of all individuals and groups incurring the risk of unmerited failure. With the acceptance of this procedure the recompense of different groups and individuals becomes exempt from deliberate control. It is the

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only procedure yet discovered in which information widely dispersed among millions of men can be effectively utilized for the benefit of all—and used by assuring to all an individual liberty desirable for itself on ethical grounds. It is a procedure which of course has never been 'designed' but which we have learnt gradually to improve after we had discovered how it increased the efficiency of men in the groups who had evolved it.

It is a procedure which, as Adam Smith (and apparently before him the ancient Stoics) understood, in all important respects (except that normally it is not pursued solely as a diversion) is wholly analogous to a game, namely a game partly of skill and partly of chance. We shall later describe it as the game of catallaxy. It proceeds, like all games, according to rules guiding the actions of individual participants whose aims, skills, and knowledge are different, with the consequence that the outcome will be unpredictable and that there will regularly be winners and losers. And while, as in a game, we are right in insisting that it be fair and that nobody cheat, it would be nonsensical to demand that the results for the different players be just. They will of necessity be determined partly by skill and partly by luck. Some of the circumstances which make the services of a person more or less valuable to his fellows, or which may make it desirable that he change the direction of his efforts, are not of human design or foreseeable by men.

We shall in the next chapter have to return to the rationale of the discovery procedure which the game of competition in a market in effect constitutes. Here we must content ourselves with emphasizing that the results for the different individuals and groups of a procedure for utilizing more information than any one person or agency can possess, must themselves be unpredictable, and must often be different from the hopes and intentions which determined the direction and intensity of their striving; and that we can make effective use of that dispersed knowledge only if (as Adam Smith was also one of the first to see clearly)¹¹ we allow the principle of negative feedback to operate, which means that some must suffer unmerited disappointment.

We shall also see later that the importance for the functioning of the market order of particular prices or wages, and therefore of the incomes of the different groups and individuals, is not due chiefly to the effects of the prices on all of those who receive them, but to the effects of the prices on those for whom they act as signals to change the direction of their efforts. Their function is not so much

to reward people for what they *have* done as to tell them what in their own as well as in general interest they *ought* to do. We shall then also see that, to hold out a sufficient incentive for those movements which are required to maintain a market order, it will often be necessary that the return of people's efforts do *not* correspond to recognizable merit, but should show that, in spite of the best efforts of which they were capable, and for reasons they could not have known, their efforts were either more or less successful than they had reason to expect. In a spontaneous order the question of whether or not someone has done the 'right' thing cannot always be a matter of merit, but must be determined independently of whether the persons concerned ought or could have known what was required.

The long and the short of it all is that men can be allowed to decide what work to do only if the remuneration they can expect to get for it corresponds to the value their services have to those of their fellows who receive them; and that *these values which their services will have to their fellows will often have no relations to their individual merits or needs*. Reward for merit earned and indication of what a person should do, both in his own and in his fellows' interest, are different things. It is not good intentions or needs but doing what in fact most benefits others, irrespective of motive, which will secure the best reward. Among those who try to climb Mount Everest or to reach the Moon, we also honour not those who made the greatest efforts, but those who got their first.

The general failure to see that in this connection we cannot meaningfully speak of the justice or injustice of the results is partly due to the misleading use of the term 'distribution' which inevitably suggests a personal distributing agent whose will or choice determines the relative position of the different persons or groups.¹² There is of course no such agent, and we use an impersonal process to determine the allocation of benefits precisely because through its operation we can bring about a structure of relative prices and remunerations that will determine a size and composition of the total output which assures that the real equivalent of each individual's share that accident or skill assigns to him will be as large as we know to make it.

It would serve little purpose to enquire here at greater length into the relative importance of skill and luck in actually determining relative incomes. This will clearly differ a great deal between different trades, localities and times, and in particular between highly

competitive and less enterprising societies. I am on the whole inclined to believe that within any one trade or profession the correspondence between individual ability and industry is higher than is commonly admitted, but that the relative position of all the members of a particular trade or profession compared with others will more often be affected by circumstances beyond their control and knowledge. (This may also be one reason why what is called 'social' injustice is generally regarded as a graver fault of the existing order than the corresponding misfortunes of individuals.)¹³ But the decisive point is not that the price mechanism does on the whole bring it about that rewards are proportioned to skill and effort, but that even where it is clear to us that luck plays a great part, and we have no idea why some are regularly luckier in guessing than others, it is still in the general interest to proceed on the presumption that the past success of some people in picking winners makes it probable that they will also do so in the future, and that it is therefore worthwhile to induce them to continue their attempts.

The alleged necessity of a belief in the justice of rewards

It has been argued persuasively that people will tolerate major inequalities of the material positions only if they believe that the different individuals get on the whole what they deserve, that they did in fact support the market order only because (and so long as) they thought that the differences of remuneration corresponded roughly to differences of merit, and that in consequence the maintenance of a free society presupposes the belief that some sort of 'social justice' is being done.¹⁴ The market order, however, does not in fact owe its origin to such beliefs, or was originally justified in this manner. This order could develop, after its earlier beginnings had decayed during the middle ages and to some extent been destroyed by the restrictions imposed by authority, when a thousand years of vain efforts to discover substantively just prices or wages were abandoned and the late schoolmen recognized them to be empty formulae and taught instead that the prices determined by just conduct of the parties in the market, i.e. the competitive prices arrived at without fraud, monopoly and violence, was all that justice required.¹⁵ It was from this tradition that John Locke and his contemporaries derived the classical liberal conception of justice for which, as has been rightly said, it was only 'the way in which

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competition was carried on, not its results,¹⁶ that could be just or unjust.

It is unquestionably true that, particularly among those who were very successful in the market order, a belief in a much stronger moral justification of individual success developed, and that, long after the basic principles of such an order had been fully elaborated and approved by catholic moral philosophers, it had in the Anglo-Saxon world received strong support from Calvinist teaching. It certainly is important in the market order (or free enterprise society, misleadingly called 'capitalism') that the individuals believe that their well-being depends primarily on their own efforts and decisions. Indeed, few circumstances will do more to make a person energetic and efficient than the belief that it depends chiefly on him whether he will reach the goals he has set himself. For this reason this belief is often encouraged by education and governing opinion—it seems to me, generally much to the benefit of most of the members of the society in which it prevails, who will owe many important material and moral improvements to persons guided by it. But it leads no doubt also to an exaggerated confidence in the truth of this generalization which to those who regard themselves (and perhaps are) equally able but have failed must appear as a bitter irony and severe provocation.

It is probably a misfortune that, especially in the USA, popular writers like Samuel Smiles and Horatio Alger, and later the sociologist W. G. Sumner, have defended free enterprise on the ground that it regularly rewards the deserving, and it bodes ill for the future of the market order that this seems to have become the only defence of it which is understood by the general public. That it has largely become the basis of the self-esteem of the businessman often gives him an air of self-righteousness which does not make him more popular.

It is therefore a real dilemma to what extent we ought to encourage in the young the belief that when they really try they will succeed, or should rather emphasize that inevitably some unworthy will succeed and some worthy fail—whether we ought to allow the views of those groups to prevail with whom the over-confidence in the appropriate reward of the able and industrious is strong and who in consequence will do much that benefits the rest, and whether without such partly erroneous beliefs the large numbers will tolerate actual differences in rewards which will be based only partly on achievement and partly on mere chance.

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There is no 'value to society'

The futile medieval search for the just price and just wage, finally abandoned when it was recognized that only that 'natural' price could be regarded as just which would be arrived at in a competitive market where it would be determined not by any human laws or decrees but would depend on so many circumstances that it could be known beforehand only by God,¹⁷ was not the end of the search for that philosophers' stone. It was revived in modern times, not only by the general demand for 'social justice', but also by the long and equally abortive efforts to discover criteria of justice in connection with the procedures for reconciliation or arbitration in wage disputes. Nearly a century of endeavours by public spirited men and women in many parts of the world to discover principles by which just wage rates could be determined have, as more and more of them acknowledge, produced not a single rule which would do this.¹⁸ It is somewhat surprising in view of this when we find an experienced arbitrator like Lady Wootton, after admitting that arbitrators are 'engaged in the impossible task of attempting to do justice in an ethical vacuum', because 'nobody knows in this context what justice is', drawing from it the conclusion that the criteria should be determined by legislation, and explicitly demand a political determination of all wages and incomes.¹⁹ One can hardly carry any further the illusion that Parliament can determine what is just, and I don't suppose the writer would really wish to defend the atrocious principle implied that all rewards should be determined by political power.

Another source of the conception that the categories of just and unjust can be meaningfully applied to the remunerations determined by the market is the idea that the different services have a determined and ascertainable 'value to society', and that the actual remuneration frequently differs from the value. But though the conception of a 'value to society' is sometimes carelessly used even by economists, there is strictly no such thing and the expression implies the same sort of anthropomorphism or personification of society as the term 'social justice'. Services can have value only to particular people (or an organization), and any particular service will have very different values for different members of the same society. To regard them differently is to treat society not as a spontaneous order of free men but as an organization whose members are all made to serve a single hierarchy of ends. This would

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necessarily be a totalitarian system in which personal freedom would be absent.

Although it is tempting to speak of a 'value to society' instead of a man's value to his fellows, it is in fact highly misleading if we say, e.g., that a man who supplies matches to millions and thereby earns \$200,000 a year is worth more 'to society' than a man who supplies great wisdom or exquisite pleasure to a few thousand and thereby earns \$20,000 a year. Even the performance of a Beethoven sonata, a painting by Leonardo or a play by Shakespeare have no 'value to society' but a value only to those who know and appreciate them. And it has little meaning to assert that a boxer or a crooner is worth more to society than a violin virtuoso or a ballet dancer if the former renders services to millions and the latter to a much smaller group. The point is not that the true values are different, but that the values attached to the different services by different groups of people are incommensurable; all that these expressions mean is merely that one in fact receives a larger aggregate sum from a larger number of people than the other.²⁰

Incomes earned in the market by different persons will normally not correspond to the relative values of their services to any one person. Although, in so far as any one of a given group of different commodities is consumed by any one person, he or she will buy so much of each that the relative values to them of the last units bought will correspond to their relative prices, many pairs of commodities will never be consumed by the same person: the relative price of articles consumed only by men and of articles consumed only by women will not correspond to the relative values of these articles to anybody.

The remunerations which the individuals and groups receive in the market are thus determined by what these services are worth to those who receive them (or, strictly speaking, to the last pressing demand for them which can still be satisfied by the available supply) and not by some fictitious 'value to society'.

Another source of the complaint about the alleged injustice of this principle of remuneration is that the remuneration thus determined will often be much higher than would be necessary to induce the recipient to render those services. This is perfectly true but necessary if all who render the same service are to receive the same remuneration, if the kind of service in question is to be increased so long as the price still exceeds costs, and if anyone who wishes to buy or sell it at the current price is to be able to do so.

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The consequence must be that all but the marginal sellers make a gain in excess of what was necessary to induce them to render the services in question—just as all but the marginal buyers will get what they buy for less than they were prepared to pay. The remuneration of the market will therefore hardly ever seem just in the sense in which somebody might endeavour justly to compensate others for the efforts and sacrifice incurred for his benefit.

The consideration of the different attitudes which different groups will take to the remuneration of different services incidentally also shows that the large numbers by no means grudge all the incomes higher than theirs, but generally only those earned by activities the functions of which they do not understand or which they even regard as harmful. I have never known ordinary people grudge the very high earnings of the boxer or torero, the football idol or the cinema star or the jazz king—they seem often even to revel vicariously in the display of extreme luxury and waste of such figures compared with which those of industrial magnates or financial tycoons pale. It is where most people do not comprehend the usefulness of an activity, and frequently because they erroneously regard it as harmful (the 'speculator'—often combined with the belief that only dishonest activities can bring so much money), and especially where the large earnings are used to accumulate a fortune (again out of the erroneous belief that it would be desirable that it should be spent rather than invested) that the outcry about the injustice of it arises. Yet the complex structure of the modern Great Society would clearly not work if the remunerations of all the different activities were determined by the opinion which the majority holds of their value—or indeed if they were dependent on any one person's understanding or knowledge of the importance of all the different activities required for the functioning of the system.

The main point is not that the masses have in most instances no idea of the values which a man's activities have to his fellows, and that it is necessarily their prejudices which would determine the use of the government's power. It is that nobody knows except in so far as the market tells him. It is true enough that our esteem of particular activities often differs from the value given to them by the market; and we express this feeling by an outcry about the injustice of it. But when we ask what ought to be the relative remunerations of a nurse and a butcher, of a coal miner and a judge at a high court, of the deep sea diver or the cleaner of sewers, of the organizer of a new industry and a jockey, of the

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inspector of taxes and the inventor of a life-saving drug, of the jet pilot or the professor of mathematics, the appeal to 'social justice' does not give us the slightest help in deciding—and if we use it it is no more than an insinuation that the others ought to agree with our view without giving any reason for it.

It might be objected that, although we cannot give the term 'social justice' a precise meaning, this need not be a fatal objection because the position may be similar to that which I have earlier contended exists with regard to justice proper: we might not know what is 'socially just' yet know quite well what is 'socially unjust'; and by persistently eliminating 'social injustice' whenever we encounter it, gradually approach 'social justice'. This, however, does not provide a way out of the basic difficulty. There can be no test by which we can discover what is 'socially unjust' because there is no subject by which such an injustice can be committed, and there are no rules of individual conduct the observance of which in the market order would secure to the individuals and groups the position which as such (as distinguished from the procedure by which it is determined) would appear just to us.²¹ It does not belong to the category of error but to that of nonsense, like the term 'a moral stone'.

The meaning of 'social'

One might hope to get some help in the search for the meaning of 'social justice' by examining the meaning of the attribute 'social'; but the attempt to do so soon leads into a quagmire of confusion nearly as bad as that which surrounds 'social justice' itself.²² Originally 'social' had of course a clear meaning (analogous to formations like 'national', 'tribal', or 'organizational'), namely that of pertaining to, or characteristic of the structure and operations of society. In this sense justice clearly is a social phenomenon and the addition of 'social' to the noun a pleonasm²³ such as if we spoke of 'social language'—though in occasional early uses it might have been intended to distinguish the generally prevailing views of justice from that held by particular persons or groups.

But 'social justice' as used today is not 'social' in the sense of 'social norms', i.e. something which has developed as a practice of individual action in the course of social evolution, not a product of society or of a social process, but a conception to be imposed upon society. It was the reference of 'social' to the whole of society, or to

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the interests of all its members, which led to its gradually acquiring a predominant meaning of moral approbation. When it came into general use during the third quarter of the last century it was meant to convey an appeal to the still ruling classes to concern themselves more with the welfare of the much more numerous poor whose interests had not received adequate consideration.²⁴ The 'social question' was posed as an appeal to the conscience of the upper classes to recognize their responsibility for the welfare of the neglected sections of society whose voices had till then carried little weight in the councils of government. 'Social policy' (or *Sozialpolitik* in the language of the country then leading in the movement) became the order of the day, the chief concern of all progressive and good people, and 'social' came increasingly to displace such terms as 'ethical' or simply 'good'.

But from such an appeal to the conscience of the public to concern themselves with the unfortunate ones and recognize them as members of the same society, the conception gradually came to mean that 'society' ought to hold itself responsible for the particular material position of all its members, and for assuring that each received what was 'due' to him. It implied that the processes of society should be deliberately directed to particular results and, by personifying society, represented it as a subject endowed with a conscious mind, capable of being guided in its operation by moral principles.²⁵ 'Social' became more and more the description of the pre-eminent virtue, the attribute in which the good man excelled and the ideal by which communal action was to be guided.

But while this development indefinitely extended the field of application of the term 'social', it did not give it the required new meaning. It even so much deprived it of its original descriptive meaning that American sociologists have found it necessary to coin the new term 'societal' in its place. Indeed, it has produced a situation in which 'social' can be used to describe almost any action as publicly desirable and has at the same time the effect of depriving any terms with which it is combined of clear meaning. Not only 'social justice' but also 'social democracy', 'social market economy' or the 'social state of law' (or rule of law—in German *sozialer Rechtsstaat*) are expressions which, though justice, democracy, the market economy or the *Rechtsstaat* have by themselves perfectly good meanings, the addition of the adjective 'social' makes them capable of meaning almost anything one likes. The word has indeed become one of the chief sources of confusion of political discourse

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and can probably no longer be reclaimed for a useful purpose.

There is apparently no end to the violence that will be done to language to further some ideal and the example of 'social justice' has recently given rise to the expression 'global justice'.¹ Its negative, 'global injustice', was defined by an ecumenical gathering of American religious leaders as 'characterized by a dimension of sin in the economic, political, social, sexual, and class structures and systems of global society'.² It would seem as if the conviction that one is arguing in a good cause produced more sloppy thinking and even intellectual dishonesty than perhaps any other cause.

'Social justice' and equality

The most common attempts to give meaning to the concept of 'social justice' resort to egalitarian considerations and argue that every departure from equality of material benefits enjoyed has to be justified by some recognizable common interest which these differences serve.³ This is based on a specious analogy with the situation in which some human agency has to distribute rewards, in which case indeed justice would require that these rewards be determined in accordance with some recognizable rule of general applicability. But earnings in a market system, though people tend to regard them as rewards, do not serve such a function. Their rationale (if one may use this term for a role which was not designed but developed because it assisted human endeavour without people understanding how), is rather to indicate to people what they ought to do if the order is to be maintained on which they all rely. The prices which must be paid in a market economy for different kinds of labour and other factors of production if individual efforts are to match, although they will be affected by effort, diligence, skill, need, etc., cannot conform to any one of these magnitudes; and considerations of justice just do not make sense.⁴ with respect to the determination of a magnitude which does not depend on anyone's will or desire, but on circumstances which nobody knows in their totality.

The contention that all differences in earnings must be justified by some corresponding difference in deserts is one which would certainly not have been thought to be obvious in a community of farmers or merchants or artisans, that is, in a society in which success or failure were clearly seen to depend only in part on skill and industry, and in part on pure accident which might hit any-

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one—although even in such societies individuals were known to complain to God or fortune about the injustice of their fate. But, though people resent that their remuneration should in part depend on pure accident, that is in fact precisely what it must if the market order is to adjust itself promptly to the unavoidable and unforeseen changes in circumstances, and the individual is to be allowed to decide what to do. The now prevalent attitude could arise only in a society in which large numbers worked as members of organizations in which they were remunerated at stipulated rates for time worked. Such communities will not ascribe the different fortunes of its members to the operation of an impersonal mechanism which serves to guide the directions of efforts, but to some human power that ought to allocate shares according to merit.

The postulate of material equality would be a natural starting point only if it were a necessary circumstance that the shares of the different individuals or groups were in such a manner determined by deliberate human decision. In a society in which this were an unquestioned fact, justice would indeed demand that the allocation of the means for the satisfaction of human needs were effected according to some uniform principle such as merit or need (or some combination of these), and that, where the principle adopted did not justify a difference, the shares of the different individuals should be equal. The prevalent demand for material equality is probably often based on the belief that the existing inequalities are the effect of somebody's decision—a belief which would be wholly mistaken in a genuine market order and has still only very limited validity in the highly interventionist 'mixed' economy existing in most countries today. This now prevalent form of economic order has in fact attained its character largely as a result of governmental measures aiming at what was thought to be required by 'social justice'.

When the choice, however, is between a genuine market order, which does not and cannot achieve a distribution corresponding to any standard of material justice, and a system in which government uses its powers to put some such standard into effect, the question is not whether government ought to exercise, justify or unjustly, powers it must exercise in any case, but whether government should possess and exercise additional powers which can be used to determine the shares of the different members of society. The demand for 'social justice', in other words, does not merely require government to observe some principle of action according to

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uniform rules in those actions which it must perform in any case, but demands that it undertake additional activities, and thereby assume new responsibilities—tasks which are not necessary for maintaining law and order and providing for certain collective needs which the market could not satisfy.

The great problem is whether this new demand for equality does not conflict with the equality of the rules of conduct which government must enforce on all in a free society. There is, of course, a great difference between government treating all citizens according to the same rules in all the activities it undertakes for other purposes, and government doing what is required in order to place the different citizens in equal (or less unequal) material positions. Indeed, there may arise a sharp conflict between these two aims. Since people will differ in many attributes which government cannot alter, to secure for them the same material position would require that government treat them very differently. Indeed, to assure the same material position to people who differ greatly in strength, intelligence, skill, knowledge and perseverance as well as in their physical and social environment, government would clearly have to treat them very differently to compensate for those disadvantages and deficiencies it could not directly alter. Strict equality of those benefits which government could provide for all, on the other hand, would clearly lead to inequality of the material positions.

This, however, is not the only and not even the chief reason why a government aiming to secure for its citizens equal material positions (or any determined pattern of material welfare) would have to treat them very unequally. It would have to do so because under such a system it would have to undertake to tell people what to do. Once the rewards the individual can expect are no longer an appropriate indication of how to direct their efforts to where they are most needed, because these rewards correspond not to the value which their services have for their fellows, but to the moral merit or desert the persons are deemed to have earned, they lose the guiding function they have in the market order and would have to be replaced by the commands of the directing authority. A central planning office would, however, have to decide on the tasks to be allotted to the different groups or individuals wholly on grounds of expediency or efficiency and, in order to achieve its ends, would have to impose upon them very different duties and burdens. The individuals might be treated according to uniform rules so far as

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their rewards were concerned, but certainly not with respect to the different kinds of work they would have to be made to do. In assigning people to their different tasks, the central planning authority would have to be guided by considerations of efficiency and expediency and not by principles of justice or equality. No less than in the market order would the individuals in the common interest have to submit to great inequality—only these inequalities would be determined not by the interaction of individual skills in an impersonal process, but by the uncontractable decision of authority.

As is becoming clear in ever increasing fields of welfare policy, an authority instructed to achieve particular results for the individuals must be given essentially arbitrary powers to make the individuals do what seems necessary to achieve the required result. Full equality for most cannot but mean the equal submission of the great masses under the command of some élite who manages their affairs. While an equality of rights under a limited government is possible and an essential condition of individual freedom, a claim for equality of material position can be met only by a government with totalitarian powers.³⁰

We are of course not wrong when we perceive that the effects on the different individuals and groups of the economic processes of a free society are not distributed according to some recognizable principle of justice. Where we go wrong is in concluding from this that they are unjust and that somebody is responsible and to be blamed for this. In a free society in which the position of the different individuals and groups is not the result of anybody's design—or could within such a society not be altered in accordance with a principle of general applicability—the differences in rewards cannot meaningfully be described as just or unjust. There are, no doubt, many kinds of individual actions which are aimed at affecting particular remunerations and which might be regarded as unjust. But there are no principles of individual conduct which would produce a pattern of distribution which as such could be called just, and therefore also no possibility for the individual to know what he would have to do to secure a just remuneration of his fellows.

Our whole system of morals is a system of rules of individual conduct, and in a Great Society no conduct guided by such rules, or by decisions of the individuals guided by such rules, could produce for the individuals results which would appear to us as just