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in the sense in which we regard designed rewards as just or unjust: simply because in such a society nobody has the power or the knowledge which would enable him to ensure that those affected by his actions will get what he thinks right for them to get. Nor could anyone who is assured remuneration according to some principle which is accepted as constituting 'social justice' be allowed to decide what he is to do: remuneration indicating how urgent it was that a certain work should be done could not be just in this sense, because the need for work of a particular kind would often depend on unforeseeable accidents and certainly not on the good intentions or efforts of those able to perform it. And an authority that fixed remunerations with the intention of thereby reducing the kind and number of people thought necessary in each occupation could not make these remunerations 'just', i.e. proportionate to desert, or need, or the merits of any other claim of the persons concerned, but would have to offer what was necessary to attract or retain the number of people wanted in each kind of activity.

'Equality of opportunity'

It is of course not to be denied that in the existing market order not only the results but also the initial chances of different individuals are often very different; they are affected by circumstances of their physical and social environment which are beyond their control but in many particular respects might be altered by some governmental action. The demand for equality of opportunity or equal starting conditions (*Startgerechtigkeit*) appeals to, and has been supported by, many who in general favour the free market order. So far as this refers to such facilities and opportunities as are of necessity affected by governmental decisions (such as appointments to public office and the like), the demand was indeed one of the central points of classical liberalism, usually expressed by the French phrase 'la carrière ouverte aux talents'. There is also much to be said in favour of the government providing on an equal basis the means for the schooling of minors who are not yet fully responsible citizens, even though there are grave doubts whether we ought to allow government to administer them.

But all this would still be very far from creating real equality of opportunity, even for persons possessing the same abilities. To achieve this government would have to control the whole physical

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and human environment of all persons, and have to endeavour to provide at least equivalent chances for each; and the more government succeeded in these endeavours, the stronger would become the legitimate demand that, on the same principle, any still remaining handicaps must be removed—or compensated for by putting extra burden on the still relatively favoured. This would have to go on until government literally controlled every circumstance which could affect any person's well-being. Attractive as the phrase of equality of opportunity at first sounds, once the idea is extended beyond the facilities which for other reasons have to be provided by government, it becomes a wholly illusory ideal, and any attempt concretely to realize it apt to produce a nightmare.

'Social justice' and freedom under the law

The idea that men ought to be rewarded in accordance with the assessed merits or deserts of their services 'to society' presupposes an authority which not only distributes these rewards but also assigns to the individuals the tasks for the performance of which they will be rewarded. In other words, if 'social justice' is to be brought about, the individuals must be required to obey not merely general rules but specific demands directed to them only. The type of social order in which the individuals are directed to serve a single system of ends is the organization and not the spontaneous order of the market, that is, not a system in which the individual is free because bound only by general rules of just conduct, but a system in which all are subject to specific directions by authority.

It appears sometimes to be imagined that a mere alteration of the rules of individual conduct could bring about the realization of 'social justice'. But there can be no set of such rules, no principles by which the individuals could so govern their conduct that in a Great Society the joint effect of their activities would be a distribution of benefits which could be described as materially just, or any other specific and intended allocation of advantages and disadvantages among particular people or groups. In order to achieve *any* particular pattern of distribution through the market process, each producer would have to know, not only whom his efforts will benefit (or harm), but also how well off all the other people (actually or potentially) affected by his activities will be as the result of the services they are receiving from other members of the society. As we have seen earlier, appropriate rules of conduct can determine

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only the formal character of the order of activities that will form itself, but not the specific advantages particular groups or individuals will derive from it.

This rather obvious fact still needs to be stressed since even eminent jurists have contended that the substitution of 'social' or distributive for individual or commutative justice need not destroy the freedom under the law of the individual. Thus the distinguished German legal philosopher Gustav Radbruch explicitly maintained that 'the socialist community would also be a *Rechtsstaat* [i.e., the Rule of Law would prevail there], although a *Rechtsstaat* governed not by commutative but by distributive justice.'³¹ And of France it is reported that 'it has been suggested that some highly placed administrators should be given the permanent task of "pronouncing" on the distribution of national income, as judges pronounce on legal matters.'³² Such beliefs, however, overlook the fact that no specific pattern of distribution can be achieved by making the individuals obey rules of conduct, but that the achievement of such particular pre-determined results requires deliberate co-ordination of all the different activities in accordance with the concrete circumstances of time and place. It precludes, in other words, that the several individuals act on the basis of their own knowledge and in the service of their own ends, which is the essence of freedom, but requires that they be made to act in the manner which according to the knowledge of the directing authority is required for the realization of the ends chosen by that authority.

The distributive justice at which socialism aims is thus irreconcilable with the rule of law, and with that freedom under the law which the rule of law is intended to secure. The rules of distributive justice cannot be rules for the conduct towards equals, but must be rules for the conduct of superiors towards their subordinates. Yet though some socialists have long ago themselves drawn the inevitable conclusion that 'the fundamental principles of formal law by which every case must be judged according to general rational principles . . . obtains only for the competitive phase of capitalism,'³³ and the communists, so long as they took socialism seriously, had even proclaimed that 'communism means not the victory of socialist law, but the victory of socialism over any law, since with the abolition of classes with antagonistic interests, law will disappear altogether,'³⁴ when, more than thirty years ago, the present author made this the central point of a discussion of the political effects of socialist economic policies,³⁵ it evoked great

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indignation and violent protests. But the crucial point is implied even in Radbruch's own emphasis on the fact that the transition from commutative to distributive justice means a progressive displacement of private by public law,³⁶ since public law consists not of rules of conduct for private citizens but of rules of organization for public officials. It is, as Radbruch himself stresses, a law that subordinates the citizens to authority.³⁷ Only if one understands by law not the general rules of just conduct only but any command issued by authority (or any authorization of such commands by a legislature), can the measures aimed at distributive justice be represented as compatible with the rule of law. But this concept is thereby made to mean mere legality and ceases to offer the protection of individual freedom which it was originally intended to serve.

There is no reason why in a free society government should not assure to all protection against severe deprivation in the form of an assured minimum income, or a floor below which nobody need to descend. To enter into such an insurance against extreme misfortune may well be in the interest of all; or it may be felt to be a clear moral duty of all to assist, within the organized community, those who cannot help themselves. So long as such a uniform minimum income is provided outside the market to all those who, for any reason, are unable to earn in the market an adequate maintenance, this need not lead to a restriction of freedom, or conflict with the Rule of Law. The problems with which we are here concerned arise only when the remuneration for services rendered is determined by authority, and the impersonal mechanism of the market which guides the direction of individual efforts is thus suspended.

Perhaps the acutest sense of grievance about injustice inflicted on one, not by particular persons but by the 'system', is that about being deprived of opportunities for developing one's abilities which others enjoy. For this any difference of environment, social or physical, may be responsible, and at least some of them may be unavoidable. The most important of these is clearly inseparable from the institution of the family. This not only satisfies a strong psychological need but in general serves as an instrument for the transmission of important cultural values. There can be no doubt that those who are either wholly deprived of this benefit, or grew up in unfavourable conditions, are gravely handicapped; and few will question that it would be desirable that some public institution so far as possible should assist such unfortunate children when

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relatives and neighbours fail. Yet few will seriously believe (although Plato did) that we can fully make up for such a deficiency, and I trust even fewer that, because this benefit cannot be assured to all, it should, in the interest of equality, be taken from those who now enjoy it. Nor does it seem to me that even material equality could compensate for those differences in the capacity of enjoyment and of experiencing a lively interest in the cultural surroundings which a suitable upbringing confers.

There are of course many other irremediable inequalities which must seem as unreasonable as economic inequalities but which are less resented than the latter only because they do not appear to be man-made or the consequence of institutions which could be altered.

The spatial range of 'social justice'

There can be little doubt that the moral feelings which express themselves in the demand for 'social justice' derive from an attitude which in more primitive conditions the individual developed towards the fellow members of the small group to which he belonged. Towards the personally known member of one's own group it may well have been a recognized duty to assist him and to adjust one's actions to his needs. This is made possible by the knowledge of his person and his circumstances. The situation is wholly different in the Great or Open Society. Here the products and services of each benefit mostly persons he does not know. The greater productivity of such a society rests on a division of labour extending far beyond the range any one person can survey. This extension of the process of exchange beyond relatively small groups, and including large numbers of persons not known to each other, has been made possible by conceding to the stranger and even the foreigner the same protection of rules of just conduct which apply to the relations to the known members of one's own small group.

This application of the same rules of just conduct to the relations to all other men is rightly regarded as one of the great achievements of a liberal society. What is usually not understood is that this extension of the same rules to the relations to all other men (beyond the most intimate group such as the family and personal friends) requires an attenuation at least of some of the rules which are enforced in the relations to other members of the smaller group. If the legal duties towards strangers or foreigners are to be the same

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as those towards the neighbours or inhabitants of the same village or town, the latter duties will have to be reduced to such as can also be applied to the stranger. No doubt men will always wish to belong also to smaller groups and be willing voluntarily to assume greater obligations towards self-chosen friends or companions. But such moral obligations towards some can never become enforced duties in a system of freedom under the law, because in such a system the selection of those towards whom a man wishes to assume special moral obligations must be left to him and cannot be determined by law. A system of rules intended for an Open Society and, at least in principle, meant to be applicable to all others, must have a somewhat smaller content than one to be applied in a small group.

Especially a common agreement on what is the due status or material position of the different members is likely to develop only in the relatively small group in which the members will be familiar with the character and importance of each other's activities. In such small communities the opinion about appropriate status will also still be associated with a feeling about what one self owes to the other, and not be merely a demand that somebody provide the appropriate reward. Demands for the realization of 'social justice' are usually as a matter of course, though often only tacitly, addressed to national governments as the agencies which possess the necessary powers. But it is doubtful whether in any but the smallest countries standards can be applied nationally which are derived from the condition of the particular locality with which the individual is familiar, and fairly certain that few men would be willing to concede to foreigners the same right to a particular income that they tend to recognize in their fellow citizens.

It is true that in recent years concern about the suffering of large numbers in the poor countries has induced the electorates of the wealthier nations to approve substantial material aid to the former; but it can hardly be said that in this considerations of justice played a significant role. It is indeed doubtful whether any substantial help would have been rendered if competing power groups had not striven to draw as many as possible of the developing countries into their orbit. And it deserves notice that the modern technology which has made such assistance possible could develop only because some countries were able to build up great wealth while most of the world saw little change.

Yet the chief point is that, if we look beyond the limits of our national states, and certainly if we go beyond the limits of what we

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regard as our civilization, we no longer even deceive ourselves that we know what would be 'socially just', and that those very groups within the existing states which are loudest in their demands for 'social justice', such as the trade unions, are regularly the first to reject such claims raised on behalf of foreigners. Applied to the international sphere, the complete lack of a recognized standard of 'social justice', or of any known principles on which such a standard could be based, becomes at once obvious; while on a national scale most people still think that what on the level of the face-to-face society is to them a familiar idea must also have some validity for national politics or the use of the powers of government. In fact, it becomes on this level a humbug—the effectiveness of which with well-meaning people the agents of organized interests have learnt successfully to exploit.

There is in this respect a fundamental difference between what is possible in the small group and in the Great Society. In the small group the individual can know the effects of his actions on his several fellows, and the rules may effectively forbid him to harm them in any manner and even require him to assist them in specific ways. In the Great Society many of the effects of a person's actions on various fellows must be unknown to him. It can, therefore, not be the specific effects in the particular case, but only rules which define kinds of actions as prohibited or required, which must serve as guides to the individual. In particular, he will often not know who the individual people will be who will benefit by what he does, and therefore not know whether he is satisfying a great need or adding to abundance. He cannot aim at just results if he does not know who will be affected.

Indeed the transition from the small group to the Great or Open Society—and the treatment of every other person as a human being rather than as either a known friend or an enemy—requires a reduction of the range of duties we owe to all others.

If a person's legal duties are to be the same towards all, including the stranger and even the foreigner (and greater only where he has voluntarily entered into obligations, or is connected by physical ties as between parents and children), the legally enforceable duties to neighbour and friend must not be more than those towards the stranger. That is, all those duties which are based on personal acquaintance and familiarity with individual circumstances must cease to be enforceable. The extension of the obligation to obey certain rules of just conduct to wider circles and ultimately to all

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men must thus lead to an attenuation of the obligation towards fellow members of the same small group. Our inherited or perhaps in part even innate moral emotions are in part inapplicable to Open Society (which is an abstract society), and the kind of 'moral socialism' that is possible in the small group and often satisfies a deeply ingrained instinct may well be impossible in the Great Society. Some altruistic conduct aimed at the benefit of some known friend that in the small group might be highly desirable, need not be so in the Open Society, and may there even be harmful (as e.g. the requirement that members of the same trade refrain from competing with each other).³⁸

It may at first seem paradoxical that the advance of morals should lead to a reduction of specific obligations towards others: yet whoever believes that the principle of equal treatment of all men, which is probably the only chance for peace, is more important than special help to visible suffering, must wish it. It admittedly means that we make our rational insight dominate over our inherited instincts. But the great moral adventure on which modern man has embarked when he launched into the Open Society is threatened when he is required to apply to all his fellow-men rules which are appropriate only to the fellow members of a tribal group.

Claims for compensation for distasteful jobs

The reader will probably expect me now to examine in greater detail the particular claims usually justified by the appeal to 'social justice'. But this, as bitter experience has taught me, would be not only an endless but also a bootless task. After what has been said already, it should be obvious that there are no practicable standards of merit, deserts, or needs, on which in a market order the distribution of material benefits could be based, and still less any principle by which these different claims could be reconciled. I shall therefore confine myself to considering two arguments in which the appeal to 'social justice' is very commonly used. The first case is usually quoted in theoretical argument to illustrate the injustice of the distribution by the market process, though little is done about it in practice, while the second is probably the most frequent type of situation in which the appeal to social justice leads to government action.

The circumstance which is usually pointed out to demonstrate

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the injustice of the existing market order is that the most unpleasant jobs are commonly also the worst paid. In a just society, it is contended, those who have to dig coal underground or to clean chimneys or sewers, or who perform other unclean or menial tasks, should be remunerated more highly than those whose work is pleasurable.

It is of course true that it would be unjust if persons, although equally able as others to perform other tasks, were without special compensation assigned by a superior to such distasteful duties. If, e.g., in such an organization as an army, two men of equal capacity were made to perform different tasks, one of which was attractive and the other very unpleasant, justice would clearly require that the one who had regularly to perform the unpleasant duty should in some way be specially compensated for it.

The situation is entirely different, however, where people earn their living by selling their services to whoever pays best for them. Here the sacrifice brought by a particular person in rendering the service is wholly irrelevant and all that counts is the (marginal) value the services have to those to whom they are rendered. The reason for this is not only that the sacrifices different people bring in rendering the same kind of service will often be very different, or that it will not be possible to take account of the reason why some will be capable of rendering only less valuable services than others. But those whose aptitudes, and therefore also remunerations, will be small in the more attractive occupations will often find that they can earn more than they could otherwise by undertaking unpleasant tasks that are scorned by their more fortunate fellows. The very fact that the more unpleasant occupations will be avoided by those who can render services that are valued more highly by the buyers, will open to those whose skills are little valued opportunities to earn more than they otherwise could.

That those who have to offer to their fellows little that is valuable may have to incur more pain and effort to earn even a pittance than others who perhaps actually enjoy rendering services for which they are well paid, is a necessary concomitant of any system in which remuneration is based on the values the services have to the user and not on an assessment of merit earned. It must therefore prevail in any social order in which the individual is free to choose whatever occupation he can find and is not assigned to one by authority.

The only assumption on which it could be represented as just that the miner working underground, or the scavenger, or slaughter-

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house workers, should be paid more highly than those engaged in more pleasant occupations, would thus be that this was necessary to induce a sufficient number of persons to perform these tasks, or that they are by some human agency deliberately assigned to these tasks. But while in a market order it may be a misfortune to have been born and bred in a village where for most the only chance of making a living is fishing (or for the women the cleaning of fish), it does not make sense to describe this as unjust. Who is supposed to have been unjust?—especially when it is considered that, if these local opportunities had not existed, the people in question would probably never have been born at all, as most of the population of such a village will probably owe its existence to the opportunities which enabled their ancestors to produce and rear children.

The resentment of the loss of accustomed positions

The appeal to 'social justice' which in practice has probably had the greatest influence is not one which has been much considered in literary discussion. The considerations of a supposed 'social injustice' which have led to the most far-reaching interference with the functioning of the market order are based on the idea that people are to be protected against an unmerited descent from the material position to which they have become accustomed. No other consideration of 'social justice' has probably exercised as widespread an influence as the 'strong and almost universal belief that it is unjust to disappoint legitimate expectations of wealth. When differences of opinion arise, it is always on the question of what expectations are legitimate.' It is believed, as the same author says, 'that it is legitimate even for the largest classes to expect that no very great and sudden changes will be made to their detriment.'

The opinion that long established positions create a just expectation that they will continue serves often as a substitute for more substantial criteria of 'social justice'. Where expectations are disappointed, and in consequence the rewards of effort often disproportionate to the sacrifice incurred, this will be regarded as an injustice without any attempt to show that those affected had a claim in justice to the particular income which they expected. At least when a large group of people find their income reduced as a result of circumstances which they could not have altered or foreseen, this is commonly regarded as unjust.

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The frequent recurrence of such undeserved strokes of misfortune affecting some group is, however, an inseparable part of the steering mechanism of the market: it is the manner in which the cybernetic principle of negative feedback operates to maintain the order of the market. It is only through such changes which indicate that some activities ought to be reduced, that the efforts of all can be continuously adjusted to a greater variety of facts than can be known to any one person or agency, and that that utilization of dispersed knowledge is achieved on which the well-being of the Great Society rests. We cannot rely on a system in which the individuals are induced to respond to events of which they do not and cannot know without changes of the values of the services of different groups occurring which are wholly unrelated to the merits of their members. It is a necessary part of that process of constant adaptation to changing circumstances on which the mere maintenance of the existing level of wealth depends that some people should have to discover by bitter experience that they have misdirected their efforts and are forced to look elsewhere for a remunerative occupation. And the same applies to the resentment of the corresponding undeserved gains that will accrue to others for whom things have turned out better than they had reason to expect.

The sense of injury which people feel when an accustomed income is reduced or altogether lost is largely the result of a belief that they have morally deserved that income and that, therefore, so long as they work as industriously and honestly as they did before, they are in justice entitled to the continuance of that income. But the idea that we have morally deserved what we have honestly earned in the past is largely an illusion. What is true is only that it would have been unjust if anybody had taken from us what we have in fact acquired while observing the rules of the game.

It is precisely because in the cosmos of the market we all constantly receive benefits which we have not deserved in any moral sense that we are under an obligation also to accept equally undeserved diminutions of our incomes. Our only moral title to what the market gives us we have earned by submitting to those rules which makes the formation of the market order possible. These rules imply that nobody is under an obligation to supply us with a particular income unless he has specifically contracted to do so. If we were all to be consistently deprived, as the socialists propose to do, of all 'unearned benefits' which the market confers upon us, we would have to be deprived of most of the benefits of civilization.

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It is clearly meaningless to reply, as is often done, that, since we owe these benefits to 'society', 'society' should also be entitled to allocate these benefits to those who in its opinion deserve them. Society, once more, is not an acting person but an orderly structure of actions resulting from the observation of certain abstract rules by its members. We all owe the benefits we receive from the operation of this structure not to anyone's intention to confer them on us, but to the members of society generally obeying certain rules in the pursuit of their interests, rules which include the rule that nobody is to coerce others in order to secure for himself (or for third persons) a particular income. This imposes upon us the obligation to abide by the results of the market also when it turns against us.

The chance which any individual in our society has of earning an income approximating that which he has now is the consequence of most individuals obeying the rules which secure the formation of that order. And though this order provides for most good prospects for the successful employment of their skills, this success must remain dependent also on what from the point of view of the individual must appear as mere luck. The magnitude of the chances open to him are not of his making but the result of others submitting to the same rules of the game. To ask for protection against being displaced from a position one has long enjoyed, by others who are now favoured by new circumstances, means to deny to them the chances to which one's own present position is due.

Any protection of an accustomed position is thus necessarily a privilege which cannot be granted to all and which, if it had always been recognized, would have prevented those who now claim it from ever reaching the position for which they now demand protection. There can, in particular, be no right to share equally in a general increase of incomes if this increase (or perhaps even their maintenance at the existing level) is dependent on the continuous adjustment of the whole structure of activities to new and unforeseen circumstances that will alter and often reduce the contributions some groups can make to the needs of their fellows. There can thus be in justice no such claims as, e.g., those of the American farmer for 'parity', or of any other group to the preservation of their relative or absolute position.

The satisfaction of such claims by particular groups would thus not be just but eminently unjust, because it would involve the denial to some of the chances to which those who make this claim owe their position. For this reason it has always been conceded only

to some powerfully organized groups who were in the position to enforce their demands. Much of what is today done in the name of 'social justice' is thus not only unjust but also highly unsocial in the true sense of the word: it amounts simply to the protection of entrenched interests. Though it has come to be regarded as a 'social problem' when sufficiently large numbers clamour for protection of their accustomed position, it becomes a serious problem chiefly because, camouflaged as a demand for 'social justice', it can engage the sympathy of the public. We shall see in volume 3 why, under the existing type of democratic institutions, it is in practice inevitable that legislatures with unlimited powers yield to such demands when made by sufficiently large groups. This does not alter the fact that to represent such measures as satisfying 'social justice' is little more than a pretext for making the interest of the particular groups prevail over the general interest of all. Though it is now usual to regard every claim of an organized group as a 'social problem', it would be more correct to say that, though the long run interests of the several individuals mostly agree with the general interest, the interests of the organized groups almost invariably are in conflict with it. Yet it is the latter which are commonly represented as 'social'.

Conclusions

The basic contention of this chapter, namely that in a society of free men whose members are allowed to use their own knowledge for their own purposes the term 'social justice' is wholly devoid of meaning or content, is one which by its very nature cannot be *proved*. A negative assertion never can. One may demonstrate for any number of particular instances that the appeal to 'social justice' in no way assists the choices we have to make. But the contention that in a society of free men the term has no meaning whatever can only be issued as a challenge which will make it necessary for others to reflect on the meaning of the words they use, and as an appeal not to use phrases the meaning of which they do not know.

So long as one assumes that a phrase so widely used must have some recognizable meaning one may endeavour to prove that attempts to enforce it in a society of free individuals must make that society unworkable. But such efforts become redundant once it is recognized that such a society lacks the fundamental precondition for the application of the concept of justice to the manner in which

material benefits are shared among its members, namely that this is determined by a human will—or that the determination of rewards by human will could produce a viable market order. One does not have to prove that something is impracticable which cannot exist.

What I hope to have made clear is that the phrase 'social justice' is not, as most people probably feel, an innocent expression of good will towards the less fortunate, but that it has become a dishonest insinuation that one ought to agree to a demand of some special interest which can give no real reason for it. If political discussion is to become honest it is necessary that people should recognize that the term is intellectually disreputable, the mark of demagoguery or cheap journalism which responsible thinkers ought to be ashamed to use because, once its vacuity is recognized, its use is dishonest. I may, as a result of long endeavours to trace the destructive effect which the invocation of 'social justice' has had on our moral sensitivity, and of again and again finding even eminent thinkers thoughtlessly using the phrase,⁴⁰ have become unduly allergic to it, but I have come to feel strongly that the greatest service I can still render to my fellow men would be that I could make the speakers and writers among them thoroughly ashamed ever again to employ the term 'social justice'.

That in the present state of the discussion the continued use of the term is not only dishonest and the source of constant political confusion, but destructive of moral feeling, is shown by the fact that again and again thinkers, including distinguished philosophers,⁴¹ after rightly recognizing that the term justice in its now predominant meaning of distributive (or retributive) justice is meaningless, draw from this the conclusion that the concept of justice itself is empty, and who in consequence jettison one of the basic moral conceptions on which the working of a society of free men rests. But it is justice in this sense which courts of justice administer and which is the original meaning of justice and must govern men's conduct if peaceful coexistence of free men is to be possible. While the appeal to 'social justice' is indeed merely an invitation to give moral approval to demands that have no moral justification, and which are in conflict with that basic rule of a free society that only such rules as can be applied equally to all should be enforced, justice in the sense of rules of just conduct is indispensable for the intercourse of free men.

We are touching here upon a problem which with all its ramifications is much too big to try to be examined here systematically, but

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which must at least be mentioned briefly. It is that we can't have any morals we like or dream of. Morals, to be viable, must satisfy certain requirements, requirements which we may not be able to specify but may only be able to find out by trial and error. What is required is not merely consistency, or compatibility of the rules as well as the acts demanded by them. A system of morals also must produce a functioning order, capable of maintaining the apparatus of civilization which it presupposes.

We are not familiar with the concept of non-viable systems of morals and certainly cannot observe them anywhere in practice, since societies which try them rapidly disappear. But they are being preached, often by widely revered saintly figures, and the societies in decay which we can observe are often societies which have been listening to the teaching of such moral reformers and still revere the destroyers of their society as good men. More often, however, the gospel of 'social justice' aims at much more sordid sentiments: the dislike of people who are better off than oneself, or simply envy, that 'most anti-social and evil of all passions' as John Stuart Mill called it,⁴² that animosity towards great wealth which represents it as a 'scandal' that some should enjoy riches while others have basic needs unsatisfied, and camouflages under the name of justice what has nothing to do with justice. At least all those who wish to despoil the rich, not because they expect that some more deserving might enjoy that wealth, but because they regard the very existence of the rich as an outrage, not only cannot claim any moral justification for their demands, but indulge in a wholly irrational passion and in fact harm those to whose rapacious instincts they appeal.

There can be no moral claim to something that would not exist but for the decision of others to risk their resources on its creation. What those who attack great private wealth do not understand is that it is neither by physical effort nor by the mere act of saving and investing, but by directing resources to the most productive uses that wealth is chiefly created. And there can be no doubt that most of those who have built up great fortunes in the form of new industrial plants and the like have thereby benefited more people through creating opportunities for more rewarding employment than if they had given their superfluity away to the poor. The suggestion that in these cases those to whom in fact the workers are most indebted do wrong rather than greatly benefit them is an absurdity. Though there are undoubtedly also other and less meritorious ways of acquiring large fortunes (which we can hope to

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control by improving the rules of the game), the most effective and important is by directing investment to points where they most enhance the productivity of labour—a task in which governments notoriously fail, for reasons inherent in non-competitive bureaucratic organizations.

But it is not only by encouraging malevolent and harmful prejudices that the cult of 'social justice' tends to destroy genuine moral feelings. It also comes, particularly in its more egalitarian forms, into constant conflict with some of the basic moral principles on which any community of free men must rest. This becomes evident when we reflect that the demand that we should equally esteem all our fellow men is irreconcilable with the fact that our whole moral code rests on the approval or disapproval of the conduct of others; and that similarly the traditional postulate that each capable adult is primarily responsible for his own and his dependants' welfare, meaning that he must not through his own fault become a charge to his friends or fellows, is incompatible with the idea that 'society' or government owes each person an appropriate income.

Though all these moral principles have also been seriously weakened by some pseudo-scientific fashions of our time which tend to destroy all morals—and with them the basis of individual freedom—the ubiquitous dependence on other people's power, which the enforcement of any image of 'social justice' creates, inevitably destroys that freedom of personal decisions on which all morals must rest.⁴³ In fact, that systematic pursuit of the *ignis fatuus* of 'social justice' which we call socialism is based throughout on the atrocious idea that political power ought to determine the material position of the different individuals and groups—an idea defended by the false assertion that this must always be so and socialism merely wishes to transfer this power from the privileged to the most numerous class. It was the great merit of the market order as it has spread during the last two centuries that it deprived everyone of such power which can be used only in arbitrary fashion. It had indeed brought about the greatest reduction of arbitrary power ever achieved. This greatest triumph of personal freedom the seduction of 'social justice' threatens again to take from us. And it will not be long before the holders of the power to enforce 'social justice' will entrench themselves in their position by awarding the benefits of 'social justice' as the remuneration for the conferment of that power and in order to secure to themselves the support of a praetorian

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guard which will make it certain that their view of what is 'social justice' will prevail.

Before leaving the subject I want to point out once more that the recognition that in such combinations as 'social', 'economic', 'distributive' or 'retributive' justice the term 'justice' is wholly empty should not lead us to throw the baby out with the bath water. Not only as the basis of the legal rules of just conduct is the justice which the courts of justice administer exceedingly important; there unquestionably also exists a genuine problem of justice in connection with the deliberate design of political institutions, the problem to which Professor John Rawls has recently devoted an important book. The fact which I regret and regard as confusing is merely that in this connection he employs the term 'social justice'. But I have no basic quarrel with an author who, before he proceeds to that problem, acknowledges that the task of selecting specific systems or distributions of desired things as just must be abandoned as mistaken in principle, and it is, in any case, not capable of a definite answer. Rather, the principles of justice define the crucial constraints which institutions and joint activities must satisfy if persons engaging in them are to have no complaints against them. If these constraints are satisfied, the resulting distribution, whatever it is, may be accepted as just (or at least not unjust).⁴⁴ This is more or less what I have been trying to argue in this chapter.

APPENDIX TO CHAPTER NINE

JUSTICE AND INDIVIDUAL RIGHTS

The transition from the negative conception of justice as defined by rules of individual conduct to a 'positive' conception which makes it a duty of 'society' to see that individuals have particular things, is often effected by stressing the *rights* of the individual. It seems that among the younger generation the welfare institutions into which they have been born have engendered a feeling that they have a claim in justice on 'society' for the provision of particular things which it is the duty of that society to provide. However strong this feeling may be, its existence does not prove that the claim has anything to do with justice, or that such claims can be satisfied in a free society.

There is a sense of the noun 'right' in which every rule of just individual conduct creates a corresponding right of individuals. So far as rules of conduct delimit individual domains, the individual will have a right to his domain, and in the defence of it will have the sympathy and the support of his fellows. And where men have formed organizations such as government for enforcing rules of conduct, the individual will have a claim in justice on government that his right be protected and infringements made good.

Such claims, however, can be claims in justice, or rights, only in so far as they are directed towards a person or organization (such as government) which can act, and which is bound in its actions by rules of just conduct. They will include claims on people who have voluntarily incurred obligations, or between people who are connected by special circumstances (such as the relations between parents and children). In such circumstances the rules of just conduct will confer on some persons rights and on others corresponding obligations. But rules as such, without the presence of the particular circumstances to which they refer, cannot confer on anyone a right to a particular sort of thing. A child has a right to be fed, clad, and housed because a corresponding duty is placed on the parents or guardians, or perhaps a particular authority. But there