

# SOCIALISM AND 'SOCIAL' JUSTICE

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I may, as a result of long endeavors 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, 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 can make... speakers and writers...thoroughly ashamed...to employ the term 'social justice'.

-F.A. Hayek<sup>1</sup>

## I

In his Preface to *The Mirage of Social Justice*, Hayek explained how he came to conclude "that the Emperor had no clothes on, that is, that the term 'social justice' was entirely empty and meaningless"<sup>2</sup> and "that the people who habitually employ the phrase simply do not know themselves what they mean by it and just use it as an assertion that a claim is justified without giving a reason for it".<sup>3</sup>

Certainly, as Hayek proceeded so painstakingly to show, this cant expression is usually employed quite thoughtlessly. Few if any of those who habitually employ it have even attempted to produce a systematic and consistent rationale for its application. But this is still not sufficient to show that it is "entirely empty and meaningless". For there is in fact sufficient regularity in the actual usage of the expression 'social justice' to provide it with a meaning, albeit a meaning which is somewhat vague and variable.

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<sup>1</sup> F. A. Hayek, *The Mirage of Social Justice, Vol II, Law, Legislation and Liberty* (London: Routledge and Kegan Paul, 1976), p. 97.

<sup>2</sup> Hayek, *The Mirage of Social Justice*, p. xi.

<sup>3</sup> Hayek, *The Mirage of Social Justice*, p. xi.

In that meaning it can be defined most illuminatingly as referring to the achievement by extensive statist means of whatever would for socialists be an ideal distribution of goods of all kinds. Following the suggestion made by Hayek in his Preface to the Second Edition of *The Road to Serfdom* — a work dedicated to “The Socialists of All Parties” — the word ‘socialism’ is here to be understood to mean: “not the nationalization of the means of production and the central economic planning which this made possible and necessary...” but “...the extensive redistribution of incomes through taxation and the institutions of the welfare state”.<sup>4</sup>

Consider, for example, quotations from a Fabian Society review of the 1974-9 Labour Party administrations in the United Kingdom (Bosanquet and Townsend 1980). The Editors proclaim “that the Labour Party can and should light a flame in a world of injustice and inequality.”<sup>5</sup> Contributor after contributor speaks of “socialist canons of equality and social justice”<sup>6</sup> and of “a more socially just and equal society”.<sup>7</sup> One even goes so far as to lay it down — without attempting to explain what this might mean or why we should accept it as true — that, in particular, “Racial equality requires a society which is equal in all respects”.<sup>8</sup>

Such identification of inequality with injustice and of equality with social justice have become characteristic of “the socialists of all parties”.<sup>9</sup> According to Bosanquet and Townsend, these identifications were manifested in two ways. In the first place, none of the contributors made any attempt to respond to the request of the editors that they should examine and elucidate “the meaning of

<sup>4</sup> F. A. Hayek, *The Road to Serfdom*, 2nd ed. (London: Routledge and Kegan Paul, 1976), p. viii.

<sup>5</sup> N. Bosanquet & P. Townsend, *Labour and Equality* (London: Heinemann, 1980), preface.

<sup>6</sup> Bosanquet & Townsend, p. 131.

<sup>7</sup> Bosanquet & Townsend, p. 228, also compare p. 67 and p. 227.

<sup>8</sup> Bosanquet & Townsend, p. 151.

<sup>9</sup> Since nowadays this category apparently embraces most spokespersons for the mainstream Christian churches, it becomes noteworthy that Cruden’s *Concordance* to the (King James) *Bible* contains no entry at all for either ‘inequality’ or ‘social justice’ and only two for ‘equality’. These are both to *II Corinthians 14*, which provides no Biblical warrant for these identifications. It is also worth noting that the first employment of the expression ‘social justice’ recorded in the big *Oxford English Dictionary* is that by John Stuart Mill in *Utilitarianism* (1861).

equality". In the second place, and perhaps still more significant, the editors failed to demand, and the contributors neglected to offer, any reasons at all either for adopting equality as a value or for concluding themselves entitled or required to impose that value upon others by force. No doubt it appeared to one and all altogether obvious that a just society must be an equal one; if not perhaps, if this is conceivable, "a society which is equal in all respects". For, given the equation between equality and justice, then there would certainly be no need for further justification on either count.

This suggests the reason why Hayek was wrong to maintain "that the people who habitually employ the phrase [social justice] just use it as an assertion that a claim is justified without giving a reason for it." For anyone asserting that some policy is required by a kind of justice is in fact giving what — if but only if their assertion were true — would constitute the best of reasons. The truth, however, is that social justice as customarily conceived is precisely not a kind of justice.<sup>10</sup>

On the contrary, such 'social' justice essentially involves what, by the standards of the old-fashioned, without prefix or suffix, sort of justice must constitute a paradigm case of flagrant injustice; namely, the abstraction under the threat of force (the taxing away) of (some of) the justly acquired property of the better off in order to give it (less, of course, some often substantial service charge) to those whose previous just acquisitions or lack of just acquisitions have left worse off.

It is of the greatest importance to socialists as here conceived thus to maintain that their cherished policies are mandated by a kind of justice. For this enables them to see themselves — and, hopefully, to be seen — as in incontestable occupation of the moral high ground. It thus becomes possible for a spokeswoman for a Labour Opposition to say in all sincerity during a House of Commons debate upon a Queen's speech: "Our complaint against the Government, and in particular the Prime Minister, is that brick by brick they have set out to create an unjust society."<sup>11</sup>

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<sup>10</sup> See, for instance, Antony Flew, "Is 'Social Justice' a Kind of Justice?" *Journal des Economistes et des Etudes Humaines*, Vol IV, no 2/3, (June/September, 1993), pp. 281-94.

<sup>11</sup> See *Hansard* for 6/XI/72, 845, 55. The Prime Minister was Edward Heath, whose administration had in fact taken few if any steps to reverse any of the policies of its Labour predecessors.

Again, it is only on the assumption that Procrustean policies<sup>12</sup> are mandated by a kind of justice that their supporters become equipped with an answer to the objection of those who would ask by what right they are proposing to employ the enforcement machinery of the state in order to realize their own personal vision of the ideal society? If but only if the prescriptions of social justice were indeed mandates of a kind of justice, then the socialists certainly would have a decisive answer to this libertarian objection. For, as Adam Smith so soundly observed in his other masterpiece:

“The man who barely abstains from violating either the person, or the estate, or the reputation of his neighbours, has, surely, little positive merit. He fulfills, however, all the rules of what is peculiarly called justice, and does everything which his equals can with propriety force him to do, or which they can punish him for not doing”.<sup>13</sup>

## II

In the Preface to *The Mirage of Social Justice*, Hayek proceeds to explain why he decided not to try “to justify my position vis-a-vis a major recent work”, namely “John Rawls *A Theory of Justice*”. It was “because the differences between us seemed more verbal than substantial”.<sup>14</sup>

This decision was both somewhat surprising and extremely unfortunate. It was surprising since it was explicitly grounded upon a passage from an article Rawls published much earlier, and to which Hayek himself confessed that he could find no satisfactory parallel in the later book.<sup>15</sup> It was unfortunate, since it ensured that *The Mirage of Social Justice* received far less attention than it should have done, and otherwise would. For although the book of Rawls is misleadingly entitled *A Theory of Justice*, it in fact deals only — or, some might say, alternatively — with “the principles of social justice”, principles which, we are told, “provide a way of assigning rights and duties in the basic institutions of society and...define the

<sup>12</sup> Compare Flew 1981, Ch. I-IV, and Flew 1987, Part II.

<sup>13</sup> Adam Smith, *The Theory of Moral Sentiments* (Indianapolis: Liberty Press, 1969). This frequently quoted passage comes from the penultimate paragraph of Chapter I of Section II of Part II of this classic that Smith originally published in 1759.

<sup>14</sup> Hayek, *The Mirage of Social Justice*, pp. xii - xiii.

<sup>15</sup> Hayek, *The Mirage of Social Justice*, pp. 100 and 183.

appropriate distribution of the benefits and burdens of social cooperation".<sup>16</sup>

From the beginning Rawls assumes that social justice thus conceived constitutes the greater part if not the whole of justice, insisting that (unqualified) "Justice is the first virtue of social institutions, as truth is of systems of thought".<sup>17</sup> Later, however, albeit only once and as it were parenthetically, he does at least warn readers not to confuse "The principles of justice for institutions with the principles which apply to individuals and their actions in particular circumstances".<sup>18</sup>

Because this book attempted to satisfy the need for some clear formulation and persuasive rationalization of the putative principles of social justice, it received on its first appearance such a wide and overwhelmingly enthusiastic welcome that it at once became, and has ever since remained, the standard starting point for all subsequent discussion. For instance, in a notably uncritical "Critical Notice", the lifelong socialist Stuart Hampshire wrote:

I think that this book is the most substantial and interesting contribution to moral philosophy since the war, at least if one thinks only of works written in English. It is a very persuasive book, being very well argued and carefully composed.<sup>19</sup>

It presents, Hampshire continued, a noble, coherent, highly abstract picture of the fair society, as social democrats see it...This is certainly the model of social justice that has governed the advocacy of R. H. Tawney and Richard Titmuss and that holds the Labour Party together.<sup>20</sup>

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<sup>16</sup> John Rawls, *A Theory of Justice* (Cambridge Mass and Oxford: Harvard University Press and Clarendon, 1972), p. 4.

<sup>17</sup> Rawls, p. 3.

<sup>18</sup> Rawls, p. 54. Compare this with one successor's surprised statement that "there appears to be a category of 'private justice' which concerns the dealing of a man with his fellows where he is not acting as a participant in one of the major social institutions" (D. Miller, *Social Justice* (Oxford: Clarendon, 1976) p. 17).

<sup>19</sup> Stuart Hampshire, "Critical Notice," *New York Review of Books* (1972, Issue 3).

<sup>20</sup> Hampshire, *ibid.*

### III

What actually holds the Labour Party together as an organization is, surely, the strength of the labour unions, which created it in the beginning and which continue to provide by far the greatest part of its funding. But Hampshire was certainly right to suggest that intellectuals who are social democrats, in the present understanding of the expression,<sup>21</sup> are inspired by some such ideal of social justice. Indeed at the time of writing the Labour Party itself is debating the replacement of its original statement of aim, which demanded “the nationalization of the means of production,” with a new statement, which will most likely revolve around the ideal or ideals of equality and social justice conceived as requiring “the extensive redistribution of incomes through taxation and the institutions of the welfare state.” For us here the crucial question is whether social justice so conceived is indeed a kind of justice. If we are to answer that question truly we must recall the warning issued by Plato’s Socrates: “If I do not know what justice is I am scarcely likely to find out whether it is an excellence, and whether its possessor is happy or not happy.”<sup>22</sup>

That was a warning to which Rawls not so much fails as refuses to attend. He never finds room to quote, much less to examine, either some variant of the traditional definition of the word ‘justice’ or any preferred alternative. Indeed it is only on his five hundred and seventy ninth page that he thinks to explain, without any suggestion of apology, that he was eager “to leave questions of meaning and definition aside and get on with the task of developing a substantive theory of justice.”<sup>23</sup>

So what is justice? Among those who have asked themselves this question there seems, at least until comparatively recently, to have been little disagreement.<sup>24</sup> The central, crucial element in their

<sup>21</sup> It is too rarely remembered that all the European Social-Democratic Parties were originally Marxist, and that even the Bolsheviks began as the allegedly majority faction in the Russian Social-Democratic Labour Party.

<sup>22</sup> Plato, *The Republic*, 354C.

<sup>23</sup> Rawls, p. 579.

<sup>24</sup> Perhaps we need here to distinguish between the concept and conceptions of justice. For, although there seems to have been little disagreement about the concept, there have of course been rival conceptions both of what people’s moral and legal deserts and entitlement are and of how these are properly to be determined.

definitions has always been what Plato scripted Polemachus to offer as his first suggestion: “to render to each their due,”<sup>25</sup> a phrase later translated into Latin as *suum cuique tribuere*. Ulpian prefaced this with two further clauses, making his own definition run: *Honeste vivere, neminem laedere, suum cuique tribuere* [To live honestly, to injure no one, to render to each their own]. The *Institutes* of Justinian proclaim that the mark of a just person is a constant and perpetual resolve to render to each *suum jus* [his right, his own]. That last Latin expression is in such contexts naturally construed as referring to the several and presumably often very different deserts and entitlement of different individuals, the deserts primarily under the criminal and the entitlements under the civil law. These traditional definitions tend to confirm the contention that “To apply the term ‘just’ to circumstances other than human actions or the rules governing them” — such as the operation of social institutions or the behaviour of some hypostatized Society — “is a category mistake”.<sup>26</sup>

Rawls distances his conception of social justice still further from the justice which can and can only characterize the actions of individuals and the general rules governing those actions by his refusal to recognize entitlements which are neither (creditably) deserved nor (discreditably) undeserved. Thus from the premise “that no one deserves his place in the distribution of native endowments, any more than one deserves one’s initial starting place in society” he apparently infers that no one can be morally entitled to anything gained in consequence of enjoying such not-deserved because neither deserved nor undeserved entitlements.<sup>27</sup> But this conclusion is unconscionable. For neither universal human rights, nor individual property rights, nor claims to the legitimate possession and retention of one’s own bodily parts are grounded in pretended desert.<sup>28</sup> Rawls, nevertheless, is not prepared to accept the implication that, in as much as social justice is not a variety of traditional, without prefix or suffix justice, the cherishers of this ideal of ‘social’ justice (a.k.a. the Procrustians) are as such neither

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<sup>25</sup> Plato, 331E.

<sup>26</sup> Hayek, *The Mirage of Social Justice*, p. 31.

<sup>27</sup> Rawls, pp. 103-104.

<sup>28</sup> Robert Nozick, *Anarchy, State and Utopia* (New York and Oxford: Basic Press and Blackwell, 1975), pp. 206-207.

occupants of the moral high ground, nor entitled to draw on the forces of the state to realize their ideal.

#### IV

At one point in *A Theory of Justice* Rawls claims that “Throughout the choice between a private-property economy and socialism is left open...”<sup>29</sup> But the hypothetical contracting parties who “in the original position” are to make the hypothetical social contract from which he proposes to derive the fundamental principles of social justice have to take for granted the ultimately collective ownership of all wealth and income. “For simplicity” we are required to “assume that the chief primary goods at the disposition of society are rights and liberties, powers and opportunities, *income and wealth*”.<sup>30</sup>

The contracting parties are also conceived as operating behind a veil of ignorance: “...no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and the like”.<sup>31</sup> It should be noticed that this prescription is introduced not so much to ensure impartiality but because it supposedly expresses “the result of leaving aside those aspects of the social world that seem arbitrary from a moral point of view”.<sup>32</sup>

After the captivating frankness of the confession that “We want to define the original position so that we get the desired solution”<sup>33</sup>, and given that the hypothetical contracting parties have therefore been made to assume both that all relevant property is collectively owned and that all individual differences in social situation and personal achievement are morally irrelevant, it should come as no surprise that they cannot but “acknowledge as the first principle of justice one requiring an equal distribution. Indeed, this principle is so obvious that we would expect it anyone immediately.”<sup>34</sup>

Nor is it surprising to find that Rawls is no more eager than most other advocates of equality and social justice to settle for an absolute equality of wealth and income. Thus he continues: “If there are inequalities in the basic structure that work to make everyone better

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<sup>29</sup> Rawls, p. 258.

<sup>30</sup> Rawls, p. 62, emphasis added.

<sup>31</sup> Rawls, p. 137.

<sup>32</sup> Rawls, p. 15.

<sup>33</sup> Rawls, p. 141.

<sup>34</sup> Rawls, pp. 150-151.

off in comparison with the benchmark of initial equality, why not permit them?"<sup>35</sup> Why not indeed, if only we were considering two alternative arrangements both of which were allowed to be morally indifferent? But Rawls has from the beginning himself insisted that "laws and institutions no matter how efficient and well arranged must be reformed or abolished if they are unjust".<sup>36</sup> He might perhaps, had he recognized this difficulty, have tried to wriggle out of it by assuming, somewhat implausibly, that all those who are to be assigned<sup>37</sup> below average incomes would agree to abandon their rights not to be exceeded in return for some suitably substantial additions to the lower income which they would otherwise have enjoyed. For it is a well established legal principle that *volenti non fit injuria*.

Having failed to appreciate this first difficulty, Rawls proceeds by way of salutary remarks about envy to another, which he also fails to recognize. Earlier the pellucidly unequivocal prescription that "social and economic inequalities are to be arranged so that they are...reasonably expected to be to everyone's advantage" was characterized as "ambiguous".<sup>38</sup> Now it is laboriously construed as a formulation of what Rawls calls the Difference Principle: "Inequalities are permissible when they maximize, or at least all contribute to, the long-term expectations of the least fortunate group in society".<sup>39</sup> This unlovely dog-in-the-manger principle simply cannot be derived from what Rawls himself has just proclaimed to be, on his own assumption, the first principle of justice. If that is indeed to be accepted as fundamental and inviolable, and if the desired above average inequalities are to be shown to be at least not unjust, then not only members "of the least fortunate group in society" but also all the others who are to be less than average advantaged will have somehow to be bought off.

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<sup>35</sup> Rawls, p. 151.

<sup>36</sup> Rawls, p. 3.

<sup>37</sup> It is significant that 'assigned' and 'distributed', in an equally active understanding, are both favorite words in *A Theory of Justice*. Any administration proposing to establish a Commission to advise on the control of incomes could confidently seek a suitable Chairman from Harvard.

<sup>38</sup> Rawls, p. 60.

<sup>39</sup> Rawls, p. 151.

**V**

Section I, above, drew attention to some of the benefits which socialists derive from pretending that the prescriptions of 'social' justice are the mandates of (unqualified) justice. These benefits are implications carried by that claim. There are, of course, also costs. One of these is rarely noticed. Yet it deserves special emphasis and attention. For if only this implication were to become widely appreciated then there would surely be a much greater reluctance to make claims which carry it.

We have here an occasion for introducing the distinction between justicizing — showing to be just — and justifying. It is certainly possible to justify things which are neither just nor unjust and perhaps possible to justify the unjust.

That said we can, without prejudice to any questions about alternative justifications go on to assert that if compulsory transfers of any of the present wealth or income of the better off to the presently worse off are indeed demanded by justice, then this surely implies that the amounts to be thus compulsorily transferred are not justly possessed by the former but are properly the property of the latter. From that it certainly follows that all those enjoying amounts of wealth and income larger than whatever are allowed to constitute their socially just allocations are necessarily in possession of some — and presumably in many cases much — stolen property and, most shameful of all, property stolen from people worse off than themselves. No doubt there are cases in which people may quite rightly and properly refuse to make any individual voluntary contributions to further some purpose which they are urging ought to be financed by new taxes to be paid by everyone. But the retention by thieves of stolen property until those thieves are forced to surrender their illicit gains is, most emphatically, not one of those cases.

**VI**

Rawls regularly describes his conception of social justice as "justice as fairness". Fairness as justice would be a more apt description. For the only necessary connection between justice and equality is that the rules of justice, like all rules, apply equally to all

the cases which satisfy their terms.<sup>40</sup> A system of ‘criminal justice’ insisting that convicted criminals should be treated exactly as if they had been found not guilty would, as Kant might have said, contradict itself. But suppose that we were charged with making a fair distribution among a particular set of people of some collection of goods which we were entitled and perhaps also required to distribute. The presumption, albeit a defeasible presumption, surely is that a fair distribution would be the one which gave equal shares to all concerned?<sup>41</sup>

Where Rawls goes so radically wrong is in so constructing “the original position” that his hypothetical contracting parties assume that all presently available wealth and income as well as all the wealth and income to be produced in future in their to them presently unknown national territory is their collective property, which they are entitled to distribute at their absolute discretion to different subsets among themselves (and, presumably, their descendants).

All this is simply irrelevant to questions about the justice or injustice of the actual distributions of income and wealth in non-socialist countries. For in such countries most property is presently private, and the always in-principle defeasible presumption must be that this property has been or is being justly acquired. So, if any compulsory transfers are to be not merely justified but justicized, then it will need to be shown not only that the property claims of those from whom some amount is to be taken are to the extent unjust, but also that those to whom these transfers are to be made have just claims to possession of the amounts to be transferred.<sup>42</sup> That would be no easy task. It is one not even attempted by Rawls. He, as we have seen, apparently does not even notice that he is

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<sup>40</sup> Compare, for instance, Antony Flew, *The Politics of Procrustes: Contradictions of Enforced Equality* (London and Buffalo: Temple Smith and Prometheus, 1981), pp. 64 and 67-70.

<sup>41</sup> Compare, for instance, Flew, Chapter III, Section 4.

<sup>42</sup> In the UK the Archbishops’ Commission for Urban Priority Areas endorsed a claim by the Bishop of Liverpool that “It is not charity when the powerful help the poor...it is justice”, appealing to the Parable of the Good Samaritan for support. But, that parable, as they ought to have known, shows how love (Greek, *agapee*, hence Latin *caritas*, hence old English charity) goes beyond the demands of the law (of justice). The true model for the enforced transfers supported by the Commission is the legendary robber Robin Hood, who stole from the rich and gave (some of) his takings to the poor (Anderson 1992, pp 221-4).

making this radically socialist assumption of total collective ownership.

## VII

The direct compulsory transferring of wealth or income from the better off to the worse off constitutes the most clear-cut and dramatic feature of the conflict between the ideal of 'equality and social justice' and the ethics of a Great Society. But there is also an even more important tendency for the traditional virtues of such a society to be undermined by the institutions of an extensive and comprehensive welfare state.

Suppose, for instance, that educational services for children are provided by a near total state monopoly. Then parents are necessarily deprived both of a choice between schools competing to provide either better service and/or the same service at less cost, and of the responsibility for making such choices in the senses which best suit the needs of their own children. Notoriously such systems tend to serve the interests of their employees rather than of the consumers and, by excluding competition, reduce the chances of reducing the costs and/or of improving the quality of the services provided.<sup>43</sup>

Again, when first a system of compulsory National Insurance and then much later a comprehensive National Health service were introduced in the UK these centralized and comprehensive state systems replaced large numbers of voluntary and private Friendly Societies and Medical Institutes. Of course not everyone who would at some time need the services provided by these institutions had previously been enrolled as a member, although, according to D. G. Green, "By the time the British Government came to introduce compulsory social insurance of 12 million persons under the 1911 National Insurance Act, at least 9 million were covered by registered and unregistered voluntary insurance associations..."<sup>44</sup> Green further states, "The rate of growth of the friendly societies over the preceding thirty years had been accelerating."<sup>45</sup>

<sup>43</sup> See, for example, Antony Flew, *Shephard's Warning: Setting Schools Back on Course* (London: Adam Smith Institute, 1994).

<sup>44</sup> D. G. Green, *Reinventing Civil Society* (London: Institute of Economic Affairs, 1993), pp. 31-32.

<sup>45</sup> Green, *Reinventing Civil Society*, pp 31-32.

On the other hand, these predecessor institutions had enabled their members to take the responsibility for providing themselves with the relevant benefits and had offered many welcome opportunities in their organization and management for voluntary public service. These responsibilities and these opportunities were removed once the replacement state organization was in place.

The previous voluntary organizations, because they were smaller and because more of their members knew one another, were also better able to discourage and detect fraud: “The Prudential Assurance Company, the largest of the industrial assurance companies, had to abandon sick pay because, as its secretary told the Royal Commission on Friendly Societies in 1873, ‘after five years’ experience we found we were unable to cope with the fraud that was practised”.<sup>46</sup>

## VIII

These near-total state monopolies in the provision of all health services and of all educational services for children have both played parts in depriving our people of choices and consequently of responsibilities which our ancestors used to have. But what has probably done most to discourage the virtues appropriate to a Great Society and to promote progressive demoralization is the introduction of systems of tax-financed handouts designed to rectify various perceived deficiencies (a.k.a. inequalities). For consider Charles Murray’s Law of Unintended Rewards. This, in the original formulation, reads: “Any social transfer increases the net value of being in the condition that prompted the transfer”.<sup>47</sup> This law like the other established laws of economic analysis constitutes a logically necessary truth. For, as Murray goes on to observe, if “A deficiency is observed — too little money, too little food, too little academic achievement — and a social transfer program tries to fill the gap with a welfare payment then the program, however unintentionally, *must* be constructed in such a way that it increases the net value of being in the condition that it seeks to change — either by increasing the rewards or by reducing the penalties”.<sup>48</sup>

<sup>46</sup> Green, *Reinventing Civil Society*, p. 58.

<sup>47</sup> Charles Murray, *Losing Ground: American Social Policy 1950 - 1980* (New York: Basic, 1984), p. 212.

<sup>48</sup> Murray, pp. 212-213, emphasis in the original.

Where the condition prompting some particular programme is one to which the patients of that condition could not by their own efforts avoid becoming and/or remaining subject there is of course no call to take account of Murray's Law. Indeed the whole point of providing welfare services for, for instance, the blind precisely is to reduce as much as can be the monstrous disvalue of being in a condition into which no one would willingly fall and which all its victims would strive to escape, if only that were possible.

But many, perhaps most, of the conditions unintentionally 'rewarded' by existing state welfare provisions are conditions into which at least some of their victims could and indeed ought to have avoided falling and/or which they could and indeed ought to escape partly or wholly by their own efforts. Insofar as this is the case, such rewards must necessarily tend to weaken both any existing inhibitions against falling into these conditions and any existing incentives to escape them. In the case of many of these conditions this alone should be recognized as a more than sufficient reason as far as possible both to maintain and to strengthen such inhibitions and such incentives.

But the implications and the actual effects of the ideology of equality and social justice are directly contrary. For, necessarily, every handout mandated by social justice is a welfare right.<sup>49</sup> Among those working within the machinery of the welfare state the supreme commandment appears to have become: "Thou shalt not be judgmental."<sup>50</sup> For those people — to borrow the expression employed by General Lee to describe the Union armies — it is in the highest degree politically incorrect to wish to distinguish the deserving from the undeserving poor. All welfare payments and services are considered to be owed as of right, and to generate no

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<sup>49</sup> In the present century, the century of the rise of that ideology, the Universal, European and other Declarations of Human Rights have all included welfare as well as option rights. Option rights, like those of the American Declaration of Independence, are the rights of individuals to be left to their own devices, provided only that they respect the equal rights of others. Welfare rights are rights to be provided with some good, necessarily at the expense of others and presumably by the appropriate welfare state. See, for example, Antony Flew, *Equality in Liberty and Justice* (London and New York: Routledge, 1989), Chapter 2.

<sup>50</sup> Compare, for instance, N. Dennis and G. Erdos, "Thou Shalt Not Commit a Value Judgement", Chapter 3 of *Families Without Fatherhood* (London: Institute of Economic Affairs, 1992).

reciprocal duties for their beneficiaries. It is, therefore, reckoned to be scandalous that there should be less than a 100% uptake by those thus entitled to benefit. It is a scandal which activists both inside and outside that machinery constantly labour to diminish.<sup>51</sup>

The effects of the operation of Murray's Law are bound to increase the larger the amounts paid out in welfare payments to each beneficiary. In any expanding economy in which the decision makers are misguided by ideals of equality and social justice those amounts themselves are bound to increase. For those ideals require relativistic standards of poverty according to which the size of the various welfare payments to be provided is determined: not by reference to some comparatively fixed and stable standard of hardship, but by reference to, and relative to, the rising average level of incomes over the population as a whole.<sup>52</sup>

There is by now a great and ever growing accumulation of evidence to show the strength of the effects brought about by the operation of Murray's Law of Unintended Rewards. But one recent study is peculiarly impressive for anyone who can remember how miserably low the living standards of the households of unemployed working men were in the UK during the nineteen thirties. The conclusions of this study were unequivocal and decisive:

In summary, the cross-sectional evidence...reveals a pattern that is inescapable: the inter-war unemployment insurance system importantly shaped the unemployment histories of every nook and cranny of Britain. Whether one examines

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<sup>51</sup> D. Anderson, ed., *The Loss of Virtue: Moral Confusion and Social Disorder in Britain and America* (New York: Social Affairs Unit and National Review, 1992), p. 209. Enormous funds are spent by the British welfare services in promoting public knowledge of individual's rights to welfare benefits. In theory this is supposed to help the needy who may be ignorant of the assistance available to them, but in practice it creates a climate of opinion in which the individual is encouraged to seek out what he can get and to behave in a way which will justify receiving benefits.

<sup>52</sup> Or even by reference to, and relative to, the levels achieved by the best off. See D. Green, *Equalizing People* (London: Institute of Economic Affairs, 1990), Chapter II, for several examples of the ways in which persons paid as social scientists contrive to work themselves and to invite others into frenzies of indignation by misrepresenting lesser improvements in the condition of the worst off than in the condition of the best off as a "grotesque increase" in the burden of poverty under administrations -- those, of course, of Margaret Thatcher -- which in this way allegedly continued to "reduce the incomes of the poorest" (emphasis original).

the pattern by age, sex, industry, duration, location or skill, one simple fact emerges: lowering the cost of an activity [an inactivity-AF] induces more of that activity [or inactivity-AF]. In the present instance, lowering the cost of unemployment induced more unemployment in inter-war Britain.<sup>53</sup>

It may nevertheless be allowed that “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 needs to descend”.<sup>54</sup> A prudent government, however, even when that assured minimum income was very low would still, at least in the case of conditions which could have been avoided, try to find ways of channeling the necessary relief funds through private organizations less inhibited from discriminating between deserving and undeserving recipients than our present welfare state bureaucracies.

It is remarkable that Milton Friedman in developing his proposals for a Negative Income Tax appears never to have considered the relevance to its introduction of the economists' general Law of Supply and Demand, of which what Murray was later to formulate as his Law of Unintended Rewards can be seen as a special case. For, as we may learn from Murray, it was in an attempt to meet the objection that the introduction of such a guaranteed income would cause people to reduce their work effort or to drop out of the labour force altogether that the Office of Economic Opportunity set up “the most ambitious social-science experiment in history”.<sup>55</sup> The result was totally decisive, demonstrating beyond all possibility of dispute that the objections had been and were right.

We can perhaps avoid attributing any such oversight to Hayek. For, later in the book in which he conceded that government might take steps “to assure to all protection against severe deprivation...a floor below which no one needs to descend,” he went on to insist that “The mischievous idea that all public needs should be satisfied by compulsory organization...is wholly alien to the basic principles of a free society. The true liberal must on the contrary desire as many as possible of those ‘particular societies within the state’,

<sup>53</sup> K. Matthews and D. Benjamin, *US and UK Unemployment between the Wars: A Doleful Story* (London: Institute of Economic Affairs, 1992), p. 110.

<sup>54</sup> Hayek, *The Mirage of Social Justice*, p. 87.

<sup>55</sup> Murray, p. 149.

voluntary organizations between the individual and government, which...Rousseau and the French Revolution wanted to suppress".<sup>56</sup>

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<sup>56</sup> Hayek, *The Mirage of Social Justice*, pp. 150 - 151.

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