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ON SOCIAL JUSTICE

Holger Bonus

Serie B — Nr. 22

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Serie A: Volkswirtschaftliche Beiträge

Serie B: Finanzwissenschaftliche Arbeitspapiere

Serie C: Betriebswirtschaftliche Beiträge

On Social Justice

Holger Bonus

Justice is a matter of social conflict. In a one-person world, justice is pointless¹. Justice, or the need for it, enters only as people interact and see their interests collide. In this sense, the very concept of "social" justice is ill-defined: justice is always a social issue; and the attribute, "social", must hence assume special connotations if "social justice" is to be a meaningful concept at all. In a nutshell, it is the ominous ring of redundancy (similar to Volksdemokratie) which hints that a severe problem is cached behind the innocuous term.

I.

Allegorically, Justitia sits blindfold on her chair, balancing a pair of scales in one hand and holding a sword in her other. When conflicting interests are to be balanced, some must give way to others. Yet why should anyone concede? After all, the yielding parties (all assumed to be self-interested) are asked to renounce own demands, just on principle. What do they get in return? Justitia cannot, or should not, coerce everyone to abide by her ruling; the sword is certainly not made to force her will upon the people.

If an individual against whom Justitia rules complies, it is in part because he would rule himself precisely the same way - provided he were unaware that his own case was being tried. Suppose that somebody would blindfold him and present his own case to him in abstract terms: he would then judge that his position was indeed untenable and ought to be cleared.

1) One may, of course, find it necessary "to do oneself justice". But this applies to a person who gets into conflict with himself and thus experiences that different social aspects of a cause are imbedded in his mind.

Justitia thus represents but his own better judgement; and he can readily identify with her rulings as his image of Justitia resides squarely within his own personality.

It is at his point that the social essence of justice becomes first evident. Rules of conduct as embodied in Justitia are primarily of a social nature. They form a part of the cultural heritage into which the individual was born, and which appears to have evolved because groups following such pattern turned out superior to other groups led by different sets of rules (HAYEK [1973], 17-18 passim).

While perfectly social in nature, the rules are at once deeply rooted in the individual. He "will find in himself rules, or may discover that he acts in accordance with rules" (ibid. 19, italics mine) without necessarily able to even state them. The rules, after all, need not have been explicitly stated at any time; and the individual will not in general be aware that he follows them; much less will he have agreed to them in a contract. The acceptance of social rules through the individual is closely linked to the process by which he builds his own identity, i.e., stable and coherent feelings about himself. Such identity is originally derived by the infant from identifying with his parents and from internalizing their rules of conduct; cultural and social patterns are absorbed as a by-product (enculturation)². The adolescent, upon leaving his primary group and entering secondary ones (e.g., schools, apprenticeship, professional circles) has to pass through a series of identity crises (ERIKSON [1957], [1973]) as he must give up part of his old system of values and rules, gain acceptance through members of new groups, and internalize their rules (BROCHER [1967], 70-71). Even the adult derives his identity largely from associating with groups whose goals and rules he accepts and can identify with (ibid. 48-50). Following the rules provides him with the gratification of feeling accepted and of having his individuality confirmed - a powerful incentive as one can rarely do without such confirmation (ibid.).

2) cf. e.g., BROCHER [1967] 38-40 passim and the literature quoted therein; ERIKSON [1973]. See CLAESSENS ([1977], 17 passim) for the close interrelation between group identity and personal identity; see also NEIDHARDT [1979], KRAPPMANN [1971].

A conduct appears just, then, to the individual when it corresponds to the rules internalized in his mind. If such rules imply that he ought to respect the property of others, for instance, then he will deem unjust a conduct which ignores his own property.

We should not be surprised to observe that he gets extremely upset when such a conduct is not overturned or punished - even if the actual damage proves insignificant. This is a matter of principle: his very identity is at stake. Given that standards of justice are otherwise strictly observed, the social tolerance of unjust behavior in one particular case will threaten to break up the individual's own inner value system³. He may react violently and quite out of proportion to the occasion, as demonstrated by Michael Kohlhaas. Matters of justice command a huge potential for upheaval; and they may well end up in revolution or "just war".

But even the individual who retreats to unjust conduct himself runs into identity problems. His own violation of internalized rules rests on his conscience; and he will go out of his way to find some justification for it, which will hopefully demonstrate to himself (and to the public) that his conduct fits into the accepted pattern of rules after all. To evade the painful insight that his deed is at variance with his own inner values, he may even erect "private ideologies" (KARSTEDT [1979], 96 passim); and those who killed millions of Jews were prepared to do so by an ideology that qualified their crimes as lawful and - just. They had to hide away the full dimension of their massacre, though, from the population as they were quite aware that the great majority would not stand it; and the population in turn was eager to look away, to avoid the unbearable impact on their minds of the truth.

Rules of just conduct, so deeply incorporated into the individual's mind, are nevertheless group norms, forming a part of the group's normative identity⁴: they will be shared by the members of that specific group.

3) This must be added to the familiar interpretation (e.g., MCKENZIE and TULLOCK [1975], ch.11), of punishment as a means of internalizing the social cost of crime.

4) BAILEY [1980], 42 passim; see also BONUS [1981 a] and the literature cited in footnote 2 supra.

But this does not necessarily prevent other groups from having different rules of just conduct. The Mafioso will readily agree that it is perfectly just to shoot a fellow Mafioso who is about to "sing", or who sets on territory claimed by the own "family". Even Chicago police report gang-land killings apart from ordinary murders, as there is an unwritten law among hoodlums that killing is a legitimate, if risky means to work out differences among rivaling gangs⁵. Needless to say, what is thought "just" will strongly depend on the particular time or the cultural background under review⁶. Thus the image of Justitia is subject to change, and many images of her will coexist at any given point of time. The attempt to derive timeless principles of justice from whatever hypothetical setting is bound to fail: there is no such thing as absolute justice.

II.

Cosa nostra, Camorra and the like enforce their own dark laws rigidly, killing everyone who will not comply. The people of Napoli must thus follow two distinct sets of rules of "just conduct" not compatible with each other; one associated with government, the other with the underworld. But both cannot be internalized into the same mind lest it be split. This violates our sense of justice. Whatever the particular image of Justitia, whatever the substance of her rules, we require that they are consistent: one rule must not interfere with the other. But such "consistency or compatibility of the different rules which make up a system is not primarily logical consistency. Consistency in this connection means that the rules serve the same abstract order of actions and prevent conflict between persons obeying these rules in the kind of circumstances to which they have been adapted.

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- 5) BAILEY [1980] points to the striking similarity between the patterns of contest for leadership among the Swat Pathans (a people living near the northwestern frontier of Pakistan) on one hand, and the Mafiosi on the other. "The people of Swat and the criminals of the American cosa nostra arranged their violent successions in broadly the same fashion" (p.viii). Watching on television an enquiry by a U.S. Senate committee into the Mafia, his attention was drawn to "the revealed orderliness of the criminal world... [Even] when cosa nostra leaders fought and murdered one another to gain supremacy, they seemed to do so in predictable ways, even, one might say, according to the rules of their game" (ibid.).
- 6) See, for instance, the marked change in views held on the subject of social justice by classical and modern liberals (MILLER [1978]).

Whether any two or more rules are consistent or not will therefore depend in part on the factual conditions of the environment; and the same rules may therefore be sufficient to prevent conflict in one kind of environment but not in another" (HAYEK [1976], 24). While to J. S. Mill it appeared perfectly compatible with liberal principles to deny the suffrage to those who paid no taxes⁷, we would certainly disagree today, as our system of inner values has undergone much change in the meantime.

Justitia, our own inner set of rules, imposes a system of constraints on the individual's actions; and to violate the constraints will injure his identity. Our sense of justice, then, requires that his fellows be constrained the same way: it requires that rules of just conduct should be universally applied. Given that various systems of rules will in fact coexist at any time, and given that each may be at variance with others, this may be an impossible requirement though. Each system may pass per se HAYEK's ([1976], 54) negative test for injustice - such rules prove to be unjust which are not universalizable within the system of other rules whose validity is not questioned - , but this does not preclude the possibility that internally compatible systems of rules are incompatible with each other. Christian rules may be as consistent as Moslemic rules; but both systems certainly collide in diverse respects.

Now, in the words of HAYEK [1976], our "whole conception of justice rests on the belief that different views about particulars are capable of being settled by the discovery of rules that, once they are stated, command general assent" (p. 15). The "first formulation of what has already guided the sense of justice and, when first stated, is recognized as expressing what men have long felt, is as much a discovery as any discovery of science" (p. 16). While two adjacent populations may adhere to divergent systems of rules, it may become possible to unite them by creating with ingenuity a set of rules that both can accept and identify with, thereby establishing a new (e.g., national) identity. It is our faint hope that the United Nations might achieve that on a worldwide

7) MILL [1963], 319; cited in MILLER [1978], 88.

scale; but we are well aware of the possibility that such a worldwide system of rules agreeable to all simply does not yet exist and cannot be discovered for the time being.

That brings us back to the sword of Justitia. Any individual will oppose the idea that his own conception of justice should not be universally applied. Nonuniversality means injustice to him; and how can one tolerate injustice? Given that divergent systems of rules coexist, should the adherents of one system use coercion on the adherents of another system in order to secure universal appliance of rules⁸, i.e., to secure justice? Most will probably agree that it is not just to tolerate the Mafia⁹. But how about the Romans when Christians set out to practice another set of rules amidst their Roman community?

We are on familiar terrain once a system of rules indeed commands general assent. In that case, "coercion is legitimate only if it is applied in the enforcement of universal rules of just conduct equally applicable to all citizens" (HAYEK [1976], 50). General compliance even to rules that are universally approved is a public good (BUCHANAN [1975], BONUS [1980]). The individual may be bribed into a conflict with his own internal system of rules, by the material benefits which he can secure through violation of the rules. The sword of Justitia is not intended to enforce rules which the individual himself rejects; it is meant to be a little help for him when it comes to living up to his own standards.

8) In BUCHANAN's [1975] view, it is up to the constitutional contract to settle such differences. But why should that contract ever materialize under environmental conditions as outlined? To this, see GORDON [1976], 588.

9) One reason to conclude this might be the negative group identities found in criminal environment; cf. ERIKSON [1973], 209-10.

III.

Technically, justice is required to resolve conflicts of interests. If it is possible to establish a generally accepted system of abstract rules to be applied to whatever particular case there might occur, then everyone knows in advance the range of options open to him; and there is no need to fight out anew each time differences of material interest. Justice, then, requires that everyone be indeed treated according to the rules, regardless of his particulars - hence the cloth blindfolding Justitia. In a baseball game, the just umpire applies the rules of the game to both parties precisely the same way; and therefore each player can absolutely depend on the rules (cf. BORCHARDT [1981], 114).

But this is not the way social justice is usually understood¹⁰. To pass the test for what we have come to term "social justice", a social arrangement must produce material results which meet certain requirements. Someone may feel, for instance, that the material dividend of the economic process ought to be passed out among individuals in equal shares; another, that shares should be awarded according to need; and yet another, according to merit. Whatever the criterion, it is to be applied to the result of the process. The income distribution is subjected to careful examination: Is it a uniform density function as required? Or does it properly coincide with the distribution of needs, however determined? Is its empirical variance "justified" by variance of merit? If such scrutiny brings about divergencies from the standard or "just" distribution, then authorities must intervene and correct the distribution if "social justice" is to be secured.

The trouble with this concept is, of course, that it is ill-suited to a system of rules which command general assent and which are universally applied to process, not result. If in a soccer game a "socially just result" of, say, 2:2 is to be achieved, this means that the rules of the game must be twisted and cannot be universally applied.

10) Expressions synonymously used in the literature are, "economic justice" and "distributive justice".

Before actually ruling, Justitia must peep through the fabric, as it were, to make sure that one party's score does not get out of hand.

Players, then, can no longer rely on the rules while in the game. Constraints imposed on the parties cease to be equal but will be loosened or tightened on occasion, depending on relative score. Given that people are unequally skilled and that they differ by aspiration and luck, one cannot have both, solid rules to rely on during process, and results meeting prefixed standards¹¹. One must give way; and if "social justice" so perceived is to prevail, then the rules must be shaky and spurious.

To see the full implication, recall that accepted rules are to be internalized by the individual, and that in the process they will become part of his own identity. If he in fact identifies with ambiguous rules which cannot be depended on, then he will develop ambiguity himself; he will no longer prove dependable. Setting out for himself which of several possible courses of action is to be deemed just and should be followed, he finds the rules guiding him to twist; and hence the outcome of his own decision is going to be insecure. If he declines to accept rules so ill-defined, on the other hand, then his own image of Justitia fades away. In any case, no internalized Justitia stands ready to confirm the law when it rules against him. He may or may not comply; but he will not firmly be committed to the law should anyone contest it. There is a high price to be paid for "social justice" so defined; and a society embracing the concept will undergo severe distortion¹².

11) To this, see VAUBEL's ([1981], 394 passim) exposition on commutative vs. distributive justice.

12) One further aspect should be mentioned at least in passing. Once it gets customary to twist the rules according to social criteria, there will be no halt to coalitions of organized interests to twist them even further along the ways of parliamentary democracy. "The result is a distribution of incomes chiefly determined by political power" (HAYEK [1979], 13). If the individual distrusts the law, he will soon get more reason to do so, as parties who manage to collect enough votes are permitted to go ahead and collect his personal earnings. If he learns, for example, on television that a coalition is about to raise taxes for a purpose that everyone admits is dubious; and if he can read in the newspaper that this is done just so the coalition will not fall apart; why, then, should he adhere to the law?

HAYEK has put forward a similarly dark outlook:

"The principle of distributive justice, once introduced, would not be fulfilled until the whole of society was organized in accordance with it. This would produce a kind of society which in all essential respects would be the opposite of a free society - a society in which authority decided what the individual was to do and how he was to do it" (HAYEK [1960], 100).

The theory developed in the present paper holds that the adverse effects of generally enforcing "social justice", as it is commonly understood, will extend well into every single individual, causing his own identity to be reshaped in harmful ways.

IV.

HAYEK carries his point a bit further, though ([1976], 78):

"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. It does not belong to the category of error but to that of nonsense, like the term 'a moral stone'."

Here he is incorrect. It may be open to question whether it is useful to call "unjust" at all an arrangement for which no one in particular can be held responsible. However, it need not always be outright nonsense to do so.

To see this, consider the genesis of a lognormal distribution as demonstrated by Kapteyn's analogue machine for generating a skew frequency curve (cf. AITCHISON and BROWN [1966], 23-4). The machine is designed to incorporate the law of proportionate effect: sand running through the device is disposed by a system of wedges in such a way that the number of sand particles falling down into any of the receptacles placed at the bottom from left to right - a random variable - will be distributed approximately log-

normal. A given particle arriving atop the edge of some wedge has an equal chance of falling to the right or to the left; but the distance by which it is thereby carried away is proportional to the position already arrived at. The wedges get the broader the further to the right one goes; and thus a particle arriving somewhat to the right will - if again deflected to the right by chance - travel much further than another particle arriving somewhat to the left.

Now suppose the distance to the right were to stand for income, and the sand particles for individuals whose income was thus generated by a process of chance subject to the law of proportionate effect. The result of such an experiment would be a lognormal income distribution similar to the one which is in fact observed.

In this experiment there are really two factors of income determination: chance, and the pattern of wedges. Leaving aside for the moment the issue whether or not chance itself should be deemed "unjust", we must judge the machine's design which systematically translates equal chance into unequal outcome. Why should there not exist a meaningful test of the proposition that such a design could be unjust? To rule out the possibility that a person - Kapteyn - holds responsibility, let us assume that the machine represented an institutional setup as it emerged spontaneously over decades; and to meet NOZICK's [1974] criterion; suppose furthermore that the process by which the institutional setup came into being was itself morally legitimate and started out from a state of justice. The hypothesized setup certainly gives no room to unjust conduct; but this does not preclude the emergence of injustice, if we so decide to call it, from the way social processes are shaped through the institutional setup - an injustice which would be genuinely social in nature.

A test for injustice would put on the stand the law of proportionate effect. Such a "law" is not a person, nor was it designed by anyone; and yet it can turn out every bit as unjust as any law passed by Congress. The charge would be that the law preferred the rich over the poor when it

came to allocate the likelihood of winning a fixed amount of additional income. The defense would argue that the law consisted of rules which were all generally accepted and universally applied; but the prosecution would maintain that the processes shaped by these rules got persistently biased against the poor. The sentence would depend on the criterion against which to test the "law". If persistent bias in process was in violation of an unanimously adopted criterion for justice, then the law of proportionate effect would be declared socially unjust. Such an injustice would be adequately classified "social" because it would not be due to individual misconduct, but emerge from social interaction only.

The reason to call unjust a "law" which evolved spontaneously in society would be precisely the same as that by which we would so term a law passed by legislative body: it would have to hurt our sense of justice (Boulding [1962], 91). Even when consisting of a system of rules each of which is generally accepted and universally applied, a persistent bias inherent in the "law's" operation may well violate a group's syntax, i.e., the arrangement of rules, values and behavioral patterns which group members subscribe to and which defines the group's structure (CLAESSENS [1977], 6-9 passim). If just rules - nothing is wrong with any of those wedges per se - are related to each other by means of behavioral patterns each of which is morally sound, then synergisms may result, yielding biases which the group will never accept and which its members cannot identify with. The individual, even though unable to point out a single unjust rule or conduct, must get a feeling that somehow "the system" as a whole is wrong and ought to be changed¹³. Lacking insight into the complex mechanism of such a system, the individual cannot but substitute the outcome for its mechanics, thus claiming "unjust" the results of process, but in

13) HAYEK ([1976], 77) points out that the same people who grudge the high incomes of industrial magnates or financial tycoons will by no means do so when it is the movie star or football idol who reaps huge profits. The reason is that they can apprehend and identify with the causes of so large earnings; they understand and accept that it is the people's evaluation which produces all that money. This they cannot see when it is a banker or stockbroker who ominously draws money from sources unknown to them. And while many object to incomes not in proportion to perceived merit, objections are rare against the millions gained in lottery. Again, the genesis of such income is clear-cut, and everybody may identify with the winner. Note that chance as such is not held to be unjust!

fact meaning the synergisms as they emerge from process.¹⁴ The fleeting uneasiness about something being wrong with "the system" feeds back, then, on the rules themselves: the individual finds it difficult to identify with rules which apparently imply persistent bias; and hence he will not easily accept as just those rules.

All in all we conclude that it is in order to extend the term "justice" on social phenomena. Justitia, then, is our own internalized system of standards to be applied to individual conduct as well as to social process. It makes sense to term "unjust" even the "law" of proportionate effect if our standards of just procedure are violated by its operation.

Furthermore, injustice stemming from synergism in social process is indeed a social - as opposed to individual - phenomenon. In spite of an uneasy hint of pleonasm (justice is, as we saw, always a social issue), it is still sound to speak of "social justice" - provided, that is, the term stays reserved to the sort of bias sketched out in the above. Structures, however grown, which tend to systematically distort outcomes by means of undue filtering (e.g., THURLOW [1975]), or because they breed an adverse "ecology of micromotives" (SCHELLING [1971]), might qualify as candidates for a test by which to find out whether or not they should be considered socially unjust¹⁵.

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- 14) In our experiment, it is not an "end-state" criterion on which a test for injustice would have to be based; it would be persistent bias in process. An intervention by which to correct for injustice, if possible and desired, would not require the rules to be twisted in order to secure a prefixed end-state standard. Rather, the system of rules governing generative processes would have to be modified such as to set straight its inherent bias.
- 15) It should be clear that the experiment by which the possibility of genuine social injustice was demonstrated is a highly artificial one. First, the real process of income generation is of course far more complex, containing elements of skill, effort, endurance and risk-taking along with luck. These elements are hopelessly intertwined, rendering futile the attempt to sort them out in practice. Second, competition in the market is a search procedure which can only work properly if prices - the means through which income is secured - are not tampered with. Thus while the experiment tends to suggest that cases of genuine social injustice ought to be eliminated, the truth might be that we have to live with them lest the search procedure break down and we find ourselves stripped of precisely the wealth whose genesis we wanted to reshape according to criteria of justice.

V.

Having stated the case for the existence of genuine social injustice, we wish to stress that most actual charges of "social injustice" do not refer to this category, but to constellations quite different in nature. It is the latter at which Professor HAYEK's [1976] ardent criticism is primarily directed.

The term "social" has originally had an unambiguous meaning, "namely that of pertaining to, or characteristic of the structure and operations of society" (ibid., 78). While retaining such meaning ("social processes"), it has acquired yet another and quite different sense in addition, which makes for much confusion. Social "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" (ibid., 79). As the present author has argued elsewhere (BONUS [1981b] 236-7), the term now often implies that, in principle, not individual performance, but the majority will is to decide on who should get what.

"Social justice" so conceived is neither based on rules of conduct nor on standards applied to social process, but on standards governing the distribution of proceeds through the authorities. "Society" is viewed as a person who collects the dividend, and who then sees to it that everybody gets a "just" share of it.

HAYEK [1977] has portrayed as "social atavism" the underlying attitude.¹⁶ The instinctual and emotional heritage of men formed during the extremely long periods of time during which human beings were jointly hunting in small hordes, very much depending on strict hierarchy and on distributing the prey according to each member's relative importance for survival. Their morals as they thus developed in the past tend to be carried over to present constellations which are, however, quite different. Incomes, meant to be signals telling the individual where to contribute most effectively to the process of production, are often still conceived as parts of prey which ought to be distributed through "society" (i.e.,

16) See also HAYEK [1976], Ch. 11

the former leader), and according to merit as perceived by all members.

In the terminology of CLAESSENS [1980], men are ill-adapted to the kind of abstract environment which they have created in the process of extricating themselves from the "old nature", a process that was prerequisite to their evolving as human beings as we understand them. An "evolutionary handicap" prevents them from adequately associating emotionally with the type of large, abstract organizations which they are faced with in everyday life. Modern markets, tending toward infinite abstractness (ibid. 316), do not lend themselves to direct emotional apprehension. The market has grown too abstract to be accessible to human feeling; and from their longing for images of reality which command direct emotional appeal, people tend to regress toward inherited, but completely improper images (ibid. 23) which utterly simplify the abstract reality, seemingly but in misleading ways opening it up to human intuition. To the Nazis, the Jews were responsible for about everything evil in the world. With due reservations, it appears that "social justice" in its popular sense belongs to the category of improper images.

The improperness of "social justice" as commonly perceived shows most prominently, not in personification of institutional setup, which may be a proper way of rendering accessible to human intuition the abstract (CLAESSENS [1980], 288 passim - see the "invisible hand"), but in its complete dissociation from the productive sphere. The focus is entirely on consumption: material dividends are to be justly distributed among all consumers, no matter what this implies for the conditions of production itself. For instance, the burden of risk which is inherent in all production is to be put on employers alone as they are obviously the stronger ones; it is not seen that they may be forced out of business by the cost. Or rents are to be fixed on low levels, and tenants not to be given notice, because the tenant cannot do without an apartment and is thus dependent of his landlord. What is overlooked is that the construction of new housing is thereby rendered unsound business and will be discontinued. The productive sphere is foreign to the sentiment described: world is viewed from the consumer's perspective alone.

The basic experience to which the consumer is exposed time and again is one of scale (BONUS [1981c]): his own little means cannot measure up to the powerful capital that is so conspicuously amassed on the supply side. Whatever the suppliers come up with, his own capacity to shape his material environment according to personal wishes is apparently in no proportion to the task. If he happens to look for yellow shirts, say, he may find that they are out of fashion and nowhere available; and if he wishes to have fixed his somewhat older appliance, it cannot be done as spare parts are out of stock. If he finds that the tools as he can buy them are not reliable, the sad truth is that this may well apply to all tools in the market; and so on.

Things get much worse when it comes to developments on the macro level whose origins are absolutely out of the consumer's grasp. Inflation due to overtaxing an economy's resources is perceived by him, as a plot of suppliers to rob him of his own resources. What he experiences is that all storekeepers charge him more at once, so he cannot evade the pressure. If unemployment develops for whatever reason, what impresses him is that employers all around proceed to lay off employees, as if by tacit agreement, without hiring new staff; in a way they appear on strike to him. And if housing is in short supply due to rent control and high construction cost, what he is to live through is that all landlords at a time shrug off his urgent need for an apartment. Whatever happens on this level, the consumer is exposed to what appears joint action against him. It is little wonder that he gets prone to feel the object of arbitrary, unjust powers which ought to be controlled through society. Justice, then, in his eyes requires that the loot be taken away from those who join their forces in order to draw profits from his helplessness.

Such an image of the world is, of course, improper. In fact the consumers do shape production decisively in the market. Yet this fact is perfectly abstract and does not in general turn up as solid evidence in a consumer's daily life. While all consumers jointly determine very much what is to be produced and what it may cost, the individual's share of that power is negligible. There is a basic asymmetry as between producers and consumers: whatever little power the single producer may in fact

command, it will usually be a multiple of what a single consumer has to his avail. The very turnover in business impresses the consumer as "power", even when such business is to operate at a loss.

To be sure, there are experiences of a different sort impressive enough as to match the onesided evidence mounting around consumers. Of these, the most important stem from the productive sphere itself. In his capacity as a contributor to production the individual may live through recurrent situations of risk, of poor luck, of rapid change in consumers' tastes, and of rough competition, all of which tend to satisfy him that the proceeds as they emerge from production must be secured at considerable risk from shaky and little-known environments. He will know by evidence that such proceeds cannot simply be collected from a "society" who would hand them out in "just" ways. Of course, such evidence gets rare as bureaucracies spread, the production of which is subject to conditions much closer to the consumer's view of the world; and that is likely to confirm the improper image underlying the concept of "social justice" as commonly understood (see also: HAYEK [1976], 146).

VI.

This leaves us with two versions of social injustice, one genuine and one improper. However, both cannot be distinguished in practice.

The persistent bias in process which formed the theoretical basis of genuine social injustice was due to synergism as it evolved from the operation of a highly complex system. In our hypothesized experiment, we knew that it was chance and institutional design which jointly determined income; and we could then show that it was the design what caused potentially unjust bias in process. Even so, we had to concede that the individual subjected to the process was himself not in a position to identify the causes of such injustice, and that he could therefore do nothing but point to the outcome as "unjust". He felt that somehow the system was wrong, and he took the resulting income distribution as evidence for his claim.

But the situation would have been precisely the same if he was in fact mistaken in his belief; i. e., if his impression was due to an improper image of the economy. In either case, he cannot oversee operations of the complex system; and in either case, he has nothing but the emerging distribution of proceeds by which to judge the underlying processes. Given that justice to the individual means concordance with internalized rules and standards, we must accept that to him it makes no difference whether or not social injustice is in fact genuine. As long as he adheres to an improper image of the system, a perceived injustice will appear genuine to him. He registers that actual performance is in obvious violation of his own standards of justice, and he will consequently undergo the rage which is the reaction of those who feel treated unjust.

Thus, genuine or not, the political consequences of social injustice will be all the same. Any pattern which is in violation of our sense of justice will be resisted by us; and it will have to be removed when our resistance is shared by the broad majority - even though its "injustice" might be in fact entirely improper. "Social justice is an ideal; that is, it is something divergence from which is perceived and acts as a cue to behavior" (BOULDING [1962], 78).

When in the core of political unrest we find social injustice of the improper kind, all we can do is try to make known, and get accepted, our own image of relevant facts which will hopefully dissolve improper images. However, we must always be aware that people may be clinging to an improper image for one reason or another (cf. BONUS [1982]), or that others may work hard to reaffirm images of the economy which we feel are improper; and of course, we may be mistaken ourselves. What counts in the end is that people perceive as unjust a certain social configuration.

But this does not mean that the evolving conception of social justice as to be applied to result, not process, is harmless. Even when everybody is convinced that the income distribution as it stands reflects genuine social injustice, a policy fixated on securing a "just distribution" (as

opposed to attacking institutional bias), will produce fatal results. It will destroy liberty (HAYEK [1960, 1976]); it will injure the individual's identity and severely impair his adherence to law. Thus even when genuine in nature, social injustice does not warrant "distributive justice" as it is presently understood. The situation may call for institutional reform so as to properly account for social synergism; but it never justifies the disintegration of rules in order to assure emergence of whatever final distribution may be considered "just". That is, not an end-state criterion applied to final distribution must direct our policy, but rules of just conduct and standards of unbiased process.

Obviously people may still decide that the final distribution is decisive after all. If they do - and there is nothing to prevent them from so doing -, then they opt, in effect, against liberty and against reliable rules for society¹⁷.

The social market economy as practiced in the Federal Republic of Germany was designed to carefully avoid that type of policy. It was not to assure that everybody's share of the material dividend be just; but it insisted that nobody should be constricted by adverse events to indecent living. However, once "decent living" comes to be interpreted as "according to just standards", then the concept will collapse into "distributive justice", and it will then indeed produce the harmful distortions which we have been discussing in section III above¹⁸.

17) "Of course, this creates problems for [Hayek's] normative theory of spontaneous evolution; for it means that the spontaneous evolution may destroy freedom" (VAUBEL [1981], 419 n).

18) Is chance socially unjust? Are windfall profits justified? However one may think about this, it would be unwise to eliminate them. The productive sphere - and in fact all creativity - are very much characterized by the unknown, by inseparability of future success and failure, of luck and misfortune. Take away windfall profits and other gains by fortune, and you will have to make up for misfortune as well; but once you start this, then nobody will take much care anymore of his enterprises, as he cannot lose. Eliminate luck as a cause of earnings, and you eliminate everything that renders vital an economy.

VII.

The fact that we were able to proceed this far without even mentioning RAWLS [1971] indicates that his approach is quite foreign to the one pursued here, which in turn is close in spirit to HAYEK [1976].

Rawls sets out on the impossible; and fail he must. He searches for timeless principles of justice, which in our thinking cannot exist. Where we conceive of justice as a set of group standards internalized by the individual, a set which undergoes continuous change and is not even quite the same for any two groups, Rawls proclaims "an ideal conception of justice" independent of the values presently held by individuals. "The long range aim of society is settled in its main lines irrespective of the particular desires and needs of its present members"; it is "not at the mercy, so to speak, of existing wants and interests" (RAWLS [1971], 261). Where in the tradition of Hayek a system of rules evolves, the system which Rawls has in mind is an artefact.

In our framework, justice to the individual means concordance with internalized rules and standards; and in the end, the individual is the only point of reference. Rawls looks at this the other way round. The "just system" that he aims for "must be arranged so as to bring about in its members the corresponding sense of justice, an effective desire to act in accordance with the rules for reasons of justice" (RAWLS [1971], 261). What if individuals fail to swallow Rawls's principles of justice? In our approach, we stand somewhat helpless if several systems of rules coexist. Not so Rawls. Once his "just system" is established, "institutions are to foster the virtues of justice and to discourage desires and aspirations incompatible with it ... There is no value in fulfilling these wants"; they "have no weight" (ibid.). To the present author, such words

have a definite totalitarian ring¹⁹.

Given that so much depends on general acceptance of a just system, how is it derived? We shall not develop this in detail but point to some characteristics which contrast most conspicuously from the conceptual approach of the present paper. HARSANYI ([1953], 4) had long ago suggested to proceed as follows:

"[A] value judgement on the distribution of income would show the required impersonality to the highest degree if the person who made this judgement had to choose a particular income distribution in complete ignorance of what his own relative position ... would be within the system chosen".

While the procedure is clearly aimed at "distributive justice" as an end-time criterion - and therefore is subject to severe Hayekian criticism -, it is still close to our approach in that it is the individual who is to judge. He is to be led by his ethical preferences alone, and not to be biased by personal interest; he is to be blindfolded, as it were. In this sense his judgement is impersonal; but otherwise it reflects his full individuality.

In contrast, Rawls goes all the way towards impersonality. Since he is to deduce the one, objective, ideal conception of justice which is to bind society in all future, he cannot afford to rest his case on subjective evaluations; and so he strips the judge completely of his own personality. The cloth blindfolding Justitia is replaced with a veil of ignorance, to the effect that "no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength and the like. I shall even assume that the parties do not know their conceptions of the good or their psychological propensities" (RAWLS [1971], 12).

19) With regard to liberty, the core of a market order is that it is able to overcome the prisoner's dilemma because it is organized so as to fit individuals as they in fact are; it is only thereby that liberty is made possible amidst pervasive interdependencies (BONUS [1979]). By the same token, real socialist economies that are built on central planning procedures fail to evade the dilemma - and thus cannot offer liberty to their members -, because it would take socialist morals to have the individuals act in self-responsible manners (ibid.). Whenever human beings are to be shaped according to requirements of an ideal setup, the result will invariably be loss of liberty; and this is somewhat at odds with Rawls's insistence on the priority of liberty as a cornerstone of his edifice.

In such a state, whatever remains of them considers themselves "free and equal persons" (ibid.) who are to agree among each other on the principles of justice. As has been pointed out in the literature (e.g., GORDON [1976], 576), they are in fact all identical, and there is nobody around with whom to negotiate. It is no surprise, then, that a basically egalitarian concept evolves from this scenario: "Inequalities are permissible when they maximize, or at least all contribute to, the long-term expectations of the least fortunate group in society" (RAWLS [1971], 151). In all other cases, inequalities are not permissible. Even worse: behind the veil of ignorance the shadowy identicals reach "an agreement to regard the distribution of natural talents as a common asset and to share in the benefits of this distribution whatever it turns out to be" (ibid., 101). As they are in fact one and the same, they do not mind to claim as a common asset natural talents; but in practice their agreement amounts to the utmost collectivism to be thought of - an Orwellian nightmare indeed.

Quite in spite of Rawls's assertion that behind the veil of ignorance no one knows "the special features of his psychology such as his aversion to risk or liability to optimism or pessimism" (ibid. 137), those agreeing on the principles of justice turn out paranoiacs: their "two principles are those a person would choose for the design of a society in which his enemy is to assign him his place" (ibid., 152, italics mine).

Especially Rawls's "indifference principle" (which amounts to the maximum rule ranking alternatives by their worst possible outcomes) has drawn devastating criticism in the literature (HARSANYI [1975] and the post-script contained in HARSANYI [1976], 59-62; ROWLEY and PEACOCK [1975] 134-44)²⁰. There is no point in repeating this here. What we do want to

20) BUCHANAN and FAITH [1980] attempt to defend Rawls against some of this criticism, but to no avail. To show "that in genuinely Rawlsian contractual settings there may exist a general bias toward the selection of institutions that embody maximin solutions without the assumption of risk aversion" (p. 23), they allow for optimism or pessimism with respect to the general properties of the forthcoming post-veil setting. The optimists, then, are somewhat pressed to get out of from behind the veil because they are to forgo subjectively expected income while in negotiation. The pessimists, on the other hand, tend to hold on; and to get out of the situation, the optimist acquiesce in the pessimists' initial preferences. This setting is, however, not genuinely Rawlsian. In Rawls's own thinking, the parties behind the veil do not even know which generation they will come to belong to; much less do they feel an urge to rush negotiations.

stress, however, is a particular mood behind the Rawlsian setup which is not intrinsic to justice but very much in accordance with the spirit of the time. Consider what he states about a person who follows the maximin rule (RAWLS [1971], 154):

"The person choosing has a conception of the good such that he cares very little, if anything, for what he might gain above the minimum stipend that he can, in fact, be sure of following the maximin rule. It is not worthwhile for him to take a chance for the sake of a further advantage, especially when it may turn out that he loses much that is important to him."

And two pages later, Rawls comments on the conception underlying his two principles of justice (ibid., 156):

"[This] conception guarantees a satisfactory minimum. There may be, on reflection, little reason for trying to do better."

This is the reasoning of a pensioner. It is way off from any spirit of enterprise, and absolutely hostile to the productive sphere; the word "production" is not even entered in the 19-page index of his book. The Rawlsian world is a rigid one in which no change will ever occur, no risk is being taken, and no creativity is left. Everybody is totally absorbed fixating on the worst outcomes to be thought of, and thus nobody dares to think of the rich possibilities for development. Nothing is better suited to demonstrate the problem of social justice than the deadlock into which Rawls's principles of justice would lead us if we were to follow them.

VIII.

We sum up. Rules of just conduct form a part of our cultural heritage and of the individual's own identity as well. The individual deems just what corresponds to the rules internalized in his mind; and thus many images of justice may coexist at a time. Genuine social injustice may emerge from synergism in the operation of social systems. But most of what is called "social injustice" reflects an evolutionary handicap of man, his inability to associate emotionally with abstract environments. Justice aiming for the end-state criterion of "just distribution" is not compatible with productivity and will end up in deadlock.

REFERENCES

- AITCHISON, J. and BROWN, J.A.C. [1966], The Lognormal Distribution. Cambridge.
- BAILEY, F. G. [1980], Stratagems and Spoils. A Social Anthropology of Politics. Oxford.
- BONUS, H. [1979], "Öffentliche Güter: Verführung und Gefangenendilemma", List Forum 10, 69-102. Reprinted pp. 129-60 in W. Dettling (Ed.), Die Zähmung des Leviathan, Baden-Baden 1980. Reprinted pp. 283-305 in: W. Stützel et al. (Eds.), Grundtexte zur Sozialen Marktwirtschaft, Stuttgart/New York 1981.
- [1980], "Öffentliche Güter und der Öffentlichkeitsgrad von Gütern", Zeitschrift für die gesamte Staatswissenschaft 136, 50-81.
- [1981a], "The Political Party As a Firm", Zeitschrift für die gesamte Staatswissenschaft 137, 710-16.
- [1981b], "Zur Transformation der Marktwirtschaft durch Sozialkomponente und Demokratisierung", pp. 233-53 in: O. Issing (Ed.), Zukunftsprobleme der Sozialen Marktwirtschaft, Schriften des Vereins für Socialpolitik, N. F., Band 116, Berlin.
- [1981c], "Das wissenschaftliche Gutachten in der Politik - Information, öffentliche Meinung, Verantwortung", pp. 269-98, in: M. Timmermann (Ed.), Nationalökonomie morgen, Stuttgart et al.
- [1982], "Information und Emotion in der Politikberatung - Zur politischen Umsetzung eines wirtschaftstheoretischen Konzepts", Zeitschrift für die gesamte Staatswissenschaft 138, 1-21.
- BORCHARDT, K. [1981], "Plädoyer für eine offensive Verteidigung marktwirtschaftlicher Ordnungen", pp. 97-126, in: H. Rössner (Ed.), Rückblick in die Zukunft. Beiträge zur Lage in den achtziger Jahren.
- BOULDING, K. E. [1962], "Social Justice in Social Dynamics", pp. 73-92 in: R. B. Brandt (Ed.), Social Justice, Englewood Cliffs.
- BROCHER, T. [1967], Gruppendynamik und Erwachsenenbildung, Braunschweig. Citations are from the 15th ed., 1980.
- BUCHANAN, J. M. [1975], The Limits of Liberty. Between Anarchy and Leviathan, Chicago/London.
- and R. L. FAITH [1980], "Subjective Elements in Rawlsian Contractual Agreement on Distributional Rules", Economic Inquiry 18, 23-38.

- CLAESSENS, D. [1977], Gruppe und Gruppenverbände. Einführung in die Folgen von Vergesellschaftung, Darmstadt.
- , [1980], Das Konkrete und das Abstrakte. Soziologische Skizzen zur Anthropologie, Frankfurt.
- ERIKSON, E. [1957], Kindheit und Gesellschaft, Stuttgart. American original: Childhood and Society, New York 1950. Citations are from the German edition.
- , [1973], Identität und Lebenszyklus, Frankfurt. American original: Identity and the Life Cycle, 1959. Citations are from the German edition.
- GORDON, S. [1976], "The New Contractarians", Journal of Political Economy 84, 573-90.
- HARSANYI, J. C. [1953], "Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking", Journal of Political Economy, 434-35. Reprinted pp. 3-5 in: HARSANYI [1976]; citations are from reprint.
- , [1975], "Can the Maximin Principle Serve As a Basis For Morality? A Critique of John Rawls's Theory", American Political Science Review 59, 594-606. Reprinted pp. 37-63 in: HARSANYI [1976].
- , [1976], Essays on Ethics, Social Behavior, and Scientific Explanation, Dordrecht/Boston.
- HAYEK, F. A. [1960], The Constitution of Liberty, London et. al.
- , [1973], Law, Legislation and Liberty. Vol. I : Rules and Order, Chicago/London.
- , [1976], Law, Legislation and Liberty, Vol II: The Mirage of Social Justice, Chicago/London.
- , [1977], Drei Vorlesungen über Demokratie, Gerechtigkeit und Sozialismus, Tübingen.
- , [1979], Law, Legislation and Liberty, Vol. III: The Political Order of A Free People, Chicago/London.
- KARSTEDT, P. [1979], Ideologie. Versuch über prometheisches Bewußtsein. Monographien zur philosophischen Forschung, Bd. 170, Meisenheim/Gl.
- KRAPPMANN, L. [1971], Soziologische Dimensionen der Identität, Stuttgart.
- McKENZIE, R. B. and TULLOCK, G. [1975], The New World of Economics. Explorations into the Human Experience, Homewood et. al.

- MILL, J. S. [1963], "Thoughts on Parliamentary Reform", in: G. Himmelfarb (ed.), Essays on Politics and Culture, New York.
- MILLER, D. [1978], "Democracy and Social Justice", British Journal of Political Science 8. Reprinted pp. 75-100 in: P. Birnbaum, J. Lively, G. Parry (Eds.), Democracy, Consensus and Social Contract, London/Beverly Hills 1978. Citations are from reprint.
- NEIDHARDT, F. [1979], "Das innere System sozialer Gruppen", Kölner Zeitschrift für Soziologie und Sozialpsychologie 31, 639-60.
- NOZICK, R. [1974], Anarchy, State, and Utopia, New York.
- RAWLS, J. [1971], A Theory of Justice, Cambridge/Mass.
- ROWLEY, C. K. and PEACOCK, A.T. [1975], Welfare Economics. A Liberal Restatement, London.
- SCHELLING, T.C. [1971], "On the Ecology of Micromotives", Public Interest 25, 61-98.
- THUROW, L. C. [1975], Generating Inequality. Mechanisms of Distribution in the U. S. Economy, New York.
- VAUBEL, R. [1981], "Redistribution, Social Security and Growth", pp. 387-425 in: H. Giersch (Ed.), Towards an Explanation of Economic Growth, Tübingen.