

his reaction to a review of his *Vico and Herder* by Arnaldo Momigliano in the *New York Review of Books*, 11 November 1976. For a discussion and brief assessment of these attempts see the previous chapter.

27. Michael Ignatieff, *Isaiah Berlin: A Life*, p. 203.

28. *Ibid.*

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Social Justice: The Hayekian Challenge

Over two decades ago Friedrich Hayek declared himself convinced that 'social justice' is a mirage: an illusory goal whose pursuit, moreover, can only lead to disaster. The expression, he thought, described 'the aspirations which were at the heart of socialism'; indeed, 'the prevailing belief in "social justice" is at present probably the gravest threat to most other values of a free civilization'.¹ 'So long as the belief in "social justice" governs political action,' he wrote, 'this process must progressively approach nearer and nearer to a totalitarian system.'² The phrase, he declared, embodies a 'quasi-religious belief' – 'almost the new religion of our time' – but has 'no content whatever', and serves 'merely to insinuate that we ought to consent to a demand of some particular group'.³ The advocates of social justice, Hayek claimed, promise to 'co-ordinate the efforts of the members of society with the aim of achieving a particular pattern of distribution regarded as just, but trying to do this in a society of free individuals must make that society unworkable'.⁴ In arguing thus, Hayek saw himself as issuing a 'challenge which will make it necessary for others to reflect on the meaning of the words they use'.⁵

In what follows I shall focus entirely on Hayek's argument for these conclusions. I shall not, except where strictly necessary, consider his wider ideas about philosophy, politics or economics. My purpose is limited to assessing the strength of his argument against social justice, and thus the strength of the challenge it was meant to pose to all those disposed to think and act in the light of this idea. Hayek observed that the idea of social justice has achieved a kind of pervasive hegemony, influencing not

only socialists of all kinds but also Catholics and, indeed, proponents of virtually all contemporary political standpoints. To seek to subvert the very idea of social justice was therefore a typically bold counter-thrust in an ideological war in which Hayek believed that winning conviction through argument could have real political impact.

It is hard to know what that impact has been. It is intriguing to speculate what contribution Hayek's critique of social justice may have made to the widespread appeal of market-based 'neo-liberal' ideas and recipes throughout the world, and in particular in Central and Eastern Europe, that has been so evident since the early 1980s. One can, for instance, clearly see its influence in some of the pronouncements of Margaret Thatcher.⁶ It probably persuaded those economists and other academics and policy advisers who came under Hayek's influence (notably those involved in the Mont Pèlerin Society) – whose influence, in turn, on policy-making in various countries is yet to be charted.

It would seem that its impact within the academic world has, in comparison, been rather restricted. Since the mid-1970s, social justice has indeed become the central focus of normative political philosophy in the English-speaking world, and increasingly beyond it, largely under the influence of the writings of John Rawls. Yet neither Rawls, nor his followers or critics, nor other contributors to the ramifying debates that have flourished over the last two decades have paid much attention to Hayek's challenge. For the most part they have viewed his position on social justice as the expression of a political standpoint that is eccentric but not challenging. Even other 'libertarian' writings, such as Robert Nozick's *Anarchy, State and Utopia*, whose conclusions converge with Hayek's, do not, for the most part, draw upon Hayek.

A Hayekian, of course, might be untroubled by this neglect, attributing it to the fact that 'academic philosophers in their sheltered lives as members of organizations' are inclined to 'rationalist constructivism' and have 'lost all understanding of the forces which hold the Great Society together'.⁷ But it could also be that Hayek has no case, and has been neglected justly. I shall investigate this possibility by separating out the various components of Hayek's critique, with the aim of seeing where its strengths and weaknesses lie. In the light of such an examination, we should be in a position to determine to what extent contemporary theories of social justice meet or escape the Hayekian challenge.

The Six Claims

Hayek's initial claim is a semantic one. The term 'social justice', he writes, is 'entirely empty and meaningless'.⁸ It 'does not belong to the category of error but to that of nonsense, like the term "a moral stone"'.⁹

This is the first claim: (1) that the idea of social justice is *meaningless*.

Hayek usually states this claim in a more qualified form, arguing that social justice is meaningless only in certain conditions, namely, 'in the Great Society of free men'.¹⁰ Thus, 'in a society of free men whose members are allowed to use their own knowledge for their own purposes the term "social justice" is wholly devoid of meaning or content'.¹¹ More specifically, with respect to the determination of 'the prices which must be paid in a market economy for different kinds of labour and other factors of production, ... considerations of justice just do not make sense'.¹² In a free society, governed by 'the impersonal process of the market', 'differences in reward simply cannot meaningfully be described as just or unjust'.¹³ By contrast, 'social justice' 'can be given meaning only in a directed or "command" economy (such as an army) in which the individuals are ordered what to do'.¹⁴ Hence Hayek's modified first claim: (1a) that the idea of social justice is *meaningless in a free, market-based society*.

In some passages, however, Hayek allows that 'social justice' does, after all, have a certain kind of meaning, even perhaps in a free society, namely a religious or 'quasi-religious' or 'superstitious' one, comparable to the 'general belief in witches or ghosts'.¹⁵ It is, he maintains, 'a sign of the immaturity of our minds that we have not yet outgrown these primitive concepts'.¹⁶ Hayek suggests that 'the moral feelings which express themselves in the demand for "social justice" derive from an attitude which in more primitive conditions the individual developed towards the members of the small group to which he belonged'.¹⁷

Hence his second claim: (2) that the idea of social justice is *religious*.

Hayek also advances the view that justice (and injustice) may be 'predicated about the intended results of human action but not about circumstances which have not deliberately been brought about by men'.¹⁸ It cannot be attributed to the consequences of an impersonal process that 'are not intended or foreseen, and depend on a multitude of circumstances not known in their totality to anybody'.¹⁹ Justice and injustice are thus 'inapplicable' to 'the results of a spontaneous process'; if injustice is being claimed, it must make sense to ask, 'Who is supposed to have been unjust?'²⁰ More specifically, 'the manner in which the benefits and burdens are apportioned by the market mechanism' are not unjust (nor are

they just);²¹ the conduct of individuals in 'the impersonal process of market allocation' may well be 'just or unjust', but 'since their wholly just actions will have consequences for others which were neither intended nor foreseen, these effects do not thereby become just or unjust'.²² The contrary supposition – that 'the results of the spontaneous ordering of the market' are capable of being just or unjust – derives from 'that anthropomorphism or personification by which naive thinking tries to account for all self-ordering processes'.²³ Society becomes 'the new deity to which we complain and clamor for redress if it does not fulfil the expectations it has created'.²⁴ But, in a free society, there is 'no human agency' responsible for 'differences in human fates',²⁵ no 'personal distributing agent whose will or choice determines the relative position of the different persons or groups',²⁶ and thus 'no individual and no co-operating group of people against which the sufferer would have a just complaint' – and 'no conceivable rules of just individual conduct which would at the same time secure a functioning order and prevent such disappointments'.²⁷

In short, since social processes are impersonal while justice presupposes the deliberate agency of a person or persons, Hayek's third claim is (3) that the idea of social justice is *self-contradictory*.

As a corollary, Hayek maintains (in an appendix to the chapter in *Law, Legislation, and Liberty* on social justice) that although we have time-honoured political and civil rights – 'negative rights . . . protecting individual domains', and 'positive rights' to participate in the direction of governmental organization – there are no 'positive "social and economic" human rights' or 'claims to particular benefits to which every human being as such is presumed to be entitled'.²⁸ No one has a 'claim to justice on "society" for the provision of particular things which it is the duty of that society to provide': justice 'does not impose on our fellows a general duty to provide for us; and a claim to such provision can exist only to the extent that we are maintaining an organization for that purpose'. Society 'which produces the means for the satisfaction of most of our needs is not an organization directed by a conscious will, and could not produce what it does if it were'. Thus it is 'meaningless to speak of a right to a condition which nobody has the duty, or perhaps even the power, to bring about', and it is 'equally meaningless to speak of right in the sense of a claim on a spontaneous order, such as society, unless this is meant to imply that somebody has the duty of transforming that cosmos into an organization and thereby to assume the power of controlling its results'. Since society is a 'spontaneous order' and since

nobody 'has a right to a particular state of affairs unless it is the duty of someone to secure it',²⁹ Hayek claims (3a) that the idea of social and economic rights is also *self-contradictory*.

Hayek further maintains, in an unmasking or debunking spirit, that appeals to social justice are *really* just disguised ways of expressing the 'demand of some particular group'.³⁰ Thus, 'almost every demand for government action on behalf of particular groups is advanced' in the name of social justice, with the result that 'opposition to it will rapidly weaken'.³¹ Governments feel compelled to satisfy 'the claims of the ever increasing number of special interests who have learnt to employ the open sesame of "social justice"'.³² It becomes 'a humbug – the effectiveness of which with well-meaning people the agents of organized interests have learnt successfully to exploit'.³³ Far from 'an innocent expression of good will towards the least fortunate', it has become 'a dishonest insinuation that one ought to agree to a demand of some special interest which can give no real reason for it'.³⁴

In short, Hayek's fourth claim is (4) that the idea of social justice is *ideological*.

Hayek also asserts that it is impossible 'to preserve a market order while imposing upon it (in the name of "social justice" or any other pretext) some pattern of remuneration based on the assessment of the performance or the needs of different individuals or groups by an authority possessing the power to enforce it'.³⁵ Hayek makes two arguments for this assertion. The first is that in a free society, agreement can never be secured as to what counts as satisfactory performance, or need, or merit, or desert, or value to society; nor, more seriously, can there be agreement as to how to rank these: there is no 'single hierarchy of ends', and 'the values attached to the different services by different groups of people are incommensurable'.³⁶ Moreover, even if such agreement could be secured, no government or planning agency could have access to the knowledge it would need successfully to implement such a pattern. Were such a conception realizable, it would imply 'that the processes of society should be deliberately directed to particular results' by 'a subject endowed with a conscious mind capable of being guided in its operations by moral principles', yet this is impossible.³⁷

Hayek's fifth claim: (5) that a socially just market order is *unfeasible*.

Finally, Hayek maintains that what are all too feasible are pressures upon, and misguided attempts by governments to achieve, some 'recognizable scheme of distributive justice'.³⁸ But 'the more governments try to

realize some preconceived pattern of desirable distribution, the more they must subject the position of different individuals and groups to their control. So long as the belief in "social justice" governs political action, this process must progressively approach nearer and nearer to a totalitarian system'.³⁹ Hayek concedes that 'the highly interventionist "mixed" economy existing in most countries today' results from 'governmental measures aiming at what was thought to be required by "social justice"';⁴⁰ his dark prophecy is that aiming further in this direction can only lead to 'a totalitarian system in which personal freedom would be absent'.⁴¹

Hence Hayek's sixth claim: (6) that striving for social justice is *disastrous*.

Assessing Hayek's Critique of Social Justice

How strong are the separate threads of Hayek's argument, and how strong is the fabric that results from their interweaving?

Considering first the structure of the argument as a whole, it seems clear that claims (1) and (2) rest on (3). In other words, the claims that 'social justice' is nonsensical or religious depend on the thought that the very phrase combines terms which, given their rightly understood meanings, cannot properly be combined. Thus to speak of 'social justice' (as of a 'moral stone') is either to commit what Gilbert Ryle used to call a 'category-mistake', applying 'concepts to logical types to which they do not belong',⁴² or else it is to utter an unfathomable mystery. Yet it also seems clear that claims (1)–(3) are, at the very least, in tension, if not in contradiction, with claims (4)–(6), since these latter claims imply that talk of social justice is misleading, mistaken and misconceived, and thus *capable* of being understood. Indeed, the main thrust of Hayek's argument must surely be to convince his readers not to accept the case for pursuing social justice, not to persuade them that it is unintelligible.

But let us take claims (1) and (1a) at face value: namely, the charge that to associate 'social' with 'justice' is a category mistake. To make this charge is simply to posit a definition of 'society' as 'spontaneous' and governed by 'the impersonal process of the market', and a definition of 'justice' as inapplicable to the consequences of an impersonal process. These definitions are not 'logical types' but, as we shall see, highly contested stipulations.⁴³

As for claim (2), that 'social justice' has, after all, a *religious* meaning, three points need to be made, of which the first two are *ad hominem*. In the first place, Hayek's equation of religion with superstition and primitive

thought, and with belief in witches and ghosts, seems to be at the least in tension with the Burkean critique of Enlightenment-inspired scientism to be found in Hayek's *The Counter-Revolution of Science*.⁴⁴ Second, and even more strikingly, it seems to contradict his later explicit statements about the evolutionary benefits of religious beliefs:

Custom and tradition, both non-rational adaptations to the environment, are more likely to guide group selection when supported by totem and taboo, or magical and religious beliefs – beliefs that themselves grew from the tendency to interpret any order men encountered in an animistic manner.⁴⁵

According to the later Hayek, 'we owe our morals, and the tradition that has provided not only our civilization but our very lives, to the acceptance of such scientifically unacceptable factual claims'.⁴⁶ (Contrast Sir Karl Popper, who defines the open society and the extended order by their very rupture with such beliefs.) In short, it is not clear why, for Hayek, the *religious* meaning of 'social justice' is, in itself, an objection to it.

Nor, third, is it clear why giving 'social justice' a religious meaning should be objectionable in any case. If all that is meant is that social justice may be treated as a *sacred* value to which (certain) other values are *sacrificed*, within certain limits, rather than merely traded off, there seems to be no harm in acknowledging that social justice may be given a 'religious' or 'quasi-religious' significance.⁴⁷

What are we to say of claim (3), that the attribution of justice and injustice presupposes deliberate action that produces effects that are intended and foreseen, and that the results of social or impersonal processes are therefore immune to judgements in terms of justice and injustice? Two responses are appropriate, one dealing with individuals' 'social' obligations, the other with the evaluation of impersonal systems of rules. First, notice that Hayek's argument contains an ambiguity in respect of *what* is being judged: the situation or our response to it. A state of affairs that no one has intended or foreseen may, nevertheless, require action to alleviate suffering or deprivation, and failure to take such action may be justly condemned as unjust. Judith Shklar has made this point well:

It is evident that when we can alleviate suffering, whatever its cause, it is passively unjust to stand by and do nothing. It is not the origin of injury, but the possibility of preventing and reducing its costs, that allows us to judge whether it was or was not unjustifiable passivity in the face of disaster.⁴⁸

Hayek himself admits this important point when he allows that governments should provide a guarantee against severe deprivation in the form of an assured minimum income, arguing that 'it may be felt to be a clear moral duty of all to assist, within the organized community, those who cannot help themselves' because they are 'unable to earn in the market an adequate maintenance'.⁴⁹ One's inability to earn an adequate income is surely either one's own doing or the 'fault' of the market order in which one finds oneself, not the doing of those Hayek would force to remedy the situation. It appears, therefore, that Hayek concedes that people may have obligations to help each other even when those so obliged did not cause the distress to be alleviated – indeed, when this distress is the result of an impersonal, spontaneous order.

Second, we must ask whether it is, in any case, convincing to argue, as Hayek does, that situations resulting from actions neither intended nor foreseen by agents to bring them about are immune to moral appraisal in terms of justice and injustice. Consider typical cases of decision-making within a framework of rules that results in an outcome worse for everyone than an alternative attainable within a different framework. Examples are the deleterious effects of private enclosures of the English 'commons', and overfishing outside of territorial waters caused by the distribution of fishing rights within them. There are innumerable other cases of perverse or suboptimal effects resulting from inadequate rules to govern individuals' pursuit of their particular interests. In such cases, what may legitimately be judged unjust is the very framework of rules that yields such combined effects, which are neither intended nor foreseen nor the result of a concerted will. All that is required for such judgements to be appropriate is the existence of feasible alternative rules that would lead to better results. Markets always operate within regulative frameworks, both legal rules and informal norms – regulative frameworks that could be different. The misleading language of 'spontaneity' and 'deregulation' can all too easily obscure this elementary truth, which Durkheim expressed long ago when he observed that freedom of contract 'is only possible because of the regulation of contracts'.⁵⁰

As with the question of whether there are enforceable obligations on individuals who did not cause the problems they are compelled to alleviate, Hayek contradicts his claim that impersonal orders should not be judged against standards of justice by using just such a standard – a utilitarian standard – to justify the paradigm case of a spontaneous order, the market.⁵¹ The market, he writes, 'brings about a greater satisfaction of human desires than any deliberate human organization could achieve'; it

improves 'for all or most the prospects of having their needs satisfied'; it determines 'a size and composition of the total output which assures that the real equivalent of each individual's share that accident or skill assigns to him will be as large as we know how to make it'.⁵² This shows, first, that according to Hayek the aggregative effects of the market process are, after all, foreseeable; and, second, that, for Hayek himself, they are subject to judgements with respect to justice and injustice.

Hayek's fourth claim, that the very idea of social justice is inherently ideological – universal in form but always advancing some particular, partial interest – can be seen as a corollary of claims (5) and (6), to be considered below: that is, as following from the alleged unfeasibility of implementing any scheme of social justice, and from the allegedly totalitarian consequences of trying to do so. The suggestion would be that advocates of the idea, knowing these things, can only be deceiving their addressees, in order to benefit through such deception. If, however, it turns out on inspection that claims (5) and (6) are less than convincing, this suggestion will in turn lose whatever persuasive power it may have had.

Alternatively, claim (4) may be interpreted as expressing a generalized scepticism about whether anyone could genuinely be motivated by the desire to secure greater distributive justice – even though they may pointlessly 'complain to God or fortune about the injustice of their fate'.⁵³ In contrast with most other defenders of capitalism (such as Robert Nozick and Irving Kristol), Hayek's official position is that the distribution of benefits and burdens in a free society can be *explained* as the combined result of skill, industry and luck, but can never be *justified*. Thus, he systematically suspects the motives of those who appeal to impartial principles of social justice to which all could reasonably subscribe.

Now it is true that this motive is assumed to be widely operative by virtually all contemporary theorists of social justice in respect of the institutions that determine the distribution of the benefits and burdens of social cooperation. Rawls⁵⁴ assumes that 'each person beyond a certain age and possessed of the requisite intellectual capacity develops', under 'normal social circumstances', the extraordinarily complex moral capacity he calls the 'sense of justice'; Thomas Scanlon⁵⁵ remarks that 'the desire to be able to justify one's actions (and institutions) on grounds one takes to be acceptable is quite strong in most people. People are willing to go to considerable lengths, involving quite heavy sacrifices, in order to avoid admitting the unjustifiability of their actions and institutions.' Brian Barry⁵⁶ calls this 'the agreement motive': 'the desire to live in a society

whose members all freely accept its rules of justice and its major institutions'. Charles Larmore⁵⁷ assumes that such agreement may be achieved by citizens setting aside their differences and adopting a neutral stance. Jeremy Waldron⁵⁸ believes that liberals 'demand that the social order be capable of explaining itself at the tribunal of each person's understanding'. Jürgen Habermas maintains that in putting forward claims as just, we imply that they could command the unforced assent of all others affected, under ideal conditions. What is striking is that Hayek also accepts such reasoning when he declares himself to have no quarrel with Rawls's view that 'the principles of justice define the crucial constraints which institutions and joint activities must satisfy if persons engaging in them are to have no complaints against them'.⁵⁹

Hayek offers, as we have seen, two arguments for his claim (5), that realizing any kind of social justice is unfeasible. The first consists in the assertion of value incommensurability and the denial of a hierarchy of ends. But this assertion and denial are common ground, indeed the common starting point, of most contemporary theorists of justice and virtually all the liberals among them. Thus Rawls – and in particular the later Rawls of *Political Liberalism* – is specifically concerned to stress the idea of justice as publicly impartial or neutral among contending conceptions of the good: in his conception, just arrangements will not favour in advance any particular criterion for assessing 'the performance or the needs of different individuals or groups', nor will they rely on ordering these within the framework of any 'comprehensive' conception of the good. Of course, not all are in agreement with Rawls's solution, and some dispute the goal of neutrality or impartiality itself. But no one other than Hayek takes value incommensurability and value pluralism to subvert the very idea of social justice, and it is difficult to understand why one should.

The other argument for (5), that no political authority could have access to the knowledge needed to realize any form of just redistribution, is the one that is most obviously linked to Hayek's own major distinctive intellectual contribution. Whatever the final judgement about the value of this contribution, it has certainly shown that socialist and other theorists and practitioners of economic planning underestimated the epistemological significance of markets and vastly overestimated their capacities to bypass these. But to extend the argument against socialism to one against mixed economies is merely rhetorical.⁶⁰ For Hayek cannot show that governments or planning authorities are so radically ignorant of relevant information that their every attempt to modify the distribution of rewards

resulting from market processes must always be futile. For one thing, to show this would require that Hayek had access to the very knowledge (about the interactions of unintended consequences) that he declares to be inaccessible. For another, the argument assumes that implementing greater social justice can take only the form of a 'command economy', an assumption that leads us to his sixth and final claim.

Hayek explicitly states that "social justice" can only be given a meaning in a directed or "command" economy'.⁶¹ It involves governments singling 'out some people in ... a society as entitled to a particular share', subjecting 'the position of the different individuals and groups to their control'.⁶² The government would have 'to undertake to tell people what to do', so people would be subject to 'the commands of the directing authority', which, 'to achieve particular results for the individuals must be given essentially arbitrary powers to do what seems necessary to achieve the required result'.⁶³ In short, 'if "social justice" is to be brought about, the individuals must be required to obey not merely general rules but specific demands addressed to them only'.⁶⁴

Hayek contrasts this nightmare with what he claims to be the only alternative, namely, the 'rule of law', governed by the 'comprehensive formula that no coercion must be used except in the enforcement of a generic rule applicable to an unknown number of future instances'. This constraint on the rule of law means that it 'cannot produce a duty of the governments to bring about a particular state of affairs'.⁶⁵ As he understands it, the rule of law amounts to a presumption in favour of general rules and against discretionary power.⁶⁶ This is perhaps the key to Hayek's entire political philosophy: justice not as fairness but as the elimination of arbitrary coercion. Recall that Hayek's definition of liberty is 'the state in which a man is not subject to the arbitrary will of another or others'.⁶⁷ The 'constitution of liberty' is a regime of general, abstract rules equally applicable to all. Hayek makes the Kantian assumption that these formal rules will select out a narrowly limited range of laws that will be consented to by all those not blinded by partiality or prejudice. He also makes the Humean assumption that within this range, a system of rules can be selected that will best facilitate human purposes, and he believes that this system will turn out to be one that accords priority to the protection of liberty.⁶⁸

These assumptions, however, cannot be sustained. It is only under specially favourable, fair-weather conditions that liberty-protecting rules will also maximize utility. The formal requirements of generality, abstractness and equality of application are not sufficient to rule out illiberal

legislation (nor does Hayek's test of consent solve this problem: it is not difficult to think of cases where people will consent to oppressive legislation). Repressive, arbitrary laws can easily take an abstract and general form and be applied equally, as in the case of apartheid. For, as Samuel Brittan has remarked,

general rules must mention categories: traffic laws deal with motor cars, sales taxes make traders liable and so on. Once this is admitted, it is very difficult to see how rules can be prevented from singling out occupations or industries, nor is it necessarily always desirable that they should be prevented from so doing. But once we have gone along this road a supposedly general law may well pick out for especially severe treatment a group or even a single individual.⁶⁹

More importantly, Hayek has not shown that social or distributive justice *must* be arbitrary, involving 'specific directives' that single out 'different individuals and groups'. What Hayek legitimately objects to are attempts by governments and planning agencies to assess merit or desert or the 'value to society' of different occupations, and he rightly scorns the notion, dear to many ideologists of capitalism (such as Irving Kristol), that differential rewards under capitalism are deserved. But his argument goes far beyond this, seeking to discredit any public direction of the distribution of income and property beyond the provision of a bare social security minimum. What he altogether fails to show is that redistribution must involve arbitrary interference with individuals seeking 'to use their own knowledge for their own purposes'.

For redistributive policies can take the form of modifying the shape of an income or property distribution without any mention of merit or occupation, or any reference to specific groups or individuals, by using such policy instruments as taxes (positive and negative), social security payments, and the laws of property and inheritance. The effect of such devices is solely to compress the post-tax distribution of income and property, and thus implies no 'arbitrary interference'. Nor, second, is there any good reason to maintain that 'reassignment' policies, which seek to change people's position within existing income and wealth scales, must have such an implication. To call such policies 'arbitrary' is simply to declare a predisposition against all 'targeted' policies for no better reason than that any target must be selected according to some criterion (and would thus be a step on the slippery slope towards the completely arbitrary criteria of a totalitarian system). Indeed, Hayek himself suggests an appropriate, if very general, criterion for the targeting of redistributive

policies, namely, improving the circumstances that render people unable 'to use their own knowledge for their own purposes'. Yet Hayek nowhere addresses the crucial question of the extent to which both kinds of redistributive policies may be necessary in order to render acceptable – that is, to legitimate, on grounds of social justice – the persistent and growing inequalities of resources and opportunities that are everywhere inherent in market economies.

We can only conclude that Hayek's celebrated and apparently influential argument does not establish that the very idea of social justice is meaningless, religious, self-contradictory and ideological; or that realizing any degree of social justice is unfeasible; or that aiming to do so must destroy all liberty. Social justice has not yet been shown to be a mirage. The Hayekian challenge to the modern liberal state must lie elsewhere if it is to convince.

Notes

1. Friedrich A. Hayek, *Law, Legislation, and Liberty*, Vol. 2: *The Mirage of Social Justice*. Chicago: University of Chicago Press, 1976, pp. 65, 66–7.
2. *Ibid.*, p. 68.
3. *Ibid.*, pp. xi–xii.
4. *Ibid.*, pp. 64, 96.
5. *Ibid.*
6. As when she famously remarked that 'there is no such thing as "society"'.
7. Hayek, *The Mirage of Social Justice*, p. 105.
8. *Ibid.*, p. 11.
9. *Ibid.*, p. 78.
10. *Ibid.*, p. 67.
11. *Ibid.*, p. 96.
12. *Ibid.*
13. *Ibid.*, p. 70.
14. *Ibid.*, p. 69.
15. *Ibid.*, p. 66.
16. *Ibid.*, p. 63.
17. *Ibid.*, p. 88.
18. *Ibid.*, p. 70.
19. *Ibid.*
20. *Ibid.*, 67, 93.
21. *Ibid.*, p. 64.
22. *Ibid.*, p. 70.

23. Ibid., pp. 62–3.
24. Ibid., p. 69.
25. Ibid., p. 68.
26. Ibid., p. 72.
27. Ibid., p. 69.
28. Ibid., p. 103.
29. Ibid., p. 102.
30. Ibid., p. xii.
31. Ibid., p. 65.
32. Ibid., p. 67.
33. Ibid., p. 90.
34. Ibid., p. 97.
35. Ibid., p. 37.
36. Ibid., p. 76.
37. Ibid., p. 79.
38. Ibid., p. 68.
39. Ibid.
40. Ibid., p. 81.
41. Ibid., p. 76.
42. Gilbert Ryle, *The Concept of Mind*, London: Hutchinson, 1949, p. 17.
43. 'By "stipulative" word-thing definition . . . I mean the explicit and self-conscious setting up of the meaning-relation between some word and some object, the act of assigning an object to a name (or a name to an object), not the act of recording an already existing assignment' (Richard Robinson, *Definition*, Oxford: Clarendon Press, 1954).
44. Friedrich A. Hayek *The Counter-Revolution of Science*, Glencoe, Ill.: Free Press, 1952.
45. Friedrich A. Hayek, *The Fatal Conceit: The Errors of Socialism*, ed. W.W. Bartley, III. London: Routledge, 1988, p. 136.
46. Ibid., p. 137.
47. Steven Lukes, 'On Trade-Offs between Values', in Francesco Farina, Frank Hahn and Stefano Vennuci, eds, *Ethics, Rationality and Economic Behaviour*, Oxford: Clarendon Press, 1996 and chapter 5 of the present volume.
48. Judith Shklar, *The Faces of Injustice*, New Haven: Yale University Press, 1990, p. 81.
49. Hayek, *The Mirage of Social Justice*, p. 87.
50. Émile Durkheim, *The Division of Labor in Society*, trans. W.D. Halls, London: Macmillan, [1893] 1984.
51. The version of utilitarianism that Hayek espouses is that which maximizes average expectations: thus, 'the good Society is one in which the chances of anyone selected at random are likely to be as great as possible' (Hayek, *The Mirage of Social Justice*, p. 132). This is the principle that Rawls considered to be one of the main rivals to his own.
52. Ibid., pp. 63, 64–5, 72.
53. Ibid., p. 81.
54. John Rawls, *A Theory of Justice*, Oxford: Clarendon Press, 1972, p. 46.
55. Thomas Scanlon, 'Contractualism and Utilitarianism', in Amartya Sen and Bernard

- Williams, eds, *Utilitarianism and Beyond*, Cambridge: Cambridge University Press, 1982, p. 117.
56. Brian Barry, *A Treatise on Social Justice*, Vol. 2: *Justice as Impartiality*, Oxford: Clarendon Press, 1995, p. 164.
57. Charles Larmore, *Patterns of Moral Complexity*, Cambridge: Cambridge University Press, 1987.
58. Jeremy Waldron, *Liberal Rights*, Cambridge: Cambridge University Press, 1993, p. 61.
59. John Rawls, 'Constitutional Liberty and the Concept of Justice', in C.J. Friedrich and John Chapman, eds, *Nomos IV: Justice*, 1963, p. 102, quoted in Hayek, *The Mirage of Social Justice*, p. 100. Later, Hayek seems to have changed his mind about Rawls; see Hayek, *The Fatal Conceit*, p. 74.
60. See Albert Hirschman, *The Rhetoric of Reaction: Perversity, Futility, Jeopardy*, Cambridge, Mass.: Harvard University Press, 1991.
61. Hayek, *The Mirage of Social Justice*, p. 69.
62. Ibid., pp. 65, 68.
63. Ibid., pp. 86, 82, 83.
64. Ibid., p. 85.
65. Ibid., p. 102.
66. Cf. Samuel Brittan, *The Role and Limits of Government: Essays in Political Economy*, London: Temple Smith, 1983, p. 63.
67. Friedrich Hayek, *The Constitution of Liberty*, London: Routledge and Kegan Paul, 1960, p. 11.
68. Cf. John Gray 'Hayek on Liberty, Rights and Justice', in idem, *Liberalisms: Essays in Political Philosophy*, London: Routledge, 1989.
69. Brittan, *The Role and Limits of Government*, p. 64.