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by

Antony Flew

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Antony Flew is Professor Emeritus of Philosophy at the University of Reading. He has contributed countless articles to both philosophical and political journals, and his many books include *An Introduction to Western Philosophy*, *Hume's Philosophy of Belief*, *Crime or Disease*, *A Rational Animal?*, *God and Philosophy*, *Sociology, Equality and Education*, *Thinking About Thinking*, *Thinking About Social Thinking*, *The Politics of Procrustes*, and *Equality in Liberty and Justice*.

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FOR LIFE, LIBERTY AND PROPERTY

'SOCIAL JUSTICE' ISN'T ANY KIND OF JUSTICE

ANTONY FLEW

For if I do not know what justice is I am scarcely likely to find out whether it is an excellence, and whether its possessor is happy or not happy.

Plato: *The Republic*, 354C.

In the Preface to *The Mirage of Social Justice*, the second volume of his trilogy on *Law, Legislation and Liberty*, F. A. Hayek explained that "circumstances have contributed to delay the publication of the second volume of this work."¹ The chief circumstance was "dissatisfaction with the original version of the central chapter ... in which I had tried to show for a large number of instances that what was claimed as demanded by 'social justice' could not be justice ..." Hayek was dissatisfied because he had now become convinced "that the people who habitually employ the phrase simply do not know themselves what they mean by it, and just use it as an assertion that a claim is justified without giving a reason for it."²

1.

I propose to challenge that latest conclusion, and to argue that it was his earlier contribution which is correct. Certainly many politicians, both professional and amateur, do nowadays employ 'social justice' as a virtually vacuous expression of commendation. These people, more or less regardless of the actual direction and intentions of whatever policies they may from time to time be advocating, will commend these for promoting social justice—as well, no doubt, as both motherhood and apple pie!

But there are also, much more importantly, others for whom social justice is closely associated if not identified with a kind of equality.³ They see it as mandating all manner of programmes for employing the power of the state to realize an ever closer approach to their personal ideal of equality of outcome; programmes which effect transfers of wealth and income from the better off to the worse off, either directly through the provision of cash handouts to the latter or less directly through the maintenance of universal state services free at the point of receipt.

When, for instance, in the year before the publication of *The Mirage of Social Justice*, Section F of the British Association for the Advancement of Science devoted its annual meeting to the topic of 'Economics and Equality', all concerned construed 'equality' to be, in this context at any rate, synonymous with 'justice'. Thus the Editor of the resulting volume of

papers observes in his Preface, as "a given fact of life", that "Inequality of all sorts has lost its legitimacy."⁴ One representative contributor begins his article: "Economic equality, with which this section is concerned this year, is one aspect of a wider theme of social justice."⁵ Again, in a Fabian Society review of the 1974-9 administrations in the UK, the Editorial Preface proclaims "that the Labour Party can and should light a flame in a world of injustice and inequality." Contributor after contributor speaks of "socialist canons of equality and social justice" and of "a more socially just and equal society."⁶ One goes so far as to assert—without attempting to explain either what this might mean or why we should accept it as true—that, in particular, "racial equality requires a society which is equal in all respects."⁷

2.

I do not propose here to challenge the adoption of equality of outcome as a personal ideal, although I will say in passing that it appears paradoxical and bizarre to be concerned about relativities rather than, and perhaps even at the expense of, absolutes, to deplore, for instance, not, or not so much, ill health and poverty as *inequalities* in health and *inequalities* in wealth.⁸ And I would insist that "guarantee-ing a minimum standard of life to the poorest ... is ... not the least important duty of the state."⁹ My objection is to the identification of inequality with injustice, and to the assumption that extensive, state enforced, equalizing transfers of wealth and income from the better off to the worse off are mandated by justice. In so far as any such transfers are shown to be justified they are not thereby and necessarily shown to be so mandated: to be justified is not necessarily—borrowing Frankena's useful coinage—to be justicized.

Come now, someone may object, did not Aristotle himself write: "If then the unjust is the unequal, the just is the equal—a view that commends itself to all without proof ..."?¹⁰ Yes indeed, Aristotle hath certainly said it. But he went on at once to argue that "if the persons are not equal they will not have equal shares".¹¹ So his actual conclusion was not a substantial practical prescription but a purely formal principle. It is not that equal shares for all is the imperative of justice. Rather it is that the rules of justice, like all rules, require, not that all cases, but only that all relevantly like cases, should be treated alike. A system of criminal justice requiring that convicted criminals should be treated in all respects in the same

way as those judged innocent of any crime would—as Kant might have said had he ever been confronted with a suggestion so absurd—contradict itself.

So what is justice? Among those who have asked themselves this question there seems, at least in the more distant past, to have been little disagreement. The central, crucial element in their definitions has always been what Plato scripted Polemarchus to offer as his first suggestion: “to render to each their due”,¹² a phrase later rendered into Latin as *suum cuique tribuere*. Ulpian prefaced this with two further clauses, making his own definition run: *Honeste vivere, neminem laedere, suum cuique tribuere* [To live honestly, to injure no one, and to render to each their own.] The *Institutes* of Justinian proclaim that the mark of a just person is a constant and perpetual resolve to render to each *suum jus*.

That last key expression is surely to be construed as referring to their several and presumably—as in the cases of the criminals and the innocents—often very different deserts and entitlements. (Perhaps we need here to distinguish between the concept and conceptions of justice. For although there has apparently been little disagreement about the concept of justice there have of course been rival conceptions both of what people’s moral and legal deserts and entitlements are and of how these are properly to be determined.)

3.

Among those who have ignored the warning which Plato scripted Socrates to utter in the final sentence of Book I of *The Republic*, is the author of that massive and vastly influential book *A Theory of Justice*.¹³ For he never finds room to quote, much less to examine, either any variant of the traditional definition or any preferred alternative. Indeed it is only on his five hundred and seventy ninth page that he thinks to explain, but with no suggestion of apology, that he was eager “to leave questions of meaning and definition aside and get on with the task of developing a substantive theory of justice.”

In truth the title chosen for the book is misleadingly comprehensive. For, at the very beginning, Rawls explains that he does not in fact propose to treat justice in general but only what he assumes to be one most important subsort: “Our topic is that of social justice. For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions ... determine the division of advantages from social cooperation.”¹⁴ Failing to make, much less to insist upon, the categorical distinction between actively intended and passively observed distributions, Rawls proceeds at once to rule that “The justice of a social scheme depends upon how rights and duties are assigned”.¹⁵

Later, after expounding his ‘Two Principles of Justice’, he explains that these “are a special case of a more general conception of justice”, epitomized in the prescription that “All social values—liberty and opportunity, income and wealth ...—*are to be distributed equally* unless an unequal distribution of any, or all, ... is to everyone’s advantage.”¹⁶ And “For simplicity” we are required to “assume that the chief primary goods *at the disposition of society* are rights and liberties, powers and opportunities, income and wealth.”¹⁷

That would indeed constitute an appropriate assumption for extreme collectivists labouring to discover the proper pattern for the centrally planned and enforced distribution of all such goods, in their ideal socialist state. But for someone who is supposed to be asking whether and how far actual (passively observed) distributions are just and, where and in so far as they are not, what state-enforced (re)distributive transfers are or would be mandated by justice, that assumption is altogether unwarranted and totally misleading. For it precisely is the assumption that all those listed “chief primary goods” already are “at the disposition of society”; that is to say that they are freely available now for redistribution at the absolute discretion of some supreme authority, altogether unhampered by any morally legitimate prior claims to possession.

But that is simply not the case in any existing society. Always there are many legally and, at least on the face of it, also morally legitimate claims to individual possession. So before anyone has any business to claim that state enforced transfers of income and property, from sets of richer Peters to sets of poorer Paulas, are mandated by (a kind of) justice, they must first contrive not only to discredit the prior claims of the richer Peters but also not just to justify but to justify those of the poorer Paulas. To support claims that compulsory transfers of wealth or of income are mandated by justice it is not sufficient, or even relevant, to urge that the present receivers of that income or holders of that wealth are people who, in an ideal world, would not be receiving or holding so much. We can all of us, surely, think of many outstanding examples? (My own personal favourites are drawn from among the pop stars whom by their purchases of records and concert tickets everyone’s teenage sons and daughters insist upon voting into riches.) But what would perhaps be true of some ideal world is simply irrelevant to questions about what, in the actual world, justice does or would require.

4.

Failing to heed Plato’s warning of the need to pursue such enquiries armed with a knowledge of what justice is, and failing too to distinguish actively intended from passively observed distributions, Rawls proceeds—without question and, it would seem, unwittingly—simply to assume that all those “chief primary

goods", whose (socially) just (re)distribution to individuals he has undertaken to investigate, begin as the collectively owned common property of his hypothetical social contractors. For if they are not, then by what right is this contracting collective deciding to redistribute those goods—and exclusively among themselves, at that?

We should perhaps be surprised to see so sophisticated a writer making, yet seemingly unaware of making, that fundamental socialist assumption. What certainly ought to astonish us is that a self-conscious socialist can characterize the Book of Rawls as presenting a *liberal* theory of justice.¹⁸ It is, however, not merely surprising but scandalous that so many of his successors—despite and without any attempt to overcome the radical objections of Nozick and others—have persisted with the assumption that, at least in this speculative context, all the wealth and income arising in a society can appropriately be treated as a collective windfall gain.

Bruce Ackerman, for instance, explicitly in order to justify "an egalitarian decision rule",²⁰ sets up what, with a nod towards the Putney Debates of Parliament's New Model Army, we might call the Spaceship Debates. In this swinging, hi-tech updating of Rawls the hypothetical debates of the hypothetical contracting parties take place in a spaceship approaching a planet endowed with a unique economic resource. In direct and deliberate defiance of Nozick's objections Ackerman labels this wonder substance "manna, which can be transformed into any of the familiar objects of our own world."²¹ It is, you might say, not Manna-from-Heaven but Manna-in-the-Heavens. "Finally", to no one's surprise, "the Commander ... takes the floor to announce that every adult citizen will, on landing, be awarded an equal share of manna."²²

Yes, in the circumstances as stipulated no doubt that would be fair enough. But where is the crucial resemblance between the circumstances of the Spaceship Debaters and those of the actual world in which most people are receiving most of their in many cases extremely unequal incomes for fulfilling contracts of service; a paradigm case, surely, of both morally and legally just acquisition? Whatever wealth most people possess—and, once again, present holdings are notoriously unequal—has also been derived either from their own earlier earnings or else from legacies—posthumous gifts of wealth which must, typically, have been first acquired in similar ways.

Since there is today a tendency to identify social with distributive justice,²³ and to proceed to assume that everything is available for just (re)distribution, it is well to point out that Aristotle, who so far as we know was the first to introduce the expression 'distributive justice', made no such assumption. He

defined it to refer to the kind which "is exercised in distributions of honour or of wealth or of anything else which is to be divided among those who have a share in the constitution."²⁴ He then proceeded: first, to entertain the oligarchic suggestion that the relevant criterion of entitlement might be the possession of wealth, and then to conclude that this "justice in distributing common property ... when a distribution is made from the common stock ... will follow the same ratio as that between the amounts which the several persons have contributed to the common stock."²⁵ The common stocks from which these distributions are to be made clearly cannot be the only stocks there are. Throughout, therefore, Aristotle is presupposing the subsistence of private holdings, holdings which presumably did not all result from previous public distributions.

5.

In addition to the fundamental socialist assumption already brought out and examined, some audacious and explicit assertions in *A Theory of Justice* make it difficult to comprehend claims that in, anything like the classical understanding of that much abused term, Rawls is a liberal.²⁶ For instance: although it is usually considered that 'The Veil of Ignorance' is drawn in order to secure impartiality, which makes the whole exercise of comprehensive blinkering a dramatization of the colourless Humean appeal to the impartial spectator, the stated primary purpose is quite different, and altogether preposterous. Thus, in explaining 'The Main Idea of the Theory', Rawls asserts that "Once we decide to look for a conception of justice that nullifies the accidents of natural endowment and the contingencies of social circumstance as counters in the quest for political and economic advantage, we are led to these principles. *They express the result of leaving aside those aspects of the social world that seem arbitrary from a moral point of view.*"²⁷

The preposterousness is to present this as a first and necessary step towards developing a conception of, in particular, justice. Certainly, if all possible grounds for any differences in deserts and entitlements are thus to be dismissed as morally irrelevant, then indeed—always allowing that anyone is still to deserve or to be entitled to anything at all—it does become obvious that everyone's deserts and entitlements must be equal. Yet it is precisely and only upon what individuals severally and individually are, and have done or failed to do, that all their several and surely often very unequal particular deserts and entitlements cannot but be based. It is, therefore, bizarre so superciliously to dismiss all this as irrelevant: as merely "the accidents of natural endowment and the contingencies of social circumstance."

Of course Rawls does not himself want to allow that anyone truly either deserves or is entitled to anything at all. If he were right about this, then it would of course imply that there can be no application for the concept of justice. That “the accidents of natural endowment and the contingencies of social circumstance” are indeed “arbitrary from a moral point of view” Rawls argues on two grounds: first, that these natural endowments are not themselves deserved; and, second, that, in consequence, what they make possible cannot be either itself deserved or a proper basis of desert. The more fundamental notion that anyone might be entitled, or have a moral right, to anything which they had neither earned nor deserved is not entertained at all. As Rawls sees it, the crux is that “the natural distribution of abilities and talents” is the (morally arbitrary) outcome of a “natural lottery”; a conception which surely collapses when pressed by the question ‘Who are the individuals to whom diverse collections of genes are thus actively distributed?’ Furthermore, Rawls continues, “Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances.”²⁸

6.

Notice that Rawls is not saying, what no one should dispute, that natural endowments are neither deserved nor undeserved; and hence that, since neither of these two contrasting notions applies, we need an Aristotle-type three term distinction between deserved (good), undeserved (bad) and not-deserved (neutral). Excellent examples of such not-deserved entitlements are provided by the option rights proclaimed as self-evident in the American Declaration of Independence.²⁹ Further and perhaps even less controversial examples are provided by everyone’s rights to his or her own bodily parts.³⁰ (*Ad hominem* the most compelling example is the assumption of total collective ownership discussed in Section 4, above.) But since the possibility of not-deserved entitlements appears never to have occurred to Rawls he makes a much stronger claim, carrying an important practical implication. It is, he insists, a matter of principle, the principle of redress, “that undeserved inequalities call for redress; and since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for.”³¹

So he takes it from there: “We see then that the difference principle represents, in effect, 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. Those who have been favored by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out.”³² Or, in other words, “The two principles are equivalent ... to an undertaking to regard the distribution of natural abil-

ities as a collective asset, so that the more fortunate are to benefit *only* in ways that help those who have lost out.”³³

Earlier I argued that it is “altogether preposterous” to set out to develop what is supposed to be a conception of justice but which nevertheless dismisses “all possible grounds for any differences in deserts and entitlements” as “arbitrary from a moral point of view”; and hence, presumably, as irrelevant to questions of justice. If we accept the contention that everyone’s natural abilities are to be treated as a collective asset, then we must surely, by parity of reasoning, accept that all other individual characteristics too are similarly at the disposal of the collective. The claims of every individual to all his or her own individuating characteristics are by this wholesale and total collectivization radically delegitimated. Rawls is thus expecting the citizens of his (socially) just state to become—at least “from a moral point of view”—indistinguishable.

This is a conclusion which sits comfortably with the suggestion of environmental determinism in “deserving in the ordinary sense is itself dependent on happy family and social circumstances”, but awkwardly with “the priority of liberty”. For it has been well said that “If individual diversity were not the universal rule, then the argument for liberty would be weak indeed. For if individuals were as interchangeable as ants, why should anyone worry about maximising the opportunity for every person to develop ... to the fullest extent possible.”³⁴

7.

It is time to consider further implications and apparent inconsistencies. From the beginning Rawls makes plain that he wants his conception of ‘justice as fairness’ to be assessed as an alternative to utilitarianism. He urges that the fatal weakness of any utilitarianism is that it must concentrate on the maximisation of the total of whatever it takes to be good, attending to questions of who gets what only in so far as they happen to bear on that maximisation. Rawls complains, and it is fair comment: “Utilitarianism does not take seriously the distinction between persons.”³⁵ He is also much concerned with the importance of self-respect: “On several occasions I have mentioned that perhaps the most important primary good is self-respect.”³⁶ Again, I am myself not merely content but eager to concur.

But then it has at once to be objected that it is grotesque for this criticism to be put, and for this stand to be taken, by someone who is at the same time summoning us both “to regard the distribution of natural abilities as a collective asset” and to dismiss “the accidents of natural endowment and the contingencies of social circumstance” as irrelevant and arbitrary “from a moral point of view”. For these two summonses

carry, surely, two implications. First, we are indeed "from a moral point of view" and in the present context "as interchangeable as ants". Second, and consequently, nothing which could distinguish any one individual from any other—including even their own conduct—is truly either part of them or theirs. So where is anyone to find any true and relevant basis for self-respect?

In one vital way this last concept resembles those of deserts, rights, and entitlements: self-respect, deserts, rights, and entitlements all have to be grounded in facts about the persons who possess them? (Or perhaps, in the case of self-respect one should say facts or imagined facts?) But the atoms of a Rawlsian society seeking grounds for self-respect could be allowed to refer only to those characteristics which all persons—or, at most, all persons in their particular society—have in common. In a sense, doubtless different from that of the young Marx, they would thus be, at least "from a moral point of view", members of a sort of unindividutable 'species beings'. In their programmed refusal to admit the relevance of the pasts of those to whom (social) justice is to be done, the hypothetical social contractors of Rawls expose themselves to objections expressed by Hume with entertaining vigour in his essay 'Of the Original Contract':

Did one generation of men go off the stage at once, and another succeed, as is the case with silk-worms and butterflies, the new race, if they had sense enough to choose their government, as surely is never the case with men, might voluntarily, and by general consent, establish their own form of civil polity, without regard to...their ancestors. But as human society is in perpetual flux, one man every hour going out of the world, another coming into it, it is necessary... that the new brood should conform themselves ...³⁷

8.

Previous sections have shown that the Rawlsian account of social justice, which was from its first publication hailed as and seemingly still remains the best available,³⁸ is not an account of any kind of justice. Those same sections have also shown it to be an account which not only makes unwarranted and perhaps unwarrantable assumptions, but also embraces principles which carry various awkward and unacceptable implications. It is important to insist that those compulsory transfers of wealth or income from the better off to the worse off which are supposedly mandated by 'social' justice cannot be made out to be demanded by justice until and unless it can be shown both that the losers are not and that the gainers are entitled to what is thus (to be) transferred. Precisely this is what would be shown by establishing that the "first principle of justice" is indeed "one requiring an equal distribution". The point of challenging the assumptions

and the other principles which Rawls found it necessary to make and to adopt in his attempt to vindicate that outcome egalitarian "first principle of justice" was of course to strengthen the argument for the paper's main contention.

At this point if not much earlier someone might, I suppose, object that all my insisting upon and drawing out the implications of the traditional definition of 'justice' is so much verbal trifling. They might want me, to coin a phrase, "to leave questions of meaning and definition aside and to get on with the task of developing a substantive theory", if not of dull, old, unfashionable justice, then of swinging, trendy, with-it, 'social' justice. But to anyone who persists in describing as just the implementation of a favoured project which cannot be correctly so characterized, the proper response is to ask why, if the application of one word rather than another is really a matter of no importance, they remain resolved to employ the term 'justice' instead of some new-minted alternative. The reason is, of course, that our protestors propose to continue behaving as if, when employed in another sense, the word 'justice' would carry the true logical implications of its former employment.

Certainly the traditional concept of justice is, in a sense, backward looking. That is why, for instance, the *Shane* figures in good, old-original, American Westerns, or *The Four Just Men* of England's Edward Wallace, cannot begin to do their justice without some preparatory research into the life stories of all the various persons concerned, and into their several and consequent deserts and entitlements.

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The newer ideal of equality of outcome, equality of welfare, is by contrast essentially forward-looking. It commits its proponents to disregarding the past as irrelevant: their ideal future is to be very different and much more, if never perhaps perfectly, equal. That is why anyone attempting systematically to justify the currently common identification of the imposition of this Procrustean ideal with the enforcement of a kind of justice faces a formidable, perhaps impossible task. It would be so much easier, if only they could bring themselves to resign the enormous propaganda advantages of that identification, to present their own fresh and future-oriented ideal neither as, nor as a part of, but rather as a rival to justice—the pursuit of which they should therefore see and condemn as reactionary, backward-looking, irrelevant, unsociological, even gothic.

This is, after all, how the most scientifically-minded and future-oriented reformers to present parallel proposals for replacing criminal justice by orthopsychiatry. Karl Menninger, for instance, who was for years the recognised doyen of that discipline, had no backward-looking scruples, and no inhibitions against projecting what to dissident diehards will appear an unlovely image: "The very word 'justice' irritates

scientists. No surgeon expects to be asked whether an operation for cancer is just or not. No doctor will be reproached on the grounds that the dose of penicillin he has prescribed is less or more than justice would stipulate. Behavioural scientists regard it as equally absurd to invoke the question of justice. ... This (to the scientist) is a matter of public safety and amicable coexistence, not justice.”³⁹

9.

So what are the attractions of describing a political programme as one for promoting a kind of justice? In the first place it enables the promoters of that programme to see themselves, and hopefully to be seen by others, as occupying the moral high ground. They can thus, albeit in a humdrum way, realize their Walter Mitty fantasies of riding and shooting with Shane or teaming up with the four just men.

The second powerful attraction, leading people to apply the term ‘justice’ illegitimately, is that this usurpation provides the usurpers with a ready-made, knock-down answer to what might otherwise be an embarrassing question: ‘By what right are you proposing to deploy the forceful machinery of the state in order to impose on everyone—or, sometimes, it appears to be only on almost everyone else—your own personal and private vision of an ideal society?’ But justice is precisely not that kind of purely individual ideal. Everyone has to allow that what is prescribed by (moral) justice may properly, though not always prudently, be enforced by (legal) law.

The reason is simple and sufficient. If anyone is justly entitled to something presently in my possession then it is obvious that they have a (moral) right to repossess it and I a corresponding (moral) duty to yield it up: and, if I fail or refuse to do so, then certainly I have no standing ground against officials intervening in order to force my compliance in the name of justice. That is why, in his other masterpiece Adam Smith wrote: “Mere justice is, upon most occasions, but a negative virtue, and only hinders us from hurting our neighbour. The man who barely abstains from violating either the person, or the estate, or the reputation of his neighbours, has, surely, little positive merit. He fulfils, however, all the rules of what is peculiarly called justice, and does everything which his equals can with propriety force him to do, or which they can punish him for not doing.”⁴⁰ J. S. Mill concurred: “When we think a person is bound in justice to do a thing, it is an ordinary form of language to say that he ought to be compelled to do it.”⁴¹

But, finally, there is an all too rarely noticed, super-sharp, sting in the tail. For all the most prominent Procrustean of my own acquaintance are, they should say, rather conspicuously underdeprived. If they were prepared to put their doctrine forward only as a remote and purely personal ideal, then we might per-

haps find some reasons to allow that they can in the meantime, consistently and with clear consciences, continue to enjoy their privileged excesses. But if, as is in fact usually the case, they choose to identify Procrusteanism with (social) justice, and if they therefore also both arrogate to themselves a *Shane* image and denounce opponents as enemies of justice; then it becomes imperative to point out—and this is, remember, precisely and only on their own account of the matter—that everyone who is at this time holding anything above their duly equalized share must necessarily be in possession of stolen property; and, most shameful of all, property stolen from others worse off than themselves.⁴²

Once the presence of this sting in the tail is more widely appreciated, we may expect to hear much less about equality of outcome as the supposedly obvious and imperative mandate of (social) justice, as well as far fewer preposterous denunciations of anti-Procrustans as by their cloth committed enemies of without prefix or suffix justice. Which would be a considerable and very welcome relief to those of us who have suffered much verbal abuse from our pretended moral superiors among the Procrustans.

NOTES

1. (London: Routledge and Kegan Paul, 1976), p. xi.
2. Ibid., p. xi.
3. Of course there are radically different ideals of equality. Compare, for instance, Antony Flew *The Politics of Procrustes: Contradictions of Enforced Equality* (London, and Buffalo: Temple Smith, and Prometheus, 1981), Chapter II.
4. Aubrey Jones (Ed.) *Economics and Equality* (Oxford: Philip Allan, 1976), p. 2.
5. Ibid., p. 87.
6. Nick Bosanquet and Peter Townsend (Eds.) *Labour and Equality* (London: Heinemann, 1980), pp. 131 and 228; and compare pp. 61 and 227.
7. Ibid., p. 151.
8. But compare Flew 1981, Section 1 of Chapter II.
9. The quotation is drawn from a 1980 manifesto of the classically liberal Selsdon Group within the Conservative Party.
10. *Nicomachean Ethics*, 1131A 12-4.
11. Ibid., 1131A 23-4.
12. *The Republic*, 331E.
13. John Rawls *A Theory of Justice* (Cambridge, MA and Oxford: Harvard UP, and Clarendon, 1971 and 1972. In a Critical Notice published in two parts in *The Philosophical Quarterly* for 1973, Professor R. M. Hare wrote:

There is in fact a vast hole in his 600-page book which should be occupied by a thorough account of the meanings of these words, which is the only thing which can establish the logical rules which govern moral argument. If we do not have such an account, we shall never be able to distinguish between what we have to avoid saying if we are not to contradict ourselves or commit other logical errors, and what we have to avoid saying if we are to agree with Rawls and his coterie.
14. Rawls 1971, p. 7. There is, therefore, a remarkable similarity of actual topic between *A Theory of Justice* and *The Republic*, although Plato's extremely inequalitarian conclusions are diametrically different from those of Rawls, and although unlike Rawls Plato does attempt to show that his eventual definition captures the ordinary meaning of 'justice'.
15. Rawls 1971, p. 7: emphasis added.
16. Ibid., p. 62: emphasis added. Mysteries remain: both why the expression "to everyone's advantage" was originally described as ambiguous (Ibid., p. 61); and why it is eventually construed as equivalent to "to the advantage of the least advantaged group".
17. Ibid., p. 62: emphasis added.
18. Brian Barry *The Liberal Theory of Justice* (Oxford: OUP, 1973).
19. Robert Nozick *Anarchy, State and Utopia* (New York, and Oxford: Basic, and Blackwell, 1974).
20. *Social Justice in the Liberal State* (New Haven, CT, and London: Yale UP, 1980), p. 66.
21. Ibid., p. 24.
22. Ibid., p. 168.
23. I have been told by one of the revisors of the big *Oxford English Dictionary* that the first occurrence of the expression 'social justice' known to them is in Chapter V of *Utilitarianism* (1861) where Mill speaks of "the highest standard of social and distributive justice". But James Schall *Religion, Wealth and Poverty* (Vancouver BC: The Fraser Institute, 1989) quotes Ernest Fortin on an earlier employment in Italian: "We should all have been spared a good deal of muddle-headedness if Taparelli, who coined the expression in the 1840s, had bothered to tell us what he meant by it" (p. 131).
24. *Nicomachean Ethics*, 1130B 31-3.
25. Ibid., 1134A 25-9 and 1131B 28-33; and, for some of the illustrations which Aristotle might have provided but did not, compare Flew 1981, Section 1 of Chapter III.
26. Compare J. Schumpeter *History of Economic Analysis* (New York: OUP, 1954): "As a supreme if unintended compliment, the enemies of the system of private enterprise have thought it wise to appropriate its label" (p. 394).
27. Rawls 1971, p. 15: emphasis added.
28. Ibid., p. 74.
29. At page 60 of Rawls 1971 what is elsewhere labelled "the priority of liberty" is stipulated as the (first) principle that "each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others". So Rawls, clearly recognizing some not-deserved entitlements, apparently fails to recognize them under that description.
30. Compare Nozick 1974: "An application of the principle of maximizing the position of those worst off might well involve forceable redistribution of bodily parts ... or killing some people early to use their bodies ... to save the lives of those who otherwise would die young" (p. 206).
31. Rawls 1971, p. 100.
32. Ibid., p. 101.
33. Ibid., p. 179: emphasis and a comma supplied. This radically collectivist, dog-in-the-manger manifesto is one of many passages which make it impossible to believe that it was a study of *A Theory of Justice* rather than of earlier works by Rawls which led Hayek to write: "the differences between us seemed more verbal than substantial" (1976, pp. xii-xiii).
34. Murray Rothbard *Egalitarianism as a Revolt against Nature* (Washington, DC: Libertarian Review, 1974), pp. x-xi. Compare, for instance, Antony Flew 'Freedom and Human Nature', in *Philosophy* for 1991, pp. 53-63.
35. Rawls 1971, p. 27.
36. Ibid., p. 440.
37. Eugene Miller (Ed.) *David Hume: Essays Moral, Political and Literary* (Indianapolis, IN: Liberty, 1985), p. 476.
38. For instance: in the *New York Review of Books* (1972, Issue 3) the lifelong socialist Stuart Hampshire wrote:

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

It presents, Hampshire continued,

a noble, coherent, highly abstract picture of the fair society, as social democrats see it. ... This is certainly the model of social justice that has governed the advocacy of R. H. Tawney and Richard Titmuss and that holds the Labour Party together.
39. *The Crime of Punishment* (New York: Viking, 1968), p. 17.
40. *The Theory of Moral Sentiments*, II (ii) 1.
41. *Utilitarianism*, Chapter V.
42. For an abundance of examples of such identifications, arrogations and denunciations, compare Flew 1981, Chapter V.