The Quest for Cosmic Justice

Thomas Sowell

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Preface

General principles, such as "justice" or "equality," are often passionately invoked in the course of arguing about the issues of the day, but such terms usually go undefined and unexamined. Often much more could be gained by scrutinizing what we ourselves mean by such notions than by trying to convince or overwhelm others. If we understood what we were really saying, in many cases we might not say it or, if we did, we might have a better chance of making our reasons understood by those who disagree with us.

The heady rush of rhetoric and visions are the stuff of everyday politics and everyday media discussion. That makes it all the more important that, at some point, we step back and examine what it all means underneath the froth or glitter. This book is an attempt to do that.

The ideas discussed here took shape over a long period of time. The title essay evolved out of a paper I gave in St. Gallen, Switzerland, in 1982 on "Trade-Offs and Social Justice." By 1984, it was recast and elaborated at great length in another paper called "Social Justice Reconsidered," which was circulated to various people around the country, including Milton Friedman and Mancur Olson. Professor Friedman's typically incisive criticisms were followed by the opinion that "it is well

worth the effort required to put it in shape." Professor Olson's comments were likewise critical and perhaps not quite as encouraging. I too understood the difficulties of that draft, which was academic and radically different in form from what appears in this book.

Over the years, "Social Justice Reconsidered" evolved into "The Quest for Cosmic Justice," completely recast yet again, but still not finished a decade later. Nor was it certain that it ever would be finished, given the various other projects I was involved in. However, in the spring of 1996, some particularly sophomoric remarks by one of my Stanford colleagues not only provoked my anger but also convinced me that there was a real need to untangle the kind of confusions that could lead any sensible adult to say the things he had said—and which all too many other people were saying. I went home and immediately resumed work on the essay on cosmic justice, writing it now for the general public, rather than for an academic audience.

By the autumn of 1996, the new version was completed and I presented "The Quest for Cosmic Justice" as a lecture in New Zealand. Much to my pleasant surprise, large excerpts from it were published in the country's leading newspapers. This press coverage, as well as the enthusiastic reception of the talk by a non-academic audience, convinced me that this was something that the general public would understand—perhaps more readily than some academics who are locked into the intellectual fashions of the day.

The other essays in this book also evolved over a period of years and within a similar framework of thought that now gives them a collective coherence, even though they were written to

stand alone individually. The central ideas in "Visions of War and Peace" first appeared in an article of that title that I published in 1987 in the British journal *Encounter.* The current and much briefer version is now a section in the essay "The Tyranny of Visions."

The generosity of Milton Friedman and the late Mancur Olson in criticizing the earlier, academically oriented paper of mine is much appreciated, but of course they share no responsibility for any shortcomings of the present, very different essay, aimed at a more general audience. In a truly just world, I would also have to acknowledge my debt to my colleague whose sloppy thinking galvanized me into action. However, I shall not do so by name, in deference to collegiality and to the libel laws in a litigious society.

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I

The Quest for Cosmic Justice

. . . justice, if only we knew what it was.

—SOCRATES

One of the few subjects on which we all seem to agree is the need for justice. But our agreement is only *seeming* because we mean such different things by the same word. Whatever moral principle each of us believes in, we call justice, so we are only talking in a circle when we say that we advocate justice, unless we specify just what conception of justice we have in mind. This is especially so today, when so many advocate what they call "social justice"—often with great passion, but with no definition. All justice is inherently social. Can someone on a desert island be either just or unjust?

INEQUALITIES AND INJUSTICES

If social justice can be distinguished from any other conception of justice, it is probably by its reaction against the great inequalities of income and wealth which we see all around us. But reactions against such inequalities are not limited to those who proclaim "social justice." It was not a radical writer, but free-market economist Milton Friedman, who referred to "gross inequities of income and wealth" which "offend most of us" and declared: "Few can fail to be moved by the contrast between

the luxury enjoyed by some and the grinding poverty suffered by others."[1]

While such views have often been associated with the political left, many of the thinkers and writers identified as "conservative" have long expressed similar views, objecting not only to economic inequalities but also to extreme inequalities of power and respect. Two centuries ago, Adam Smith, the father of laissez-faire economics, deplored not only the callousness of the rich and powerful of his day, "who never look upon their inferiors as their fellow-creatures," but deplored also our "obsequiousness to our superiors" and the "foolish wonder and admiration" shown toward "the violence and injustice of great conquerors."[2]

While a few conservative writers here and there have tried to justify inequalities on grounds of "merit," most have not. The late Nobel Prize–winning economist and free-market champion Friedrich A. Hayek, for example, declared, "the manner in which the benefits and burdens are apportioned by the market mechanism would in many instances have to be regarded as very unjust *if* it were the result of a deliberate allocation to particular people." The only reason he did not regard it as unjust was because "the particulars of a spontaneous order cannot be just or unjust."[3] The absence of personal intention in a spontaneous order—a cosmos, as Hayek defined it[4]—means an absence of either justice or injustice. "Nature can be neither just nor unjust," he said. "Only if we mean to blame a personal creator does it make sense to describe it as unjust that somebody has been born with a physical defect, or been stricken with a disease, or has suffered the loss of a loved one."[5]

Others who share a similarly secular view are often driven to personify "society" in order to re-introduce concepts of moral

responsibility and justice into the cosmos, seeking to rectify the tragic misfortunes of individuals and groups through collective action in the name of "social justice." Yet this collective action is not limited to correcting the consequences of *social* decisions or other collective social action, but extends to mitigating as well the misfortunes of the physically and mentally disabled, for example. In other words, it seeks to mitigate and make more just the undeserved misfortunes arising from the cosmos, as well as from society. It seeks to produce *cosmic* justice, going beyond strictly *social* justice, which becomes just one aspect of cosmic justice.

As the philosopher Thomas Nagel put it, "the range of possibilities or likely courses of life that are open to a given individual are limited to a considerable extent by his birth"—which includes not only the social class and home environment into which he happened to be born but also "his genetic endowment." This last, especially, is clearly not social. Yet "from a moral point of view," Professor Nagel said, "there is nothing wrong with the state tinkering with that distribution" of life chances, which distribution "does not have any moral sanctity."[6] Thus, in this view, to "provide equality of opportunity it is necessary to compensate in some way for the unequal starting points that people occupy."[7] The difference between Nagel and Hayek in this regard is not in their understanding of the painful inequalities that both recognize, but in their respective conceptions of justice.

Even those few writers who have tried to justify inequalities on merit grounds are nevertheless conceding that inequalities are things requiring justification. Virtually no one regards these inequalities as desirable in themselves. If the world had chanced

to be more equal than it is, it is hard to see who would have had any grounds for complaint, much less just grounds.

Nor should we imagine that quantifiable economic differences or political and social inequalities exhaust the disabilities of the less fortunate. Affluent professional people have access to all sorts of sources of free knowledge and advice from highly educated and knowledgeable friends and relatives, and perhaps substantial financial aid in time of crisis from some of these same sources. They also tend to have greater access to those with political power, whether through direct contacts or through the simple fact of being able to make an articulate presentation in terms acceptable to political elites. Moreover, the fact that the affluent tend to have the air of knowledgeable people makes them less likely to become targets for many of the swindlers who prey on the ignorant and the poor.

Even in legitimate businesses, "the poor pay more," as the title of a book said some years ago, because it costs more to deliver goods and services to low-income, high-crime neighborhoods, where insurance and other costs are higher.[8] In short, statistical inequalities do not begin to exhaust the advantages of the advantaged or the disadvantages of the disadvantaged.

With people across virtually the entire ideological spectrum being offended by inequalities and their consequences, why do these inequalities persist? Why are we not all united in determination to put an end to them? Perhaps the most cogent explanation was that offered by Milton Friedman:

> A society that puts equality—in the sense of equality of outcome—ahead of freedom will end up with neither equality nor freedom. The use of force to achieve equality will destroy free-

> dom, and the force, introduced for good purposes, will end up in the hands of people who use it to promote their own interests.[9]

Whatever the validity of this argument—and one need only think of the horrors of Stalin, Mao, and Pol Pot to realize that painful possibilities are not mere fantasies—it rejects direct political equalization of economic results because the costs are judged to be too high. Still it finds no positive virtue in inequality. But what of those who do not reject the cost as too high? Do they simply have a different assessment of those costs and risks? Or do they proceed with little or no attention to that question?

A trivial example may illustrate some of the costs of correcting some kinds of inequalities and injustices. In San Francisco in 1996, a relative of one of the city's supervisors telephoned a pizza company to ask to have a pizza delivered to his home. He was told that the company did not deliver pizza where he lived, which happened to be in a high-crime neighborhood. Immediately there was an outburst of moral indignation. A law was passed, decreeing that anyone who makes deliveries to the public in any part of the city must make deliveries all over the city.

Here, in this simple example, we have all the elements of the quest for cosmic justice. Since most people are not criminals, even in a high-crime neighborhood, large numbers of innocent people have various additional costs imposed on them through no fault of their own—in this case, the cost of being unable to receive deliveries of food, furniture, packages, and other things that other people take for granted elsewhere. They are treated unequally. From a cosmic perspective, this is an injustice, in the sense that, if we were creating the universe from

scratch, this is not something that most of us would choose to include in it.

However, unlike God at the dawn of Creation, we cannot simply say, "Let there be equality!" or "Let there be justice!" We must begin with the universe that we were born into and weigh the costs of making any specific change in it to achieve a specific end. We cannot simply "do something" whenever we are morally indignant, while disdaining to consider the costs entailed. In this case, the increased costs would include dead truck drivers. In American high-crime neighborhoods, the probability that a given young man living there will be killed is greater than the probability that a given American soldier would be killed in World War II. While the odds may not be as great for someone making deliveries there, they may also not be negligible. Nor should we ignore the possibility that an outsider may attract more attention and resentment, resulting in greater risks.

Once we begin to consider how many deliveries are worth how many dead truck drivers, we have abandoned the quest for cosmic justice and reduced our choices to the more human scale of weighing costs versus benefits. Across a wide spectrum of issues, the difference between seeking cosmic justice and seeking traditional justice depends on the extent to which costs are weighed. The enormous difference that this can make needs to be made explicit, so that we do not keep talking past one another on something as important as justice.

Cosmic justice is not simply a higher degree of traditional justice, it is a fundamentally different concept. Traditionally, justice or injustice is characteristic of a *process.* A defendant in a criminal case would be said to have received justice if the trial were conducted as it should be, under fair rules and with the

judge and jury being impartial. After such a trial, it could be said that "justice was done"—regardless of whether the outcome was an acquittal or an execution. Conversely, if the trial were conducted in violation of the rules and with a judge or jury showing prejudice against the defendant, this would be considered an unfair or unjust trial—even if the prosecutor failed in the end to get enough jurors to vote to convict an innocent person. In short, traditional justice is about impartial processes rather than either results or prospects.

Similar conceptions of justice or fairness extend beyond the legal system. A "fair fight" is one in which both combatants observe the rules, regardless of whether that leads to a draw or to a one-sided beating. Applying the same rules of baseball to all meant that Mark McGwire hit 70 home runs while some other players hit less than 10. The "career open to talents" or "a level playing field" usually means that everyone plays by the same rules and is judged by the same standards. Again, if the process itself meets that standard, then no matter what the outcome, "you had your chance." But this is not what is meant by those people who speak of "social justice." In fact, rules and standards equally applicable to all are often deliberately set aside in pursuit of "social justice." Nor are such exceptions aberrations. The two concepts are mutually incompatible.

What "social justice" seeks to do is to eliminate undeserved disadvantages for selected groups. As in the San Francisco pizza delivery case, this is often done in disregard of the costs of this to other individuals or groups—or even to the requirements of society as a whole. When one considers a society such as Sri Lanka, where group preferences initiated in the 1950s led to decades of internal strife, escalating into bitter civil war with

many atrocities, it is not purely fanciful to consider that other societies may become more polarized and contentious—to everyone's ultimate detriment—by similar schemes of preferential treatment for one segment of society. Intergroup relations in the United States, for example, have never been as good as they once were in Sri Lanka—nor, fortunately, are they as bad as they later became in Sri Lanka.

In its pursuit of justice for a segment of society, in disregard of the consequences for society as a whole, what is called "social justice" might more accurately be called *anti-social* justice, since what consistently gets ignored or dismissed are precisely the costs to society. Such a conception of justice seeks to correct, not only biased or discriminatory acts by individuals or by social institutions, but unmerited disadvantages in general, from whatever source they may arise. In American criminal trials, for example, before a murderer is sentenced, the law permits his unhappy childhood to be taken into account. Seldom is there any claim that the person murdered had anything to do with that presumptively unhappy childhood. In a notorious 1996 case in California, the victim was a twelve-year-old girl, who had not even been born when the murderer was supposedly going through his unhappy childhood. It is only from a cosmic perspective that his childhood had any bearing on the crime.

If punishment is meant to deter crime, whether by example or by putting existing criminals behind bars or in the graveyard, then mitigating that punishment in pursuit of cosmic justice presumably means reducing the deterrence and allowing more crime to take place at the expense of innocent people. At a more mundane level, the enormously increased amount of time required to ponder the imponderables of someone else's child-

hood (and related speculations) means that the criminal justice system as a whole operates more slowly and that other criminals are therefore walking the streets on bail while awaiting trial in an overloaded court system.

Prosecutors who should be moving on to other criminals after securing a murder conviction must instead spend additional time putting together a rebuttal to psychological speculation. Even if this speculation does not in the end affect the outcome in the case at hand, it affects other cases that are left in limbo while time and resources are devoted to rebutting unsubstantiated theories. A significant amount of the violent crimes committed in America is committed by career criminals who are walking the streets—and stalking the innocent—while awaiting trial. This too is one of the costs of the quest for cosmic justice.

Much, if not most, of the concerns billed as "social justice" revolve around economic and social inequalities among groups. But the general principles involved are essentially the same as in other examples of pursuing cosmic justice. These principles have been proclaimed by politicians and by philosophers, from the soapbox to the seminar room and in the highest judicial chambers. Such principles deserve closer scrutiny and sharper definition.

MEANINGS OF JUSTICE

Back in the 1960s, President Lyndon Johnson made one of the classic statements of the vision of cosmic justice:

> You do not take a man who, for years, has been hobbled by chains, liberate him, and bring him to the starting line of a race,

saying, "You are free to complete with all others," and still justly believe you have been completely fair.[10]

Professor John Rawls' celebrated treatise, *A Theory of Justice*, puts the case more generally. According to Rawls, "undeserved inequalities call for redress," in order to produce "genuine equality of opportunity."[11] This is "fair (as opposed to formal) equality of opportunity."[12] In other words, having everyone play by the same rules or be judged by the same standards is merely "formal" equality, in Professor Rawls' view, while truly "fair" equality of opportunity means providing everyone with equal prospects of success from equal individual efforts.

Note how the word "fair" has an entirely different meaning in this context. Cosmic justice is not about the rules of the game. It is about putting particular segments of society in the position that they would have been in but for some undeserved misfortune. This conception of fairness requires that third parties must wield the power to control outcomes, over-riding rules, standards, or the preferences of other people.

Such attitudes are found from college admissions offices to the highest courts in the land. Thus a long-time admissions director at Stanford University has said that she never required applicants to submit Achievement Test scores because "requiring such tests could unfairly penalize disadvantaged students in the college admissions process," since such students "through no fault of their own, often find themselves in high schools that provide inadequate preparation for the Achievement Tests."[13] *Through no fault of their own*—one of the key phrases in the quest for cosmic justice. Nor are such attitudes unique to Stanford. They are in fact common across the country.[14]