

Chapter IV— The Idea Of Justice In The Synthetic Philosophy

As the culminating development of his evolutionary or Synthetic Philosophy, Mr. Spencer now comes to treat of those social-economic questions that involve the idea of justice, in a book which he entitles *Justice*.

But what is justice?

It is the rendering to each his due. It presupposes a moral law, and its corollaries, natural rights which are self-evident. But where in a philosophy that denies spirit, that ignores will, that derives all the qualities and attributes of man from the integration of matter and the dissipation of motion, can we find any basis for the idea of justice?

"Justice," says Montesquieu, "is a relation of congruity which really subsists between two things. This relation is always the same, whatever being considers it, whether it be God, or an angel, or lastly a man." This, too, in *Social Statics*, was Mr. Spencer's conception. Justice he tells us there means equalness—that is to say, a relation of congruity or equality which is always the same, and always apprehensible by men, no matter what be their condition of development or degree of knowledge. As the basis of all his reasoning he postulates an inherent moral sense, which "none but those committed to a pre-conceived theory can fail to recognize"—a perception that bears to morality the same relationship that the perception of the primary laws of quantity bears to mathematics; and which enables us to recognize an "eternal law of things," a "Divine order," in which, and not in any notions of what is expedient either for the individual or for all individuals, we may find a sure guide of conduct, the apprehension of right and wrong. And this it seems to me is necessarily and universally involved in the idea of *Justice*, so that when a man, whatever be his theories, thinks of right or wrong, just or unjust, he thinks of a relation, like that of odd and even, or more and less, which is always and everywhere to be seen by whoever will look.

But this self-evidence of natural rights the Synthetic Philosophy denies. It admits the existence of natural rights—that is to say, rights which pertain to the individual man as man, and are consequently equal; but it derives the genesis of these rights, or at least their apprehension by man, from this process of his gradual evolution, by virtue

of which they evolve, or he becomes conscious of them, after a certain amount of "social discipline," and not before. If such rights exist before, it must be potentially, or in some such way as the Platonic ideas. But as this would involve an appointed order; and hence intelligent will, to which we must attribute equity; and hence God; it seems inconsistent with Mr. Spencer's present view—not necessarily with that part which derives our physical constitutions from lower animals and primarily from the integrations of matter and motion for this is a mere matter of external form, and that our bodies come, somehow, "from the dust of the earth" as the Scriptures put it, is as clear as that ice comes from water but with that part which gives to the ego the same genesis, and accounts for our mental and moral qualities by variation, survival of the fittest, the pressure of conditions, social discipline and heredity of acquired characteristics.

Mr. Spencer realizes this inconsistency, for, abandoning altogether his original derivation and explanation of justice, he proceeds in *Justice* to make another derivation and explanation in accordance with his new philosophy, devoting to this the first eight chapters, or something more than a fifth of the book. With its validity or invalidity, its coherency or incoherency, I am not here concerned; my object being merely to show how he arrives at the conception of justice and what it is, so that we may judge the teachings of *Justice* from its own avowed standpoint.

To present Mr. Spencer's argument as intelligibly as I can, I will make a synopsis of the first eight chapters of *Justice*, as far as possible in his own words, but without quotationmarks, employing smaller type where the exact words can be used at some length.

These chapters are

1.—*Animal Ethics.*

During immaturity, benefits received must be inversely proportioned to capacities possessed. After maturity, benefits must vary directly as worth, measured by fitness for the conditions of existence. The ill-fitted must suffer the evils of unfitness, and the well-fitted prove their fitness.

2.—*Sub-Human Justice.*

The law of sub-human *Justice* is that each individual shall receive the benefits and the evils of its own nature and its consequent conduct.

3.—*Human Justice.*

Each individual ought to receive the benefits and the evils of his own nature and consequent conduct, neither being prevented from having whatever good his actions normally bring him, nor allowed to shoulder off this evil on other persons.

4.—*The Sentiment of Justice.*

Our feeling that we ourselves ought to have freedom to receive the results of our own nature and consequent actions, and which prompts maintenance of the sphere for this free play, results from inheritances of modifications produced by habit, or from more numerous survivals of individuals having nervous structures which have varied in fit ways, and from the tendency of groups formed of members having this adaptation to survive and spread. Recognition of the similar freedom of others is evolved from the fear of retaliation, from the punishment of interference prompted by the interests of the chief, from fear of the dead chief's ghost, and from fear of God, when dead-chief-ghost worship grows into God worship, and, finally, by the sympathy evolved by gregariousness.

5.—*The Idea of Justice.*

It emerges and becomes definite from experiences, generation after generation, which provoke resentment and reactive pains, until finally there arises a conception of a limit to each kind of activity up to which there is freedom to act. But it is a long time before the general nature of the limit common to all cases can be conceived. On the one hand there is the positive element, implied by each man's recognition of his claims to unimpeded activities and the benefits they bring; on the other hand there is the negative element implied by the consciousness of limits which the presence of other men having like claims necessitates. Inequality is suggested by the one, for if each is to receive the benefits due his own nature and consequent conduct, then, since men differ in their powers, there must be differences in the results. Equality is suggested by the other, since bounds must be set to the doings of each to avoid quarrels, and experience shows that these bounds are on the average the same for all. Unbalanced appreciation of the one is fostered by war, and tends to social organization of the militant type, where inequality is established by authority, an inequality referring, not to the natural achievement of greater rewards by greater merits, but to the artificial apportionment of greater re-

wards to greater merits. Unbalanced appreciation of the other tends to such theories as Bentham's greatest happiness principle, and to communism and socialism. The true conception is to be obtained by noting that the equality concerns the mutually limited spheres of action which must be maintained if associated men are to co-operate harmoniously, while the inequality concerns the results which each may achieve by carrying on his actions within the implied limits. The two may be and must be simultaneously asserted.

6.—*The Formula Of Justice.*

It must be positive in so far as it asserts for each that, since he is to receive and suffer the good and evil of his own actions, he must be allowed to act. And it must be negative in so far as, by asserting this of every one, it implies that each can be allowed to act only under the restraint imposed by the presence of others having like claims to act. Evidently, the positive element is that which expresses a prerequisite to life in general, and the negative element is that which qualifies this prerequisite in the way required, when, instead of one life carried on alone, there are many lives carried on together.

Hence, that which we have to express in a precise way is the liberty of each limited only by the like liberties of all. This we do by saying, Every man is free to do what he wills, provided he infringes not the equal freedom of any other man.

7.—*The Authority of this Formula.*

The reigning school of politics and morals has a contempt for doctrines that imply restraint on the doings of immediate expediency. But if causation be universal, it must hold throughout the actions of incorporated men. Evolution implies that a distinct conception of justice can have arisen but gradually. It has gone on more rapidly under peaceful relations, and been held back by war. Nevertheless, where the conditions have allowed, it has evolved slowly to some extent, and formed for itself approximately true expressions, as shown in the Hebrew Commandments, and without distinction between generosity and *Justice*, in the Christian Golden Rule, and in modern forms in the rule of Kant. It is also shown on the legal side, in the maxims of lawyers as to natural law, admitted inferentially even by the despotically minded Austin.

These, it will be objected, are apriori beliefs. The doctrine of evolution teaches that a priori beliefs entertained by men at large must

have arisen, if not from the experiences of each individual, then from the experiences of the race. Fixed intuitions must have been established by that intercourse with things which throughout an enormous past has directly and indirectly determined the organization of the nervous system, and certain resulting necessities of thought. Thus had the law of equal freedom no other than a priori derivations, it would still be rational to regard it as an adumbration of a truth, if not still literally true. And the inductive school, including Bentham and Mill, are, on analysis, driven to the basis of a priori cognitions.

But the principle of natural equity, expressed in the freedom of each, limited only by the like freedom of all, is not exclusively an a priori belief.

Examination of the facts has shown it to be a fundamental law by conformity to which life has evolved from its lowest up to its highest forms, that each adult individual shall take the consequences of its own nature and actions: survival of the fittest being the result. And the necessary implication is an assertion of that full liberty to act which forms the positive element in the formula of justice; since, without full liberty to act, the relation between conduct and consequence cannot be maintained. Various examples have made clear the conclusion manifest in theory, that among gregarious creatures this freedom of each to act has to be restricted; since if it is unrestricted there must arise such clashing of actions as prevents the gregariousness. And the fact that, relatively unintelligent though they are, inferior gregarious creatures inflict penalties for breaches of the needful restrictions, shows how regard for them has come to be unconsciously established as a condition to persistent social life.

These two laws, holding, the one of all creatures and the other of social creatures, and the display of which is clearer in proportion as the evolution is higher, find their last and fullest sphere of manifestation in human societies. We have recently seen that along with the growth of peaceful cooperation there has been an increasing conformity to this compound law under both its positive and negative aspects; and we have also seen that there has gone on simultaneously an increase of emotional regard for it, and intellectual apprehension of it.

So that we have not only the reasons above given for concluding that this a priori belief has its origin in the experiences of the race, but we are enabled to affiliate it on the experiences of living creatures at large, and to perceive that it is but a conscious response to certain necessary relations in the order of nature.

No higher warrant can be imagined; and now, accepting the law of equal freedom as an ultimate ethical principle, having an authority transcending every other, we may proceed with our inquiry.

8.—Its Corollaries.

That the general formula of justice may serve for guidance, deductions must be drawn severally applicable to special classes of cases. The several particular freedoms deducible from the laws of equal freedom may fitly be called, as they commonly are called, rights. Rights truly so called are corollaries from the law of equal freedom, and what are falsely called rights are not deducible from it.

It is not worth while to examine this argument. It is sufficient for our purpose to see that in *Justice* Mr. Spencer re-asserts the same principle from which in *Social Statics* he condemned private property in land.