

Adam Gearev

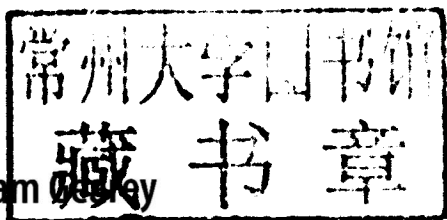
Justice as Welfare

Equity and Solidarity

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Adam Smith



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Justice as Welfare

Foreword

Instead of constructing theories and ideologies to deal with poverty, man . . . should simply give the coat off his back in a gesture of fraternal understanding.

(Cioran, 1995, p. 93)

the world is not afraid to go back to the past it knows so well.

(Yang Lian, 2002, p. 143)

How can welfare be defended and justified in these times of fiscal austerity? *Justice as Welfare* uses the recent history of the welfare state in Britain to provoke some broader questions about political community. Moving beyond New Labour and the politics of the Big Society, the book argues that welfare is necessary for the freedom and equality of all citizens. In this contemporary understanding of social justice, welfare is not handed down by a bureaucratic state or left to the private provision of the market. Welfare has to be seen as a complex defined by the old methods of redistribution and new approaches that ensure access to opportunities and resources that build the capacity and well-being of everyone. *Welfare as Justice* requires a new engagement with issues of social rights and the accountability of both state and private welfare providers; we must also think about the relationship between welfare, globalization and the human right to social security.

Our account of the modern welfare state in Britain covers a period that begins in the years immediately after 1945 and concludes in 2010 when the Coalition Government took office. Although we are interested in the different ways in which Conservative and Labour governments have attempted to reform welfare in the last 65 years, our primary focus will be on a progressive approach to the welfare state. As there is more to such politics than the policies of Labour governments, we will present a complex of broader arguments that point towards a set of philosophical

concerns about the nature of political community and the goals of social and economic organization.

This book does not present a detailed account of the various components of the welfare state and how they relate to each other. *Justice as Welfare* does not attempt to describe policies on housing, health, social security or pensions. The book's objective is to make a general argument about the welfare community. These contentious terms will be explained in the text. The welfare community correlates to some extent with the welfare state; but, the concept of the welfare community also points towards a way of thinking about politics and our life lived among others. Welfare becomes a way of understanding politics; or, rather, of imagining a different form of politics. Our argument tries to locate analysis at the level of the 'everyday conditions of intersubjective relations' (Vincent, J. M., 1991, p. 49) as a 'necessary condition for the critique of social relations' that, rather than simply resting in 'production', are immanent to being with others.

The major difficulty in writing this book has been bringing together different levels of argument. There are a number of inter-relating strata. There is a concern with the historical and political nature of the post-war welfare state in Britain that takes us to considerations of solidarity, equality and social justice. Interacting with these themes is an engagement with economic anthropology, in particular Polanyi's work, which points towards a way of thinking about economy and reciprocal social organization. Relating to all these themes, but somewhat removed (or, rather, removed but inseparable) is an understanding of community that draws (most directly) on the work of Jean-Luc Nancy. From Nancy we take an argument about social being which, rather unusually perhaps, is located within the problematic of welfare; or, as we will suggest towards the end of the book welfare (the term is explained in Chapter 9). The drive of the argument is to discover a way of talking or thinking about welfare that, while above the concerns of pragmatic politics, is nevertheless rigorously focused upon what it means to be in a political community with a sense (no matter how compromised) of the needs of one's fellow citizens.

In seeking to bring together these different levels of argument, one could easily be charged with many intellectual crimes, ranging from confused thinking to obscurantism. For those who want a more or less conventional approach to politics or welfare, the concerns with 'ontology' and social being are at best a distraction, and at worst something pretentious and self-indulgent. For those who are more orientated towards continental and post-phenomenological and post-structuralist ways of thinking, the concern with the politics of welfare might appear an unnecessary

compromise of philosophical thought or an attempt to apply what cannot be applied. Clearly, neither party will be satisfied with this book. It is animated by a spirit of *bricolage*, or putting things together in the hope that unusual juxtapositions produce new ways of thinking. Ultimately, though, it is necessary to defend this argument against the objections of someone who might be politically sympathetic, but sceptical or even hostile to its method. The argument presented in this book is an attempt to think through how certain terms can still be used sensibly. This might mean stepping outside of one tradition, in order to clarify and re-orientate its terms by borrowing from another. This suggests ways of linking together philosophy and politics.

In order to remain consistent with the spirit of the argument, while retaining the conventions of academic discussion, this book circles around something that remains unsaid and unsayable. As explained in the Introduction and Chapter 1, this thinking of community is quite distinct from contemporary approaches in Anglo-American political and social thinking. The discourse on the impossible or unavowable community by Nancy, Derrida, Blanchot and Agamben can be seen as a series of responses to problematics of social being in Marx and Heidegger; and an ongoing dialogue with Bataille (we do not engage with Levinas and the Levinasian articulation of these themes). However, rather than follow Bataille's elaboration of this theme through the sacred and the ecstatic, the general direction of this argument is to see in well-fare something of the exposure to others in community.

Exposure to others is a complex theme. It does not suggest that we are by nature drawn to each other's company and that we can somehow peaceably resolve our differences. Community is always divided by wealth, gender, age and race, culture and religion. However, community is also found in our exposure to each other through friendship, sympathy, love and care. These themes are not developed in a humanist sense: there is no essence of humanity celebrated in community. Community is bound up with those impersonal structures of meaning that both unite and divide us. To think of community along these lines requires a discourse that can at least gesture at what cannot be put into words; those unsayable matters of feeling and emotion; the non-correspondence between our sense of ourselves and the demands of language around which community both comes together and is held apart.

Perhaps an appropriate metaphor is that of a river that runs through a city. Looking at the map of Manchester in Engels' *Condition of the Working Class in England* (see the discussion in Chapter 1), I remembered the River

Medlock that flows through the city (not the Irwell, that 'river the colour of lead'). The Medlock is now largely culverted, but appears behind the old mills, offices and factories. It formed one of the boundaries of the notorious slum of 'Little Ireland' populated by Irish immigrants. Little Ireland is a figure for the failure of community. The Medlock flows down from the hills above the city, where the mansions of the cotton barons were, and hemmed the poor into what Engels called a 'portion of low, swampy ground . . . surrounded on all four sides by tall factories and high embankments' (Engels, 1988, p. 74). The inundations of the slums by the polluted waters of the Medlock after heavy rains 'carried all the filth of the river into the houses' (Busteed, 2002, p. 2). One year (1872) the flood waters were so strong that they washed bodies and coffins out of graves from cemeteries up stream.¹ Little Ireland was cleared away in the later part of the century and the area is now covered by rather smart flats and bars: a desirable 'inner city community' for smart Mancunians.

Rivers in cities may divide, but their banks also offer a place for lovers to meet. Jarvis Cocker's lyrics in the Pulp 'song' 'Wickerman' mesh together a sense of Sheffield's industrial past with a more intimate set of memories. The River Don in 'Wickerman' 'runs through a concrete channel'. Its dirty waters 'smell[s] of industrialisation' and evoke '[l]ittle mesters coughing their lungs up and globules the colour of tomato ketchup'.² Along with the debris of industrialization, the river is linked to 'the place where we first met'. Strangely, though, the identity of the lover blurs: 'I went there with you once – except you were somebody else'; memories blur, become confused. The river in 'Wickerman' is perhaps also a metaphor for these tricks of time. The intimate community evoked by the song is inseparable from what has become distorted; what cannot quite be captured in words and doesn't quite make sense.

These metaphors can, of course, be overworked. But perhaps the rivers that flow through cities do provoke our thoughts; and do relate to different communities forming and reforming; and the mixture of personal and historical memories. I remember, as a kid growing up in a suburb of Manchester, that the River Mersey's sullen currents seen through bridge slats at Jackson's Boat always filled me with a sense of horror and a fear of falling. However, the river is now sacred to British Hindus; Ganesh immersed in its dark waters; a sense of people from elsewhere: a new community.

Perhaps another way of indicating the traces of community would be to acknowledge all those who helped me to write this book; whose efforts are traces behind these words. Mary Gearey read, re-wrote and edited the

manuscript countless times; ‘il miglior fabro’. Without her love and hard work this book would not have been written. The book is also something of an ongoing conversation with Costas Douzinas and the problems we wrestled with in *Critical Jurisprudence*. The concern with association owes a debt to bare sovereignty in *Human Rights and Empire*; as does most of the argument in Chapters 8 and 9. Peter Fitzpatrick is also a voice bound up with this text; the immunity thesis would have been unthinkable for me without *Modernism and the Grounds of Law*. Bill Bowring was a source of inspiration on social rights and the politics of community. Peter Goodrich’s genii are also here: not so much the Attic grove, though, as the spirits of thought in the city. I need to salute Valerie Kelley for timely, focused and spirited editing. Special mention needs to be made of: Oren Ben-Door, Paul Virr, Tony Prosser, Sunja Pahujha, Michelle Everson, Terrill Carver, Sally and Robert Cartledge, Lucy Goode and Jean-Martin Lapointe (who gave the book its original title: *Justice Awry*); Joe and Kris Hughes (songs about rivers), Marie-Claire Antoine at Continuum; Marinos Diamantides; David Gearey (conversations about Attlee and Nye Bevan while watching cage fighting at the Cliffs Inn on the way to Big Sur); Zella Griffiths (long discussions about the injustices of pensions); Niamh and Arthur Gearey: the impossible, infuriating mad glory of the intimate community.

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This book is (at least in my mind) inseparable from listening to Elbow’s *Seldom Seen Kid*. I hope that, if this book was a record, it might sound a little like this album. I fear it probably sounds like Rush’s *2112*.

I used to think that the foreword to a book was the point where the author put the finishing touches to a manuscript, and sat back in his/her chair; knowing that a project was now complete. This foreword is being written half way through the editing process – anticipating that moment of completion which presents itself with all the dreadful imminence of an unavoidable deadline. Lacking the luxury of calm reflection, then, this is done on the hoof; juggling . . . and waiting for fireworks.

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Introduction

The Community of Welfare

The welfare state is dead, long live the welfare state.

(Negri, 2008, p. 159)

Persuaded that poverty is the human lot, I can no longer believe in any doctrine of reform. . . . This phenomenon is exclusively human, for man alone made his equals his slaves. Man alone is capable of so much self-contempt.

(Cioran, 1995, p. 93)

In this general overview of the themes of the book, we will begin with a definition of the welfare community focused on concepts of social justice, social citizenship and solidarity. The community of welfare can be understood as a reciprocal society dedicated to the social freedom of its citizens. We will be concerned with an inescapable tension between welfare and capitalism. Any defence of the community of welfare must be fought on this problematic terrain. Welfare and the market are bound together to the extent that neither term can stand alone. The future of welfare lies in the degree to which this inherent tension can force a different understanding of the way in which markets can be embedded in society and economy organized for the general good. This understanding of welfare provision does not imply a heavy-handed state. Welfare can be co-produced by the state and its citizens.

The penultimate part of our argument will further examine the problems inherent in the notion of a welfare community; tensions exacerbated by globalization but also offering forms of solidarity that extend beyond the borders of the nation state. The final phase of our discussion returns to notions of solidarity, community and the grounding idea of a life lived well among others.

Our argument moves towards the conclusion that welfare (or wel-fare) can be understood as one of the fundamental meanings of political community. This fundamental (or perhaps even primordial sense)¹ runs beneath the more conventional discourses on welfare. We are not seeking to suggest that we can somehow return to a more historically 'pure' idea of welfare or that the realization of welfare remains 'to come'; rather, the sense of wel-fare is bound up with the political community in which we find ourselves.

Welfare, Capitalism and Immunity

The welfare state² is a creation of organized political power. From 1945 until it lost office in 1951, Clement Attlee's Labour Government put in place the fundamental structure of the welfare state³ and a new way of understanding what it meant to be a member of a political community.⁴ Consider Marshall's classic argument about the welfare state: 'what matters is a . . . general reduction of risk and insecurity, an equalisation between the more and less fortunate at all levels – between the healthy and the sick, the employed and the unemployed, the old and the active'. The concept of social justice⁵ describes the nexus of rules, institutions, rights and obligation that define the terms of resource 'redistribution' (Marshall, 1950, p. 33) that put in place 'the substance of civilised life' (Marshall, *ibid.*). Solidarity⁶ embeds social justice in a sense of common obligations towards shared ends in the welfare community.

Our thesis rests upon a re-appraisal of certain themes in welfare scholarship; in particular our position begs complex questions about one of the most troubled expressions in the lexicon of political philosophy: community. Chapter 1 is devoted to an elaboration of these concerns. We will rely on the work of the Italian philosopher Roberto Esposito to provide an etymology and an understanding of community. Following Esposito's immunity thesis, we will suggest that the 'in common' of welfare cannot be expelled from capitalism. We will stress that any contemporary account of solidarity, social rights or the social citizen must be complex, possibly even contradictory: an assertion of ongoing and irresolvable tension between community and market; labour and capital. Community, then, is a tense and conflicted term. We have no naive assumptions about the concept. The community of welfare is a vast network of governance and control; a subtle set of techniques that discipline and control a populace.⁷ However, there is still something more; possibilities that are opened up by the welfare community that we will explore as we go along: welfare persists within the order of capitalism.

In Chapter 1, we build our argument by relating Esposito's work to Karl Polanyi's critical understanding of the market-based nature of capitalism. Market economy is 'directed by market prices and nothing but market prices' (Polanyi, 2010, p. 45). The market is seen to be 'self-regulating' and 'capable of organizing the whole of economic life' through its co-ordination of supply and demand. Theorists of the market argue that intervention by governments or other agencies interferes with these immanent laws which, left to themselves, will ensure the most efficient distribution of resources. Polanyi argues that this theory of the market is based on a fundamentally flawed assumption: that there is an 'economic sphere' separate from society. From the bourgeois economists of the Manchester School, to the Chicago School of today, there has been a fundamental misunderstanding of the need to embed markets in forms of social life. Once a market becomes disembedded from society, separated 'from other activities of life' defined by 'kinship, neighbourhood, profession and creed' both economic and social dis-function may follow (Polanyi, 1977, p. 171). The ontology of the market is 'atomistic and individualistic' (Polanyi, 1977, p. 171). Market rationalism eclipses other ways of understanding human endeavour and replaces them with the means-end calculus of market actors. Market actors have rather narrow motives such as the pursuit of profit and the dread of destitution. The social world is flattened out so that it can be included into a market that operates in narrow economic terms.

Esposito's immunity thesis allows us to locate an idea of welfare capitalism within this general understanding of the relationship between market and community. Welfare capitalism provides an institutional order that goes beyond the minimal juridical structure that the market requires. Welfare is defined through a legal order where community rests upon laws that define those rights and obligations owed by each to all. In this sense, then, welfare 'immunizes' the community against capital and its logics of market exchange. Welfare capitalism is, for this reason, an unstable structure. Critical scholars of welfare have long argued that welfare capitalism is contradictory and prone to crisis.⁸ We want to suggest a new approach: the tensions of welfare capitalism are neither resolvable nor fatal. They are the conditions of a progressive re-engagement with the question of the ends of political and economic organization. Thinking this position through requires us to revisit certain important themes that relate to the role of organized labour in the economy, the control of capital and the provision of welfare as a condition for a functioning market.

There are a number of points that we want to stress. So far we have a basic definition of the market, but, as yet have not defined capitalism.⁹ As it would be hard to define a phenomenon as broad as capitalism within the terms of this book, we are going to limit our comments to the slightly narrower concept of welfare capitalism. We also need to pin down Polanyi's rather general thesis about market and community. These points can be brought together as follows. Welfare capitalism is a particular articulation of capitalism in the post-war period. For analytical convenience, we will suggest that welfare capitalism takes three different forms. In terms of the post-war settlement in British politics, welfare capitalism expressed itself through Keynesian economics, full employment, protection of labour rights and the state's involvement in the management of the economy. While the Conservative governments between 1979 and 1997 attempted to dismantle the post-war consensus, their policies remained within the problematic of welfare capitalism. Conservative neo-liberal policies can thus be seen as a second form of welfare capitalism. The centre left politics of the New Labour governments between 1997 and 2010 can be understood as a third form.¹⁰ Perhaps the Big Society philosophy of the current Coalition government is a further variation on this theme. Our point for the moment is that welfare capitalism is dynamic¹¹ and that welfare persists within even the mature or neo-liberal phase of capitalist organization.¹²

The post-war settlement was characterized by a form of social democratic thinking that we will outline in later chapters. In terms of its articulation by Labour Party theorists, it tended to stress notions of solidarity, equality and social justice and focused on the welfare state. We want to re-claim some elements of this tradition of thinking. Conservative discourses on community between 1979 and 1997 were somewhat ad hoc. We touch upon them in later chapters but they are not our major point of reference. We are far more interested in New Labour's re-working of social democracy around revised ideas of social justice and welfare. The contemporary struggle in British politics is between a centre right response to New Labour that focuses on the Big Society, and a centre left project to re-invent New Labour's legacy. Thus, any attempt to move beyond New Labour in progressive thinking has to deal with recent centre right and centre left articulations of community.

Solidarity, Social Justice and Community

The focus of our thinking is provided by ideas of social justice and solidarity. Solidarity describes the community defined by the welfare state.

The welfare community requires ‘common institutions’ meeting ‘common needs’ and providing a source of ‘common enjoyment’ so that accidents of birth and family are not definitional of an individual’s life chances (Tawney, 1964, pp. 55–6). Welfare creates community around a system of universal benefits and a set of common experiences. In Marshall’s summary: the welfare state provided everyone with ‘an insurance card that must be stamped; welfare institutions were open to all; everyone could go the “Post Office” to collect a pension or to sign on. Solidarity, in this sense, can be thought of as a form of “common life”’ (Gray, 1996). Common life is defined formally by a network of rights and duties that make for ‘mutual attachment between individuals’ (Brunkhorst, 2005, p. 161). Solidarity has an underlying normative element: a normativity that can be linked to those institutions that define (Bayertz, 1998, p. 295) the ‘common ground’ between individuals.¹³

So, solidarity presupposes those legal and administrative criteria that determine the distribution of social resources and provide the foundations for universal, all-inclusive welfare systems. Social insurance relies on systems of calculation and risk apportionment that employ actuarial categories to create distributive ‘winners’ and ‘losers’ by reference to profession and an individual’s location in the life cycle (Baldwin, 1990, p. 11).¹⁴ However, the technical terms of social insurance must indeed be grounded in a ‘lived’ reality. This grounding can never be complete: the language of social insurance does not map onto the world as experienced by those counting the deductions from their wages that ‘go to the state’. As Titmuss and other theorists of welfare have shown, welfare and solidarity exist in precisely these conditions of anonymous obligations to others: ‘[t]o give – to be taxed – has never been a simple matter in human history; for our neighbours, fellow workers, the poor, the sick, the ignorant and the feckless’. Making sense of these obligations requires vision and inventiveness. Titmuss’ challenge is taken up by our arguments in this book: in the world of social administration and ‘professionalized management’, how is a creative engagement with welfare and solidarity possible?

The beginnings of our answer can be sketched out as follows. Although we do not want to license Habermas’ interpretation of solidarity,¹⁵ his work does present a useful articulation of the themes that we are considering. Habermas begins with the idea of the ‘socialized subject’ whose sense of identity comes out of an embedding in a ‘life world’ where ‘self’ and ‘collectivity’ are essentially different ways of conceptualizing this communally defined self. The more developed the subject becomes, the more he or she is inseparable from the associations and contacts