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**On the Spontaneous Emergence of the Norms of Distributive Justice
and the Catallactic Rules¹⁾**

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There can arise an impression that face-to-face many misinterpretations and critics as referred to Hayek's theory of unconscious emergence of catallactic rules it will be very difficult to maintain it. The most complicated problem consists in the controversy between the positions of Hayek and his teacher Mises who denies the possibility of unconscious production; this theoretical controversy splits the adherents of the Austrian School into two antagonistic groups and leads to heavy confusions also in the theory and practice of economic transition in the post-Communist countries. In order to eliminate these confusions there should be an attempt to reconcile the controversial positions.

This means that Hayek's theory should be corrected somehow especially in those parts in which it evidently cannot resist the criticisms made from Misesian positions.²⁾ After making the controversial points clear and eliminating some inconsistencies, this grand theory comprehending such a great amount of knowledge will help us more efficiently in our effort to understand the essence of social and historical events. However, in order to preserve its main achievements, it is necessary to maintain its hard core – the conception of the spontaneous emergence of catallactic rules – notwithstanding that some Hayekian theorems will have to be reinterpreted.

The starting point for our treatment of the catallactic rules will be an investigation of the norms of distributive justice. Taking into account that they are more primitive than the catallactic rules (Hayek even stressed that they were instinctive, which seems to be an oversimplification) we can assume that the character of unconscious production becomes more explicit in reference to those primitive norms.

The best definition of distributive justice can be found in Aristotle's work *Nicomachean Ethics*: in which justice is defined as a state of affairs when the proportion between the unequal merits of various persons is in correspondence with the proportion between unequal quantities of things (goods, money, honours, military distinctions or even social status) which those persons gain as rewards for their meritorious activities in favour of the society as a whole; similarly the proportion between punishments of various persons must correspond to the proportion between their crimes concerning the degree of their detrimental influence on the society as a whole.³⁾

Distributive justice in this meaning, however, is originally applied to small social group performing collective or conjoint actions and publicly distributing the (commonly owned) goods resulting from a joint effort. The principle of distributive justice presupposes that the contribution of each individual to the common benefit (his merit) can be immediately seen and compared with the contribution of other individuals; the immediate visibility here means that in principle each individual can see and compare the merits of his neighbours. This in turn presupposes that all acting individuals share the same aim because the comparison of various individuals' contributions is possible only in relation to that common aim: these contributions are evaluated as more or less effective means for fulfilling the aim. On the other hand, the inequality of individual contributions presupposes a kind of division of labour, but this division concerns only the inevitably various character of various individuals' activities as oriented to the same aim; division of labour exists here only in the frame of conjoint action. The visible basis for the comparison of various contributions of individual persons is here the various degree of physical effort as applied by various persons. (Marx's labour theory of economic value reflects precisely this primitive stage of division of labour.)

The public distribution of goods (e.g., the catch as the result of a conjoint action of fishing) is usually performed by a chief or judge, but his decisions must be in harmony with all other individuals' evaluations of the merits of each single individual. The inequalities in individuals' having or owning material goods are considered to be just when they correspond to the inequalities in their personal merits. Here is evident that the ethics of distributive justice can function perfectly only if each member of group is personally acquainted with the others.⁴⁾

The personal character of mutual relations among individuals becomes even more explicit when the distributive justice is applied to moral merits and rewards as related to conjoint military actions. A reward for a higher degree of bravery and courage is a higher position in social hierarchy (usually symbolised with distinctions, medals, etc.) and this position becomes a constant characteristic of that individual person.⁵⁾ The ethics of distributive justice

admits also an important kind of competition – individuals compete for rendering a better (visible) service for their community.⁶) This kind of competition is still preserved even in modern democracy when the political parties – at least theoretically – compete for the same.⁷)

Now, we can start with the inquiry of the origin of the norms of distributive justice. A simplified argument in favour of the spontaneous emergence of these norms can be formulated in the following way: Only the observance of these norms enabled our predecessors to survive through living in very cohesive (small) social groups and performing collective actions; the stronger was the subordination of the members of a group to those norms, the more successful was the group in the struggle for life.⁸)

In accordance with the classical theory (K. Bücher) of the origin of language only the collective actions enabled pre-human beings to develop language which – through the process of interiorisation – could be transformed into silent thinking. The existence of language in both forms enabled the rise of genuinely human, i. e., purposeful action. It implies that purposeful action (teleology, design) could precede the rise of neither the norms of distributive justice, nor the grammatical rules of language. (Q. E. D.) But, in describing the spontaneous emergence of these norms, the famous words by Ferguson cannot be used as if they were "unintended results of human actions;" rather, it must be said that these forms of spontaneous order arose as unintended results of the activities of pre-human beings on their road to humanity; or, that they arose in the process of "unconscious production" in the genuine meaning of the word.

Now, it is necessary to explain the character of spontaneous emergence of religion. Linking with the previous section, we may say that when our predecessors started to think, they found out that they were subordinated to the norms and imperatives which were imprinted so deeply in their consciousness that excluded any alternative. Our thinking predecessors tried to explain the origin of these norms with the aid of the model of purposeful action because the its character was immediately reflected in their activities; consequently, they asked, "who had created the norms?" They first became aware that they themselves did not create them; further, they recognised that the previous generation from which they inherited and learned the norms was also only subordinated to them instead of standing over them (this is true for the grammatical rules of language, too). Moreover, the unconditional intrinsic validity of the norms (i. e. that they must be applied in each time and everywhere) contradicted apparently to the fact that the authoritative teachers (parents and chiefs) were mortal persons who really died. In addition, unlike the material products of previous generations, which survived their creators, the norms in their ideal character could not be damaged or even demolished. This led our predecessors (after a long-lasting development of religious thinking) to

a simple conclusion that only the eternal, immaterial and omnipotent God could create the norms. On the other hand, the norms of distributive justice acquired in this way a transcendent justification.

From this point of view, man's religious relation to God is a spiritual product of man, which arose as a necessary consequence of the spontaneous emergence of the norms of distributive justice. But, it is a very specific product – as its production proceeds, man (in his consciousness) gives up his being a producer and turns to be the product of the Divine creation (in some version of religious thinking, even man's intentions are predestined by God). Moreover, at the beginning of the "production" of God, man had no intention to find or even "create" God in his fantasy; he simply reacted to the painful gap between the absolute intrinsic validity of norms and the finite and relative nature of the neighbours who mediated those norms to him. So, the rise of religion is a classical example of unconscious production or spontaneous emergence (described e. g., in Hegel and Feuerbach who, unfortunately, added that this unconscious production was the alienation of man).

Religion as transcendent justification of norms of distributive justice ascribes, of course, a purpose to man's following of the justified norms. But, this purpose differs from their functions as they are described by evolutionary theory. People who follow the norms do not know that this kind of behaviour enables them to be successful in the struggle for life; they rather believe that by following the norms as prescribed by God they only fulfil His Commandments and come closer to Him. They can even treat their abidance by norms in a utilitarian way, (i. e. that the respecting of the norms pays off because it brings a reward in the form of eternal bliss). Thus, we can see that after the arising of religion, people's following the norms can never be totally "blind," automatic and devoid of any purpose and sense; when we still speak about the unconscious character of the norms, we should have in mind that it consists precisely in the fact that missing (scientific) cognition of real functions of the observance of those norms is compensated by ascribing this observance some transcendent (from the standpoint of evolutionary theory fictitious) purposes.⁹) It must be also admitted that these fictitious purposes stimulate people to behave in harmony with norms far more effectively than any scientific or utilitarian reasoning.

Eventually, we can now start with the investigation of the spontaneous character of the rules which underlie market order, or the "catallactic" rules as we have called them. It is needless to stress that the transition of human society from primitive small groups to extended society was based on the process of division of labour and the following rise of monetary economy. The question is: Did division of labour and money arise as a form of unconscious production or as an unintended result of human actions? Contrary to Hayek, we must admit

that they did not. Their rise is spontaneous only if spontaneity is understood as the absence of state or governmental planning and coercion: Division of labour and monetary economy were certainly not ordered from above, but from below, i. e. from the actions of individuals. Moreover, these individuals did not know that the pursuit of their self-interests would have some unintended consequences which would lead to the public benefits via the "invisible hand." We can see that the character of unconscious production here is both similar and dissimilar to people's unconscious observance of religiously justified norms. The similarity consists in the fact that among various consequences of our actions, our purposeful thinking is concentrated only on a part of those consequences – in the case of market activities, the conscious purpose is connected with the pursuit of self-interests, which is something immediately felt and visible, whereas the immediately invisible "public benefits" remain beyond the scope of purposeful thinking. As concerns the dissimilarity: unlike in religious justification of norms where the conscious purpose (serving the God) is fictitious (from the standpoint of evolutionary theory) and only the unconscious consequences of people's following norms are real, in our market activities both the conscious and unconscious consequences are real.

But, in developing division of labour and monetary exchange the actions of individuals do not proceed unconsciously – in the sense that an individual would perform an action without knowing why and for what purpose and the other would blindly imitate his action. This is impossible because especially the exchange and bargaining require the existence of a well-developed form of language and therewith the existence of similarly well-developed structure of purposeful action also including man's ability to apply utilitarian rationality. Men can immediately grasp that the exchange of the products of specialised labour is more useful than remaining in self-sufficiency. The same is true about the discovery that using a good as money (i. e. as both a particular good and an incorporation of pure "abstract" utility which can be changed for any useful thing) is more advantageous than previous practices.

Nevertheless, as concerns the catallactic rules which underlie the rising market process, we must still insist on David Hume's statement, that they "are not the conclusions of our (utilitarian) reason." Some of these rules are implicitly or even explicitly present already in the ethics of distributive justice and the individuals developing the new market order adopt them *mutatis mutandis* even in situation when collective actions have been replaced with mutually independent activities in the frame of division of labour.

First of all, the rule prescribing the keeping of promises is a constitutive part of the ethics of small groups because any planned and co-ordinated collective action (as warfare) necessarily requires that individuals should fulfil the partial tasks; the new aspect of this rule as applied to the market process is

the fact that promises are not related mainly to the superordinated chief, but to the interactions among mutually equal persons.

The finder-keeper rule, too, can correspond to the principles of distributive justice because finding something beyond the frame of collective action can be treated as finder's merit; this concerns especially such things which can be used only by one person; in the opposite case – when a thing found by an individual can serve all the member of his group – the finder is rewarded morally. Under market order, this rule loses its originally marginal meaning and is related to the main form of economic activities.

The rudiments of the rule protecting private property can be also found in the ethics of distributive justice – after the distribution of collectively acquired commodities among the individuals proportionately to their merits it is excluded that the share of any individual could be violently expropriated by another individual. Market order brings here a substantial change in the understanding of what is the merit: while in the small group the merit of individual consisted in the importance of his directly visible and controllable work activity for the collective action, in market order the merits lose this immediate visibility because they consist in satisfying the needs of producer's neighbours. Nevertheless, in the beginnings of market order, when the extent of market is small, producer's ability to satisfy needs of the members of community can be known relatively easily; accordingly, if he is ascribed to have such commonly known merits, all the people will agree that he deserves to be rich.¹⁰⁾

From this point of view, the transition from distributive justice to the initial period of market order seems to be continuous. Conjoint or collective action as the main way of economic activity is abandoned voluntarily because it was found to be less useful than the new system. Some rules which more or less explicitly belonged to the ethics of distributive justice are torn away from its basis (i. e., from conjoint action) and reinterpreted, which means that their formal structure is applied to new contents.¹¹⁾ (Conjoint or collective action together with its ethics remains preserved in family and warfare, and – in the Ancient Greek and Roman republics – also in free individuals' participation in political life.)¹²⁾ The reinterpretation of old norms is derived from higher utility of division of labour and is thus initiated by utilitarian rationality; in an inconspicuous manner, the utilitarian treatments influence some aspects of the religious thought. This is possible because especially in those times the religious myths could be interpreted in various ways, having no strictly coherent structure of a doctrine. Under the pressure of utilitarian rationality, religious thought selects such aspects of existing myths which legitimise the new way of application of the norms of distributive justice.

The most important point is that utilitarian reason here does not design the catallactic rules completely; it only stimulates the accommodation of the

existing norms to a new situation. And this implies that the unconditional validity, which is essentially amalgamated with the norms of distributive justice as results of unconscious production, penetrates also into the rules which underlie the market order. It can be said that the transcendent foundation which makes norms unconditionally valid (and free from being subordinated to any relative purpose) was transferred from norms regulating conjoint action to the catallactic rules which constitute the necessary conditions for market system. It means, on the other hand, that the catallactic rules did not emerge as something totally new and torn away from the previous developments.¹³⁾

But, the above-described harmonious relationship between the distributive ethics and catallactic rules was characteristic only for the very beginnings of the former; later, it turned into permanent tension we experience until now. The primary cause of this tension was the fact that the principle of voluntary exchange included also the relation of abstract equality among the exchanging persons and this abstract equality was at variance with norms of distributive justice which included inequality (of visible merits and rewards).

Moreover, the evaluation of merits of a person in primitive small groups performing conjoint actions included not only the utility coming from the actual action of that person, but also the merits resulting from his (and even his ancestors') life-time activity. (These merits, though not actually visible, had been visible and also seen in the past.) This means that merits were closely connected to the individual person whose personal history was known to everybody.

In a market, on the contrary, each person must prove his "merits" (the ability of his product or service to satisfy consumers' needs better than the others' products) again and again, in each of the repeated market interactions. In other words, the market system takes no account of the previous merits of a person; it evaluates his "merit" only here and now. In this way, the principle of abstract equality led to the rise of impersonal relations.

Nevertheless, the inherent contradiction between the principle of abstract equality and the old norms of distributive justice as applied to personal merits was not seen before people's experiencing some bitter social consequences of the rise of market order. Namely, the prevalence of market relations as based on abstract equality led to new inequalities in property and incomes; these economic inequalities differed essentially from social and class inequalities inherited from the old system of distributive justice. There arose *nouveau riches*, coming from lower classes (also from former slaves) whereas, e. g. formerly free citizens became sold into slavery so that their debts could be paid off. In Ancient Greece, these overthrows in social stratification caused by the rise of market system led to the threat of civil war; a reconciliation of conflicting parties was possible only via deliberate political reforms and

interventions (e. g., Solon's reforms). The conflict discredited also the old religious mythology which, being too ambiguous, could not serve further as a means for spiritual unification of society; it was replaced by philosophy which tried to re-unify the split world by rational cognition of unseen essential principles. Great philosophers such as Plato and Aristotle, nevertheless, defended prevalently the principle of distributive justice, whereas their opponents (the Sophists and Stoics) who pleaded in favour of abstract equality and individual freedom were not able to face their arguments; namely, the Sophists and Stoics could not understand the very essence of market order because they could not study it in its pure form as devoid of slavery.

Other kinds of reactions against the consequences of market order were reform movements in religion, usually led by charismatic persons. The true programme of original Christianity, e. g., was to re-install the principle of distributive justice. This meant to abolish the changes resulting from the extended market order and to overthrow the existing social stratification so that it should have corresponded to the old ideal of justice: "But many who are first will be last, and many who are last will be first." Jesus believed that he would only fulfil correctly the old law instead of abolishing it; in fact he wanted to purify the principle of distributive justice from all supplements and reinterpretations which made him compatible with the market order. But, after the death of Jesus (who most probably wanted to put his ideals into practice in the earthly world), St. Paul, a highly educated person, made a basic reinterpretation of Jesus's programme, according to which the principle of distributive justice should have been applied solely to post-mortal life, whereas on the earth, the market order together with its "unjust" consequences should have been preserved.

In this connection the general importance of philosophy for forming the religious justification of market order (and, of course, also of its opposite) must be stressed. Applying the method of free discussion and dialogue since its beginning, it enabled the co-existence of plurality of various theories, outlooks and conceptions explaining the world as a whole and the character of Deity. The possibility of free thought in philosophy was reflected also in the religious sphere, where various versions of existing religions and also completely new ones could be developed. (E. g., the religious reform of the Pythagoreans who, following the doctrines of their charismatic teacher, also attempted to put it into practice.) These religions which existed (especially in the Ancient Rome) at the same time used philosophical arguments in order to differentiate from each other (here can be mentioned the famous controversy about the "iota"). These movements in the religious thought tore away very soon from real political and social interests and needs, and acquired a character of autonomous self-movement. As a consequence of it there arose a large "supply" of religious

outlooks from which there could be chosen, occasionally, an apt justification for any political and social programme. In harmony with Hayek it can be said that these religions competed for the willingness of people to accept them; the competition consisted in the fact that each of them tried to prove that it expressed the Will of God (or the Divine Law or the Absolute Goodness) more correctly than the others. In this effort, almost all of their authors (who considered themselves to be mere exegetes) referred to some of the old, spontaneously emerged norms (imprinted in human heart through education in family) or to some "eternal" values and only on this basis they could start to develop a philosophical argumentation according to which the preservation of the old norms or values necessarily required that some other norms should have been suspended in their validity and replaced with new ones.¹⁴) Thus, it can be seen that in human history – in spite of all reinterpretations, philosophical argumentations and new exegeses – there exists a kind of continuous preservation of the validity of spontaneously emerged norms; this is due mainly to the fact that these norms which enabled the transition from animal to man must be applied again and again in each (functioning) family in order for our children to move from animality to humanity. And, consequently, each of us must reproduce the uneasy reinterpretation of the norms of distributive justice, inherited in his/her childhood, later when one experiences market order and its consequences.

It is almost needless to stress that the production of religions as mentioned above was not conscious in the sense that they would be compiled deliberately in order to defend the interests of this or that class. Nor were they unconscious reflections of class interests in the form of "false consciousness" as the Marxist explanation asserts. Their rise proceeded in the autonomous sphere of spirit, and in relation to real developments in economy and politics they can be compared with accidental mutations which either can stimulate the progress of market order, can harm it (before people who accepted them come to the conclusion that this trial led to error), or can in its pure form be fully indifferent to the interests of any class (some of the mystic Oriental religions). We know from history that in the Roman Empire (where a great number of Christian and non-Christian religious sects arose in the 1st–4th century) there was eventually an acceptance of a version of (Catholic) Christianity which neither harmed the political interests of emperors nor the functioning of market order.¹⁵) Later, in the early Middle Ages, when free market system and the remnants of Ancient civilisation based upon it almost completely disappeared, the exegetes and philosophical interpreters emphasised those aspects of Catholic religion which were in harmony with the ethics of distributive justice. In the late Middle Ages when market order started to be developed again, the Catholic church started to moderate its anti-market orientation, but more in practice than in its well-coherent theological doctrines. It even adopted some market practices for its

own purposes (e. g. the practice of selling indulgences). The reform by Jan Huss, protesting primarily against these practices, required strictly a return to the spirit of original Christianity as documented in the Gospels. But, the unequivocal character of the Gospel texts led to the split of the Hussites into various factions; one of them even attempted at a primitive Communism. Nevertheless, the prevailing majority of the Czech society accepted such a version of Hussitism which did not harm the rising market order and even enabled to apply some elements of democracy.

The immorality, anarchy, and ruthless individualism of the following Renaissance era resulted from the fact that the Catholic church completely lost its moral authority because their official doctrines, stressing distributive justice and legitimising therewith the feudal order, entered into contradiction not only with its practices, but also with the consequences of the development of market order. The spiritual reaction against that devastating immoralism was the Protestant reform movement which, too, split into various exegeses presenting the "only" religion. Again, some of these factions tended to apply the ethics of distributive justice in the form of primitive Communism, some of them supported and even directly stimulated in their practical consequences the rise of individualism and of market order: the case of the Calvinism and Puritanism is sufficiently known.

As with Calvinism which made the development of capitalist enterprise based upon the most profound and sacred human need – need for eternal salvation, which denied also the importance of the Commandment "Love thy neighbour as thyself" in favour of "Love God above all," and which denied especially radically the importance of visible merits, it must be stressed that in its case the non-utilitarian (and non-conscious) way of people's following the catallactic rules and their effort in developing capitalism is especially explicit. In doing so, the Calvinists did not care about other people's reactions; they had no fear from being punished by secular law-courts; they were related primarily to God and responded to His "calling." It was primarily the fact that Calvinism sanctioned religiously not only the abidance by catallactic rules but also man's maximum effort in entrepreneurial activities, which made him the best transcendent basis for capitalism.16)

Unfortunately, the history of religious wars shows us that people in Europe could not choose freely and peacefully among the competing versions of Christianity. Nevertheless, the nations who – for various reasons – did not accept any kind of Protestantism (e. g., Italians), adopted such practical versions of Catholicism which did not stand directly against the development of market order;17) this can be compared to the situation in the late Roman Empire. The same is true about the case of Japan and other Asian countries in which the inhabitants knew nothing about the Protestant ethics; their systems of ethics,

based on the principles of distributive justice, could be relatively easily reinterpreted in the way which efficiently stimulated the rise of capitalism.

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At our present times, undoubtedly, there is a very small degree of probability that any kind of mass religious movement, led by a charismatic personality (as, for example, Calvin was), could arise and present an absolute justification of the validity of catallactic rules. As Gerhard Ditz shows in his brilliant essay on Protestant ethics,¹⁸) even in the USA, a country whose civilisation grew up on the firm basis of Calvinist-Puritan heritage, the strict principles of Calvinism have been abandoned in favour of the Freudian *Lustprinzip* (which is practically the same as Marxist "right to laziness") and other anti-capitalist ideologies; the same is true of the United Kingdom where recently a public inquiry showed that people there believe Karl Marx to be the thinker of the millennium. Moreover, post-modernistic relativism and multiculturalism (which is the enemy of open society, as Barry Smith argues), dominating – due to their simplicity – over the world of mass-media, very efficiently prevent from the general widespread of any new (or even an older but revived) moral principle. Therefrom follows that in the world of today, any unconscious emergence of unconditionally valid rules can occur. On the other hand, the phenomenon of globalisation means that the ideology of human or natural rights is disseminated (at least formally) on the major part of the Earth.

What should a politician in position of a leader of reform movement in a post-Communist country do now – as concerns morality and people's relation to the catallactic rules? First of all, he should not misinterpret Hayek's theories by telling his countrymen that the observance of the rules will arise spontaneously. Further, he should plead for strict maintenance of law and for investments in human capital. And, as being aware of the fact that moral revivals are centred around charismatic personalities who incorporate in their own life the principles they assert – he should use his personal charisma (if he has any) in such a way that his speeches and deeds could support his neighbours' tendencies to a moral revival. In doing so, he could refer both to local moral traditions (or even to national pride) and to the ideology of natural rights which is easily understandable; he could use his theoretical knowledge (if he has any) in persuading people that various leftist misinterpretations of the idea of human rights – as Marxist "right to laziness" – are not correct. And finally, if he personally would not feel any absolute allegiance to the rules and treat them in a utilitarian or even nihilistic way, he should – before the public – pretend to believe absolutely in their unconditional validity, because such a Machiavellian practice would help him to fulfil his task.

Notes and References

1) Catallactic rules (the term refers to Hayek's famous "catallaxy") consist of the rules guaranteeing private property, the rule of promise/contract-keeping, and the finder-keeper rule (rule of homesteading). The fact that individuals, in their market interactions, observe the catallactic rules is a necessary condition for the functioning of the free market system.

2) It is useful to present here a malicious criticism of Hayek's conception of the spontaneous (i. e. unconscious) emergence of the catallactic rules as it is presented by Hans-Hermann Hoppe, a very resolute defender of the Misesian heritage: "(1) A person initially performs a spontaneous action without knowing why and for what purpose; and a person retains this practice for no reason – whether or not it has resulted in a success (for without purpose and goal there *can* be no success and no failure). (Cultural mutation) (2) The new practice is imitated by other group members – again without any motive or reason. The proliferation of the practice comes to a halt once all group members have adopted it. (Cultural transmission) (3) Members of other groups do *not* imitate the practice. Those groups which spontaneously adopt and unconsciously imitate a 'better' moral practice will exhibit a comparatively higher population growth, greater wealth, or otherwise somehow 'prevail'. (Cultural selection) Hayek claims that his theory explains the evolution of private property, of the division of labour and of exchange as well as of money and government. In fact, however, these practices provide perfect examples for demonstrating the theory's entire absurdity..." Hans-Hermann Hoppe, F. A. Hayek on Government and Social Evolution: a Critique, in: Christoph Frei, Robert Nef (eds.), *Contending with Hayek*, Peter Lang, Bern 1994, p. 139. Hoppe's critical approach is in fact not correct because he does not take into account the later developments of Hayek's thought as they are expressed in the last chapter of *The Fatal Conceit*. (See note 8.)

3) *Aristotelis Ethica Nicomachea*, ed. O. Apelt, Leipzig 1912, 1131a.

4) It is necessary to add that the norms of distributive justice were playing the dominant role not only in primitive small groups but also in some more developed societies consisting of great masses of population which were settled in the valleys of big rivers (a representative example of such a society is the Ancient Egyptian civilisation). The positive functioning of the norms of distributive justice beyond the limits of primitive small groups was enabled by the fact that the economic systems of the above mentioned societies required that most of population should repeatedly have performed a kind of conjoint action oriented toward a commonly shared aim; this aim can be specified as building and preserving some complicated systems of irrigation which were

necessary for agricultural production in those societies and which were so complex that they required a high degree of planning and co-ordination of the activities of single builders. This co-ordination – which had to come from a central authority – was performed by the state which, at the same time, distributed the agricultural products in accordance with the "merits" of single inhabitants (or rather classes of inhabitants) as related to the "public benefit." This implies that as a matter of fact, all lands were owned by the state.

But, such a system of commanded and centrally planned economy did not exclude entirely the rise of some rudimentary forms of markets and the corresponding catallactic rules; nevertheless, the activities connected with irrigation works, as managed and co-ordinated by the state, played so an important role in the agricultural economy of the societies we speak about, that the development of market economy (requiring private property on lands as its necessary condition) was substantially restraint; the markets played merely the role of a supplement of commanded economy.

Of course, the way in which the ethics of distributive justice was performed in those societies differed in some important respects from its original form as developed by primitive small groups.

E. g., the fact that (due to a large number of inhabitants) the "merits" of single individual, groups and classes could neither be immediately seen and controlled by all other members of society nor exactly calculated, implied that the state officials had to define those "merits" (and the corresponding "rewards") more or less arbitrarily. This arbitrariness led frequently to revolts and uprisings of subordinated classes suffering from starvation, which resulted either in a reduction of the quantity of population (in case that the revolts were defeated) or in raising the "rewards" coming to those classes (when the state was enforced to accept a compromise). Thus, distributive justice was asserted via violent "corrections" of arbitrary (unjust) estimations of the size of "merits" and "rewards" as performed by the statal authorities. This practice was nothing but a version of trial-and-error method; through its being performed during hundreds and thousands of years, the state officials could learn from their errors and come to such estimations which were able to led to a dynamic equilibrium of power in the society.

Another difference consisted in the fact that the rise of population made the existence of personal relations among all members of society impossible. In consequence, morality as an immediate and internal form of the maintenance of the principles of distributive justice was supplemented with legality, i. e. with an external form of coercing people to the conformity to those principles; this external coercion was performed by the state. The impossibility of the inhabitants' being interconnected by personal relations in the frame of the society as a whole was reflected in all inhabitants' entering into a symbolic personal relation to the head of the state.

This implies that it was the specific character of natural surroundings, which led to the rise of centrally planned and commanded economies in the above described societies and to the rise of the state authority, too. The unchanging character of that surroundings was reflected in the fact that those societies lasted for thousands years without having any need to change their moral and legal norms; this is why they are usually called "non-historical societies."

5) In our present times, this character of distributive justice functions (or should function) *mutatis mutandis* in army; accordingly, the best example for a small group performing conjoint actions are small military units – teams and platoons.

6) This is documented by the famous statement by Aristeides as addressed to Themistocles.

7) Accordingly, the proportion of the votes for various political parties should correspond to the proportion of the importance of their real or expected services for their society as a whole.

8) Unlike Hayek, we believe that by our predecessors, the following of the norms led to the suppression of their animal instincts and paved the way for meaningful language and therewith for human consciousness. This means that before starting their march to humanity, our predecessors were no collective animals (like ants). Namely, if they were collective animals performing conjoint actions on the basis of instincts, they would survive without becoming humans. (In a more comprehensive way, this conception is developed in my study "On the Origin of Language," published in: R. Casati and G. White, eds., *Philosophy and the Cognitive Sciences*, Kirchberg am Wechsel 1993, pp. 403-409.)

9) "How would religion have sustained beneficial customs? Customs whose beneficial effects were unperceivable by those practising them were likely to be preserved long enough to increase their selective advantage only when supported by some other strong beliefs; and some supernatural or magic faiths were readily available to perform this role." F. A. Hayek, *The Fatal Conceit, The Collected Works of F. A. Hayek*, Volume 1, The University of Chicago Press 1989, p. 138.

10) The fact that norms of distributive justice can protect private property in the above-described way can be directly observed in the behaviour of families where those norms are still predominant.

11) The catallactic rules are usually treated as purely formal; this is true because they only prescribe how to deal with private property, etc. without determining what subject matter should be owned. But, private property differs materially (in content) from conjoint action and collective ownership, and precisely this difference is meant above.

12) This is why the Ancient individuals, living in small city-states and having

adopted direct, non-representative democracy, did not feel that loneliness and uprootedness which is typical for modern individuals who, especially in Europe, lived prevalently under absolutist monarchies. But, they (especially the Protestants) compensated this "alienation" through their intensive activities in local religious communities.

13) The above mentioned fact (see note 4) that in the "non-historical" societies, some rudimentary markets (as based upon the catalactic rules) were able to co-exist "peacefully" with the predominant commanded economies (as based upon the norms of distributive justice) for thousands of years is an indirect evidence of the existence of a continuous transition from the norms of distributive justice to the catalactic rules.

14) The exceptions, i. e. religions based solely upon abstract constructive rationality (the Pythagoreans) or prescribing full immorality (the Satanism) or even mass suicide cannot be successful in "struggle for life;" they can be accepted only by a very small fraction of population, especially by manipulated, perverted, and mentally ill individuals.

15) It is necessary to note that in the New Testament we can find a very inconsistent mixture of statements expressing anti-capitalist orientation and statements compatible with the principles of market order. This was caused by the fact that the persons who compiled the Gospels wished both to make this basic document of Christianity attractive for the poor (by ensuring them that the rich have a little chance to be saved by God) and acceptable for ruling classes by preserving imperial rule and market order.

16) When Anthony de Jasay argues that "where emigrant swarms from advanced civilisations founded new settlements, they did not seek to replicate the state authority they knew. Until organised government authority, its courts, police and taxes caught up with them, their system of law and order was spontaneous, privately and cooperatively enforced," he neglects the fact that those emigrants did so under the strong influence of Calvinist-Puritan religion; his arguments in favour of the possibility of a spontaneous emergence of catalactic rules at our present times remain thus unconvincing. Cf. Anthony de Jasay, *The Cart before the Horse*, in: Christoph Frei, Robert Nef (eds.), *Contending with Hayek*, p. 64.

17) But, the backwardness of Spanish, Italian, etc., capitalism in the 17th-19th century, as compared with England, Netherlands, and the USA, shows that the absence of the Protestant ethics as a kind of inner motivation to capitalist enterprise had some long-term impacts.

18) Gerhard W. Ditz, *The Protestant Ethics and the Market Economy*, in: *Kyklos (International Review for Social Sciences)*, 1980, No. 4, pp. 623-657.

