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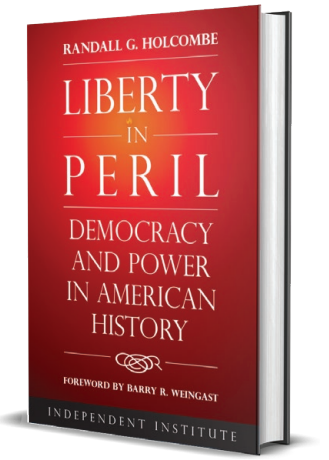

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Herbert Spencer's Principle of Equal Freedom

Is It Well Grounded?

GEORGE BRAGUES

During the mid- to late nineteenth century, Herbert Spencer was the most widely read philosopher in the world. A large part of his appeal was owing to his ambition of providing a complete and comprehensive account of human reality based on scientific principles. This project culminated in the articulation of a moral code oriented around the principle of equal freedom.

In this paper, I analyze Spencer's attempted proof of this principle and conclude that it is fundamentally flawed. To be sure, his reasoning does stand up against the more obvious objections predicated on his advocacy of the Lamarckian theory of evolution and his alleged succumbing to the ought–is problem. However, his derivation of the principle of equal freedom privileges the egoistic imperatives that drove the evolution of the human species. Spencer also goes astray by insisting upon the historical inevitability of his moral teaching. But if corrected for these defects, Spencer's moral theory can be made viable.

The Search for a Rational Basis of Morality

Philosophers have been seeking a rational basis for morality ever since Socrates began his inquiries into the human condition nearly two and a half millennia ago. Especially since

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the seventeenth century, however, philosophers have gone about this quest by devising formulas. They have endeavored, that is, to identify a fundamental postulate defining a procedure that can be applied to give moral guidance on every conceivable circumstance in which human interaction might generate conflict or concern. Guiding this pursuit has been the expectation that philosophers will be able to input the relevant variables into the formula and generate a moral determination as the output. A formula, too, holds out the hope of eliminating ad hoc, ideological, and self-serving considerations from moral reasoning. Beyond that, the simplicity offered by a formula promises to remove the abstruseness and casuistry that have all too often complicated ethical analysis. On the approach, morality would thus be akin to a good scientific theory, at least insofar as its maxims would be summed up by a simple idea with great explanatory power.

Examples of this quest for a moral formula are not hard to come by. The two major post-seventeenth-century strands of moral philosophy, the utilitarian and deontological, essentially represent alternative formulas. The utilitarian claims that morality equals those acts that maximize the pleasure or preferences of the greatest number of individuals. Meanwhile, the deontologist, who takes his bearings from Immanuel Kant, equates morality to a logically universalizable maxim or, as that philosopher's position is more commonly expressed nowadays, to the principle that human beings are always to be treated as ends rather than as means. Formulas predicated on a social contract, in which morality is equated with the rules to which rational persons would consent, have also been set forth in different forms by Thomas Hobbes ([1651] 1968), Jean-Jacques Rousseau ([1762] 1978), John Rawls (1971), and David Gauthier (1986). Another influential stream of moral philosophy offers the formula of rights, whether it be the Locke-influenced version of the rights to life, liberty, and property or the more expansive menu of claims inspired by the United Nations Declaration of Human Rights of 1948. Nor should we forget the most recently proposed formula to have gained widespread adherence, derived from another formula defined by a social contract: John Rawls's difference principle, according to which inequalities in outcomes can be justified only if these inequalities work to the benefit of the less-advantaged groups in society.

A common feature of these formulas is that the arguments put forward in their favor do not include the giving of scientific evidence. Although each of these moral formulas claims to embody the rationality and universality of science, none is defended as following from natural laws grounded in observation and experiment. Standing in the way of this approach has been the prospect of committing the naturalistic fallacy. On this argument, developed by G. E. Moore ([1903] 2004) and W. D. Ross ([1930] 2002), it is a logically invalid move to derive "ought" from "is"—or, put another way, to generate moral conclusions from the facts of nature. As a result, contemporary philosophers have felt compelled to rely upon intuition, self-evident propositions, reflective equilibrium, human psychological necessities, and currently undisputed assumptions in order to render morality into a rational enterprise without the aid of a scientific foundation.

But do we really have to forego science in this manner? Are we really precluded from invoking science to ground a theory of morals? Herbert Spencer did not think so.

Undeterred by the is–ought problem, the nineteenth-century British philosopher advanced a moral system explicitly defended on scientific grounds. Memories of Spencer faded throughout the twentieth century, except among a few sociologists and historians of ideas (Peel 1971; Jones 1980). Nevertheless, he merits our attention in the twenty-first century if only because of the extraordinary range of his erudition. His works encompass not only ethics but also politics, economics, psychology, sociology, education, aesthetics, biology, theology, and metaphysics. Largely owing to this breadth, Spencer was the world's most popular philosopher during his heyday, the late nineteenth century, being more widely cited than other luminaries of the period, including John Stuart Mill and Karl Marx (Google Books 2019). However, Spencer's fame diminished during the twentieth century, mostly because he came to be associated with social Darwinism (Hofstadter 1955). That association is arguably unfair.[1] The growing recognition of this unfairness and the rise of evolutionary psychology may help explain why interest in Spencer's work has experienced something of a revival (Gray 1996; Francis 2007; Taylor 2007; Offer 2010; Mingardi 2013). In truth, Spencer's social thought is best understood as the systematic application of the principle of equal freedom. He deemed this core moral postulate to override any direct employment of the state to enhance the evolutionary fitness of the human population.

The principle of equal freedom states that "each has freedom to do all that he wills provided that he infringes not the equal freedom of any other" (Spencer 1897, 46). Spencer employs this principle as an axiom from which numerous conclusions are deduced to inform the design of political institutions as well as public policies. But this method raises the question: Is the principle of equal freedom properly established? The answer to this question is no.

Spencer's Inductive-Deductive Method of Philosophical Synthesis

The initial challenge that arises in looking to science for a moral touchstone is that there is really no specific discipline called "science" from which to begin one's inquiries. Both in Spencer's time and more so in ours, there exist "sciences" in the plural. They range from astronomy and chemistry through to geology and study physical nature in addition to subjects that focus on human nature, such as criminology, economics, and anthropology. "Science," as Spencer notes, "means merely the family of the Sciences—stands for

1. For a compelling argument against the social Darwinist interpretation of Spencer, see Taylor 2007, 148–50. Michael Taylor argues that Spencer maintains that political and economic institutions should be structured so that individuals are incentivized to adapt to the requirements of social life. Spencer does not argue that the state should enact policies that eliminate those who are less evolutionarily fit. George Smith alerts us (1981, 126) to a passage from Spencer wherein he rejects identifying the survival of the fittest with survival of the "better" (1882, 340). Also, Thomas Leonard (2009) emphasizes the contradiction in Richard Hofstadter's efforts to connect Spencer to social Darwinism while simultaneously downplaying the explicit advocacy of that ideology on the part of early-twentieth-century progressives in support of state-enforced eugenics.

nothing more than the sum of knowledge formed of their contributions" (1912, 117). How exactly, then, is a scientific investigator of morals to traverse this multiplicity of subjects and select the relevant elements to support a formula?

Spencer was well aware of this problem. "Science," he says, "consists of truths existing more or less separate and does not recognize these truths as entirely integrated" (1912, 117). He was cognizant, too, that the success of the sciences had increasingly displaced philosophy's jurisdiction over numerous domains of inquiry, leaving philosophy a shadow of its former noble self, struggling to retain a vital intellectual function. Thus, Spencer asks, "Where remains any subject-matter for Philosophy?" (1912, 117). Yet precisely because the success of the sciences expresses itself in the uncoordinated emergence of ever more specialized modes of inquiry, Spencer sees an opportunity for philosophy. Its primary task in a scientific culture is now to unify the sciences. Philosophy would in this task retain its time-honored role of providing a comprehensive vision of reality. "That which remains as the common element . . . of Philosophy . . . is—knowledge of the highest generality" (1912, 117). Now, however, attaining this understanding is to be accomplished by integrating the findings of the sciences rather than by speculating about a realm above and beyond the sciences. As Spencer puts it, "Science is partially-unified knowledge; Philosophy is completely-unified knowledge" (1912, 119).

In endeavoring to construct a philosophy that achieves this unity, Spencer zeroed in on four sciences. Underlying this emphasis is a commitment to the theory of evolution, for Spencer a sine qua non of any scientific account of the human condition. Not surprisingly, then, the first science in Spencer's architectonic is biology, which is meant to supply an evolutionary explanation of the bodily aspects of human nature. In Spencer's eyes, biology illuminates the physiological functions and how they evolve in relation to the external circumstances to which they must be adjusted if a life-form, *Homo sapiens* included, is going to subsist. The second science in Spencer's philosophic synthesis is psychology. It comes into play as soon as we move from the bodily impulses of pleasure and pain that biology covers to the mental representation and elaboration of those feelings in emotions, ideas, reflection, and deliberation. The third science is sociology, which reckons with the fact that human beings have evolved by coming together in forms of association that serve to further their subsistence and flourishing as a species. Accordingly, sociology examines the different forms of human association, including families, economies, religions, and governments. The fourth science, the culmination of the first three, is morality. Embracing as it does the rules of proper conduct, the science of morality completes the unifying project of philosophy by clarifying our purpose as a species—disclosed in Spencer's view, as we shall see, by the telos of evolution as the realization of a political regime in which our biological and psychological traits are in line with the requirements of social life.

Though philosophy is not itself a science, it must still pay heed to the latter's rules of establishing knowledge. In Spencer's view, philosophy does not bring a unique set of epistemological techniques for unifying the sciences. The difference between

philosophy and science has to do with mission rather than with method. For as the progress of the sciences has demonstrated, all knowledge is ultimately grounded in experience. No addition to the empirical methods of the sciences is necessary. As part of its unifying project, however, philosophy can shed light on how experience gives rise to knowledge throughout the sciences. Hence, Spencer thinks that philosophy can delineate what counts as a scientific explanation. What Spencer advances in this regard turns out to be crucial in assessing the viability of his moral and political theory. In his view, induction is not all there is to the scientific enterprise of establishing knowledge. Spencer insists that deduction is also a part of that enterprise by cementing the findings of science.

These findings, Spencer acknowledges, are initially established by generalizations from repeated experience. We see the sun rise in the east every day and then set in the west, from which we conclude that sequence to be a rule by which nature operates. In trying to decipher why the sun acts in this way, science then goes on to infer more general accounts from repeated observations. As this effort proceeds, science eventually reaches the highest generalizations, otherwise known as "laws." Beginning with the rising and setting of the sun, for instance, science ends up with Newton's first law to explain the earth's constant rotation. From such laws, Spencer maintains, predictions can be derived about the coincidences and sequences of phenomena not previously witnessed. When these predictions are borne out consistently by subsequent experience, the human mind can be said to have grasped the necessity underlying the relations among natural events. By deduction from natural laws, we can comprehend the glue that binds natural occurrences—that is, grasp that event A *necessarily* leads to event B and not simply that A has regularly been seen occurring prior to B. In doing so, we advance from what Spencer calls "empirical generalization" to "rational generalization" (1868, 30).

A potential objection to Spencer's philosophy of science is that deduction is not really doing the work he claims it is. Clearly, his tactic of indicating a scientific role for deduction is meant to transfer that method's grasp of logical necessity to our understanding of the empirical order. A critic of Spencer's tactic would say that what decides whether a given deduction from a natural law is valid is not the inference from that law but rather the success of the prediction expressed in the deduction. That success is inferred from experience. To the extent that experience is decisive, we must be open to the possibility of something happening in the future that may contravene an earlier conclusion (Popper [1959] 2002). We must concede, in other words, that we do not possess knowledge of a necessary relation among phenomena. After all, experience cannot prove that the past must be replicated in the future because we must wait until the future for that proposition to be proven—by which time it is no longer the future but rather the present. The future can never be adduced as evidence in the present. The upshot from all this, Spencer's critic would conclude, is that our comprehension of the concurrences and sequences among phenomena remains contingent, despite the inclusion of deduction in the scientific tool kit.

Against this objection, Spencer's main line of defense is to insist upon the alignment of the human mind with the external world. The view that our understanding of causal connections is contingent presupposes a fundamental gulf between the mind and the world. Insofar as it is assumed the mind and the world are separate, explaining how mental perceptions might correspond to the external order becomes a problem. Anyone familiar with the history of modern philosophy since René Descartes will recall the concern with the mind–world relation. To Spencer, the theory of evolution solves the problem. Human beings could not have survived and reproduced unless their minds evolved mental faculties that enabled them to grasp the external causal forces affecting their condition. Any mental processes not in conformity with the natural order would have failed to make it to future generations. For this reason, Spencer reckons that the human mind is plugged into the world. The general causality we perceive can be confidently stated to be "out there" in the world precisely because our species has thrived in the world:

> When, after an immense accumulation of experiences, there remain beliefs of which the negations are inconceivable most, if not all of them, must correspond to universal objective facts. If there be . . . absolute uniformities in Nature; if these uniformities produce, as they must, absolute uniformities in or experience; and if . . . these absolute uniformities in our experience disable us from conceiving the negations of them; then, answering to each absolute uniformity in Nature habitually repeated in our experience, there must exist in us a belief of which the negation is inconceivable, and which is absolutely true. In this wide range of cases, subjective inconceivability corresponds to objective conceivability. (Spencer 1898, 416)

When Spencer speaks here of the inconceivability of a negation, he is referring to his criterion of truth. This criterion states that a proposition can be validated as true if one cannot possibly think its opposite (Spencer 1898, 407). For example, we know that two plus two equals four because we cannot, as a psychological matter of fact, think the idea of five while simultaneously cognizing the sum of two and two. Precisely because it is impossible to conceive this negation, we are compelled to conclude the necessity of the connection between the notion of "two plus two" and the notion of "four." Thus, the inconceivability of the negation test is Spencer's way of gauging the existence of a necessary relation between phenomena—the relation in which the grasp of truth consists.

Given the evolutionary adaptation of the human mind to the world, Spencer holds that we are entitled to trust our deductive powers to comprehend the glue that connects phenomena together.[2] True, our deductions from natural laws must still be empirically verified, but this exercise is properly understood as providing confirmation of our

2. For a thorough account of Spencer's theory of knowledge, upon which my discussion draws, see Smith 1981.

reasoning and not as grounding it. For we are, Spencer explains, prone to carelessness and errors in the inferences that we draw from initial premises. Not only that but many of the propositions that come into play are complex and so must be broken down in order to be properly corroborated by experience. The neglect of the latter step, Spencer argues, can mislead one into thinking that numerous inferences from natural laws have been falsified by the data and that, therefore, the deductive method is hopelessly defective. For Spencer, then, the fact that our minds are hooked up with the world means that the predictive power of our deductions must be chalked up to more than coincidence.

Deducing the Principle of Equal Freedom

Equipped with this conception of how science generates knowledge, Spencer's strategy for ethics becomes clear. First, we would have to identify at least one law of nature that was sufficiently general in its coverage to produce deductions about the empirical order. A narrow law would not suffice because human affairs pertain to a wide range of domains, including, as we have seen, biology, psychology, sociology, and morality. Any law selected would have to cut through all these areas. Second, once this selection is made, the specifically moral implications of the law would have to be drawn and the appropriate deductions made. As these deductions would embody predictions about human affairs, the third step would involve testing the inferred moral principle against experience. Finally, if this test is passed, then we would have confirmation that the moral principle deduced from the relevant natural law is scientifically established. We can then proceed to apply the moral principle to specific circumstances, though always making sure to check the corollaries thereby drawn against the relevant facts of the case.

Vague as these steps may sound, they can be rendered more concrete if we use them to follow Spencer's elaboration of his moral theory. He first elaborated this theory in *Social Statics,* published in 1851. There, he included the proposition that God wills the happiness of human beings as part of his demonstration. Almost five decades later, when Spencer restated his moral theory in *The Principle of Ethics* (1897), he dropped the appeal to divine will. In the initial preface to part 4 of that work, he refers to this deletion as a notable shift in the articulation of his moral thought (ix). This change reflected the fact that he could no longer make the assumption that he did in *Social Statics* of a consensus on divine Providence among his readers. In *The Principle of Ethics,* which represents his most considered reflections, his moral theory is developed on entirely naturalistic terms. The law of evolution, merely alluded to in *Social Statics,* forms the basis of his deductive reasoning concerning morality. That law's scope more than suffices to infer moral principles because it covers all of reality.

According to the law of evolution, everything in the universe moves from homogeneity to heterogeneity, from simple sameness to complex differentiation. This progression is "a change from the less coherent form to a more coherent form consequent on the dissipation of motion and integration of matter" (Spencer 1912, 331–32). The basic idea is that the universe in its early stages is made up of elementary particles that move around quickly but then subsequently come together to form

aggregated entities whose larger mass reduces their motion so as to bring about a steady yet still always changing system of matter. To illustrate the law of evolution, Spencer points to the emergence of the solar system, which according to the nebular hypothesis was formed out of gases that combined into the planets (1868, 3–4). The gases represent the stage of the solar system in which it was more homogeneous, whereas the planets illustrate that system's evolution into a more heterogeneous stage. Spencer's thesis is also manifested in the processes of life, which began as single-celled species that, after reproducing through self-division, evolved into ever more complicated multicelled structures with sizable brains and sexual modes of reproduction. Indeed, according to Spencer, the law of evolution extends to human societies. In their more homogeneous stage, societies feature simple economies with rudimentary divisions of labor and status differences. But they have since evolved into more heterogeneous forms with specialization of labor, multidimensional forms of status, bureaucratic governments, and highly diversified economies (Spencer 1868, 12–18).

By conceiving the law of evolution in this way, Spencer describes it both in more all-encompassing terms than it is typically understood today and in a manner that clashes with common interpretations of his thought. Nowadays, evolution is understood to specifically relate to life-forms. Although Spencer's theory of evolution captures that dimension as well, he views the realm of life as only one of several applications of the theory as opposed to its central focus. As a result, the formula for morality that Spencer goes on to derive from the law of evolution ends up carrying greater cosmic significance. It is founded on the order of the entire universe and not simply on human nature. Another implication of Spencer's more comprehensive view of evolution is that it becomes necessary to put into context his adoption of Jean-Baptiste Lamarck's ([1809] 1994) teaching about the development of life-forms. Among those with even a passing familiarity of Spencer, it is common to simply identify him with Lamarckism. This theory holds that species can pass on to their offspring characteristics that they acquired during their lifetimes. To use an oft-mentioned example, Lamarckism would hold that giraffes have long necks because some of their ancestors stretched their necks and survived as a result. For Spencer, the Lamarckian theory accounted for the evolutionary movement from homogeneity to heterogeneity among species. Obviously, this goes against the currently accepted neo-Darwinian theory that says that species pass on only their genetically encoded characteristics to their ancestors (Dawkins 1976). According to the prevailing view, giraffes have long necks because some of their ancestors randomly mutated into longer-necked animals and survived as a result. Where Spencer is simply equated to Lamarckism, it becomes tempting to summarily dismiss his moral philosophy given its stated dependence on the theory of evolution.[3] Yet once the advocacy of Lamarckism is properly interpreted as a subsidiary part of Spencer's conception of evolution, rather than its essence, his moral system is left more viable.

3. For example, Derek Freeman quotes A. J. Balfour's statement that Spencer's endorsement of Lamarckism meant that "in every department of his theory of Man, that were it to be upset, it is scarcely too much to say that his Ethics, his Psychology, and his Anthropology would all tumble to the ground" (qtd. in Freeman [1974] 2000, 17).

That system is derived out of Spencer's law of evolution with two key steps. The first applies to all living beings and therefore is categorized by Spencer as subhuman justice. With respect to all life-forms, Spencer observes, evolution takes place by the adjustment of their internal characteristics to the imperatives of their external circumstances. By "internal characteristics," Spencer is referring to the traits of a species contained within its material frame that enable it to interact with the rest of nature. By "external circumstances," Spencer is talking about other species that are competing for resources, along with the larger environment of inanimate objects and events that impinge upon survival. Whether a life-form survives depends on whether its internal characteristics correspond to the requirements of its external circumstances. If they do not, then the life-form goes extinct. In other words, evolution works by imposing outcomes on the traits that living beings exhibit. From this fact, Spencer makes the first of his moral deductions: all living beings must experience the consequences of their actions.

The second moral deduction from the law of evolution is not a part of subhuman justice. It more directly pertains to human beings. Spencer notes that part of the evolutionary progress from homogeneity to heterogeneity is that more complex life-forms emerge with social modes of existence. This occurs when the benefits of cooperation to the species outweigh the costs associated with the sacrifices necessary among individual members to maintain that social framework. Precisely because such sacrifices are necessary, it becomes incumbent upon the species to constrain self-seeking among its individual members. Though Spencer does not specifically refer to game theory, his reasoning points to the idea of certain life-forms being confronted by a prisoner's dilemma in which the long-term benefits available to a species by cooperation are threatened by the temptation of short-term opportunism among individuals of that species. For these species to evolve, they have to develop internal characteristics that inhibit narrow expressions of self-interest. This leads to Spencer's second moral deduction from evolution: each individual must constrain his or her behavior to enable cooperation with others.

With two deductions having thus been made from the law of evolution, Spencer believes he has the basis of a moral axiom. At this stage of the demonstration, the deductions are indefinite, embracing all social forms of life. Thus, Spencer is led to refine what he initially infers from evolution in order to arrive at a formulation that captures the exigencies of human life. In regard to the first derivation, he argues that the proposition that all living beings must experience the consequences of their acts presupposes freedom. After all, an individual cannot experience those consequences if he is under constraints. A slave, for example, cannot see how taking regular periods of rest can improve his health if he is being compelled to work at all waking hours. A person cannot learn of her potential talent for music if she is prohibited from playing an instrument. From the first derivation, therefore, Spencer concludes that human beings must be free to act as they will, for only then can any substance be given to the necessity of undergoing the outcomes of one's conduct.

As to the second derivation, Spencer points out that the self-constraint it calls for essentially mandates that we be mindful of other people's interests. What those interests primarily consist of has already been stipulated in refining the first derivation from the law of evolution—namely, that every person must be free to act as he or she will. It is this freedom, Spencer reckons, that must be heeded in constraining our behavior for the purposes of facilitating social cooperation. I can act as I like, but only insofar as others can act as they like as well. Thus does Spencer arrive at his sought-after moral formula, the principle of equal freedom: "each has freedom to do all that he wills provided that he infringes not the equal freedom of any other" (1897, 46).

This formula, it needs to be stressed, is meant to define justice. It neither eliminates nor restricts other duties that we owe to others, including those related to benevolence, charity, and goodwill toward friends, family, and the community as well as to those who are sick, poor, and disadvantaged. Inasmuch as justice is concerned with the maintenance of society, the principle of equal freedom reflects the minimum behavioral requirements for human cooperation that can be rightfully compelled from individuals. Any additional obligations, not being strictly necessary for the preservation of social order, cannot be coerced. Such obligations, what Spencer calls the "duties of beneficence," can be called upon only on a voluntary basis.

Reinforcing the principle of equal freedom, Spencer claims, is the emotional frame of humankind. This reinforcement is crucial for Spencer inasmuch as he views the intellect as the servant of the passions. Our reasonings are prompted by the urges, desires, feelings, and emotions that are constantly pressing upon us to be allayed or satisfied. As such, no moral code can hope to influence behavior unless it is somehow inscribed in the emotional side of human nature. Thus, Spencer argues that the first clause in the principle, that each person is free to do what he or she will, is manifested in the instinctual resistance that human beings display whenever their freedom is constrained or even threatened. As is true for other animals, a person's first reaction to any attempt to confine him is either to flee or to fight back. Kidnappers must reckon with this fact, as do police officers when they arrest individuals. This ardor to be free is why prisons contain guards, cameras, and fences to prevent inmates from escaping. As to the second clause in Spencer's moral formula, that our freedom is limited by the same freedom of others, he maintains that the ground for this injunction has been laid by the sentiment of justice. Spencer holds that the sentiment of justice, expressing a sympathy with other people's interests, a capacity to identify with the feelings of others, evolved to become ingrained in people's psyches. Those societies that succeeded in restraining the self-interest of its members were more likely to survive than those that exercised greater individual opportunism. Spencer, therefore, advances a theory of group selection to help give his moral formula a place in the human psyche. As he puts it, "[C]onduct restrained within the required limits, calling out no antagonistic passions, favours harmonious cooperation, profits the group, and, by implication, profits the average of its individuals. Consequently, there results, other things being equal, a tendency for

groups formed of members having this adaptation of nature, to survive and spread" (1897, 27).

Evaluating Spencer's Proof

So has Spencer arrived at his moral formula in a logically defensible way? To begin with, it will be necessary to dispense with a tempting objection to his argument—namely, his advocacy of the Lamarckian view of evolution. That Spencer defends this view in no way vitiates his attempt to demonstrate the principle of equal freedom. Recent scientific discoveries involving mice, rats, and fireflies show that characteristics acquired by an animal during its lifetime can be transmitted to subsequent generations through changes to DNA that affect gene expression (Arai et al. 2009; Roth et al. 2009; Danchin et al. 2018). Epigenetics is the field that studies these changes, examining the environmental and developmental processes by which genes are turned on or off in ways that influence the traits that species inherit from their progenitors (Carey 2012). The notable progress made by epigenetics suggests that a Lamarckian element will eventually need to be integrated into current understandings of evolution (Ward 2018; Danchin, Pocheville, and Huneman 2019). But even if we set this issue aside as an unsettled matter, it must be kept in mind how Spencer arrives at the principle of equal freedom. He reaches this principle, it will be recalled, by way of inferring from his law of evolution that each living being must undergo the outcomes of its conduct. The emergence of adaptive behaviors, he argues, supposes this suffering of consequences. This assumption can still hold if we were to adopt instead the better-supported neo-Darwinian view that limits the mechanisms of species adaptation to inherited characteristics. On this understanding, natural selection would continue to require that life-forms experience the consequences of their conduct. What would change is only that the conduct in question would be genetically programmed rather than consisting of any traits cultivated during a species' life span. Furthermore, this substitution of the neo-Darwinian theory for Lamarckism would remain consistent with Spencer's law of evolution, from which the principle of equal freedom ultimately derives. That law would simply need to be amended to state that the movement from homogeneity to heterogeneity takes place among living beings through the accretion of inherited, as opposed to acquired, characteristics. That said, it should not be forgotten that cultural evolution has taken place alongside natural evolution (Richerson and Boyd 2004). Spencer's law of evolution can encompass the progress that occurs when learned behaviors that help individuals and societies prosper become established customs taught to future generations. As already mentioned, Spencer does specify the development of socioeconomic structures as an instance of his law of evolution.

Nor, for that matter, is Spencer's argument nullified by the neo-Darwinian assertion that the unit of natural selection is the gene rather than the organism. He advances an analogous position in maintaining that adaptation occurs with respect to a species' traits. Although Spencer does not speak of genes, he does refer to a species'

constituents. "The doctrine," he writes, "implies that the numerous organs in each of the innumerable species of animals, have been either directly or indirectly moulded into fitness for the requirements of life by constant converse with those requirements" (1897, 25). He speaks of evolution occurring at a component level.

The more automatic objection, of course, to Spencer's proof has to do with his alleged commission of the naturalistic fallacy, said to consist in the attempt to derive "ought" from "is." Given how Spencer conceives the status of human beings within the natural order, this fallacy comes to sight as immaterial. Inasmuch as science has succeeded in explaining more and more phenomena by reference to laws, Spencer holds that human action can reasonably be stipulated as subject to those same laws (1895, 37–47). Thus, human beings, just like rocks and plants, are enmeshed within a chain of causality. For this reason, he rejects free will (Spencer 1894, 500). The upshot is that anything we call morally obligatory will have to be naturally compelled. That compelling force, in turn, will have to be identified in nature. "Ought" implies "can," but we "can" do only that which the "is" determines. As such, the "ought" can describe only a morally significant dimension of the "is." This dimension, Spencer maintains, embraces those feelings of pain we experience on being confronted with an injustice. When asked to justify such feelings as moral, Spencer answers: "If you say that my theory gives me no reason for feeling this pain, the answer is that I cannot help feeling it; and if you say that my theory gives me no reason for my interest in asserting this principle, the answer is that I cannot help being interested" (qtd. in Smith 1981, 138).

Spencer's Privileging of Egoist Assumptions

Where the problem truly lies in Spencer's demonstration of the principle of equal freedom is his privileging of egoist assumptions. Consider that his two derivations from the law of evolution can be distinguished into egoist and altruistic claims. In stating a person's liberty to do as he pleases, the first derivation represents the egoist claim. In stating a person's obligation to heed the interests of others, the second derivation represents the altruistic claim. When these two claims are formulated in the principle of equal freedom, the egoistic one is unqualifiedly expressed in the initial part of the principle, which says, "Each has freedom to do all that he wills." But when the altruistic counterpart is set down, the demand to pay regard to others gets interpreted by Spencer as the requirement to respect the freedom of others. This is to define the altruistic component of the second derivation in terms of the egoism contained in the first. Each individual is simply called upon to give other people room to exercise their freedom as they wish. When we recall how Spencer justifies this freedom, his principle ends up being equivalent to the statement that other people should be permitted to experience the consequences of their acts. What is commonly associated with altruism—namely, the caring for and assisting of others—is absent. Altruism turns out to be the enabling of a shared egoism.

This egoistic emphasis looks arbitrary. Suggesting this is the way Spencer's approach stands against the more recent attempts to articulate a moral theory using the

theory of evolution. Whether we look at the work of Robert Wright (1994), Matt Ridley (1996), Steven Pinker (1997), or Dennis Krebs (2011), the emphasis in contemporary discussions of evolution and morality is on the altruistic dimensions of our genetic heritage. Evolution is understood as having selected behaviors in which people assisted others even to the point of sacrificing their own interests. The two major theories explaining how this selection took place are kin selection and reciprocal altruism. In asserting that altruism emerged through competition at the level of the gene, both theories deny the account based on group selection advanced by Spencer. This is not to say that Spencer's explanation has no support among present-day scholars. Though it is admittedly not the consensus view among evolutionary psychologists, there are those who argue that the natural selection of altruism occurred at the group level. One leading version of that theory maintains that societies cultivating greater altruism through religion held an advantage over rival populations in the competition for land and resources (Wilson 2002).

As to the more accepted evolutionary analyses of altruism, W. D. Hamilton (1964) put forward the concept of kin selection. It asserts that species that provided aid to relatives would have been more likely to have their genes spread into future generations because those genes would help individuals to survive and reproduce. It would make more sense for individuals to do this for closer relatives, with whom they hold more genes in common, than with distant relatives—an expectation borne out by everyday experience in the way people tend to make greater sacrifices for their siblings, parents, and children than they do for their uncles, aunts, and cousins.

Meanwhile, the concept of reciprocal altruism holds that evolution would have favored the genes of those willing to cooperate with others because such individuals would be more apt to have the favor returned to them in a time of need (Trivers 1971). The noncooperators, meanwhile, might opportunistically benefit from exploiting the goodwill of others, but these gains would be temporary. The larger group of cooperators has an incentive to prevent opportunistic behavior from spreading by identifying the noncooperators and penalizing them. Indeed, the optimal approach that evolved to prevent free riding was a tit-for-tat strategy in which individuals begin by cooperating with another person and then in subsequent interactions either cooperate or not cooperate by mimicking the previous move of the counterparty (Axelrod 1984).

Among all the current exponents of these theories, the evolutionary advantage conferred on self-regarding behavior is acknowledged. But this part of our genetic inheritance is always understood as constraining the possibilities for moral conduct or, indeed, as expressing the evil potential of human nature (Raine 2014). Another line of argument is that evolution has inclined humans toward violence, aggression, and intolerance, especially toward members of outsider groups, and that morality therefore entails socially engineered measures for overcoming our natural impulses (Hammond and Axelrod 2006). Indeed, one would be hard pressed to find an authoritative figure in our day defending the various selfish impulses directing us to spread our genes as a source of morality.

Hence, the history of evolutionary reflections on ethics presents us with two opposing alternatives. The first, developed by Spencer, emphasizes the individualistic imperatives of evolutionary fitness. The second alternative that came later downplays the moral significance of those individualistic imperatives and instead focuses on the altruistic traits that proved conducive to the evolutionary success of social species such as *Homo sapiens.* It would be hard to deny that this more altruistic reading of evolution is, at the very least, plausible. Even Spencer, in his discussions of the division of labor and voluntary cooperation through trade, concedes the enormous progress that cooperativeness has brought about for humanity. Why can we not say, then, that the most important moral lesson of evolution is the adaptiveness conferred by a species' tendencies toward mutual assistance and the promotion of its general welfare? Spencer proposes to derive a moral formula from the law of evolution. But the plausibility of an opposite conception of morality suggests that his reasoning lacks the certainty associated with the deductive form of argument he employs. The mere plausibility of the altruistic interpretation is enough to say that there can be no QED, no logical necessity, in reasoning from the law of evolution to the principle of equal freedom. The law of evolution, in other words, can lead in more directions than Spencer reckons.

Flaws in Spencer's Empirical Argument

An even more serious dilemma in Spencer's attempted proof of the principle of equal freedom comes into view when we arrive at the empirical part of his argument. Remember that his methodology requires that deductions made from natural laws be checked against the relevant evidence. Those deductions contain predictions that need to be upheld in the data before we can be sure of having captured an objective reality. In the case at hand, Spencer is committed to demonstrating that evolution has in fact occurred in such a manner as to ensconce the belief across humanity that we ought to be free and live with all the consequences that this freedom entails. In addition, he must show that there has actually been an evolution toward the recognition of limits upon our freedom—namely, the equal freedom of others. Whatever is said to emanate from the law of evolution must turn out to have evolved. Stated more simply, Spencer needs to prove that human history is moving in the direction of the principle of equal freedom. Not only that, he must demonstrate that this principle cannot be surpassed in the evolutionary process. If it can be surpassed, that principle would represent a merely transitional point on the way to a higher form of morality to arrive later. Spencer essentially has to advance the principle of equal freedom as the end of history.

Spencer duly takes up this task, doing so by inferring a number of corollaries from his moral formula and providing evidence for each of them. Each of these corollaries he designates as a right. Each thereby designates a person's domain that society is obligated to respect and not invade. A criticism often lodged today against the concept of rights is that they proliferate without any semblance of reason other than the desire to satisfy the preferences of those who assert them (Clement 2018). Thus, what started as the right to

life, liberty, and property has mushroomed into a multiplicity of rights to employment, housing, health, education, culture, and even the Internet. As early as the late nineteenth century, Spencer was aware of this problem, noting how in the aftermath of the French Revolution people spoke of a right to labor. "At the present time," Spencer says, "communists use the word 'rights' in ways which entirely invert the meaning given to it by past usages" (1897, 63). This looseness in terminology has the unfortunate effects, Spencer fears, of placing the entire notion of rights in doubt and of prompting thinkers to reject it in favor of the idea that governments construct "rights" by law. Spencer believes that his deductive method can preclude this outcome by limiting the enumeration of rights to those with an objective foundation.

The first of the corollaries that Spencer derives from the principle of equal freedom is the right to physical integrity. A person can hardly be free, after all, to do what he or she wills if other individuals are permitted to injure his or her body. It is our bodies that we use to perform any action. For this reason, too, the right to physical integrity includes the prohibition of murder. Having made these inferences, Spencer then endeavors to provide empirical support for the implied prediction that societies evolve toward the recognition of the right to physical integrity. He points out that in early societies murder was not acknowledged to be a crime. The killing of the elderly, the sick, and the disabled was tolerated on the grounds that these individuals could no longer contribute to the group. Insofar as murder was censured, it was treated as an insult to one's group, mandating the restoration of dignity through private revenge. Later, Spencer tells us, when governments emerged, monarchs legislated the prohibition of murder in order to maintain the cohesiveness of their societies for war purposes. This enforcement of homicide laws initially reflected the class distinctions of agrarian warrior societies, with penalties for killing nobles higher than those for killing peasants. But as societies grew larger to subsume all the clans and ranks, murder came to be understood as a crime against the community rather than against the dignity of a subgroup. This understanding allowed the protection of the individual to come to the fore, an evolution now legally recognized throughout much the world (Spencer, 1897, 64–71).

Spencer continues with this same procedure—corollary inference followed by the presentation of empirical evidence—for all the other rights he articulates, including the rights to freedom of movement, the use of natural resources, and the provision of gifts as well as those rights related to property, exchange, contract, occupational choice, speech, and religion (Spencer 1897, 72–147). I will not lay out here the logic and evidence Spencer sets forth in defense of these additional rights because it is not necessary in evaluating his overall argument. Suffice to say that with all these rights Spencer surveys the relevant history while telling a story of increasing freedom being acknowledged to individuals across societies. Spencer declares, "[T]here has been a gradual increase in the governmental maintenance of the rights of individuals, and that simultaneously there has been a gradual decrease in the governmental trespasses on such rights" (1897, 156). Indeed, he posits as part of this trend an evolution in people's consciousness, such that the denial of their acquired freedoms has become unthinkable. The principle of equal

freedom thus passes the inconceivability test in addition to being deducible from the law of evolution. "Hence," Spencer reckons, "we get a double deductive origin for this fundamental principle," with the upshot being that "the conclusions thus reached by deduction agree with the conclusions which induction has led us to" (1897, 152).

But time has not been kind to Spencer's proof. Granted, since he wrote, the evolution of social mores, practices, and institutions has not gone entirely against the principle of equal freedom. If we break that principle down into its corollaries, we will indeed find that the rights to physical integrity and free movement are now more widely and strongly heeded than they were in the late nineteenth century. Societies now are much less tolerant of violence in everyday life, as evidenced in the growing disapproval of parents spanking their children. Slavery continues to be abhorred, if not more widely and forcefully than in Spencer's time. If we use the level of democracy as a proxy for the presence of religious and speech freedoms, these two conditions can be said to have increased over the twentieth century with the global rise in the number of popularly elected regimes.[4] In fact, all the rights Spencer enumerated have come to be shared among a larger group of societies than the few mostly European and North American countries that initially protected those rights. In one form or another, the rights to property, exchange, contract, and choice in occupation are more widely recognized around the globe, as suggested by the Historical Index of Economic Liberty (Espacio Investiga 2019).

All this being conceded, it must still be said that what the principle of equal freedom has gained in breadth, it has lost in depth. This is glaringly the case with the rights Spencer articulated that are related with property. One need only consider the massive growth in the size and scope of Western governments from the beginning of the twentieth century to appreciate the extent of the reversal. Immediately prior to World War I, about a decade after Spencer's death, the average rate of government spending as a percentage of gross domestic product (GDP) among developed nations was 13.1 percent (Tanzi and Schuknecht 2000, 6). By 2015, the average rate of government spending among thirty-three Organization for Economic Cooperation and Development (OECD) nations had reached 42.7 percent of GDP (OECD 2019b). To finance this increase, taxation (along with nontax receipts) has significantly risen as well, with government revenues as a percentage of GDP having reached 41.7 percent on average among those same OECD countries (OECD 2019a). In terms of regulations, if we consider only the U.S. case, the number of pages in the *Federal Register* has risen from 2,620 in 1936 to 68,082 in 2018 ("*Federal Register* Pages Published Annually" 2019). Both the higher levels of taxation and the greater amount of regulation associated with this trend has considerably hindered an individual's liberty to use his property as he sees fit and to keep the fruits of that use. Regulations place substantial impediments in the way of a person's freedom to engage in voluntary exchanges and contracts, most notably

4. On the correlation between press freedom and democracy, see Podesta 2014. On the relation between religious freedom and democracy, see Fox 2007. The long-term trend toward democratization is vividly captured in an historic graph of the Polity IV scale, an index of democracy (Center for Systemic Peace 2018).

in the labor market. At the same time, a vast array of licensing requirements and approvals for new businesses greatly limit the ability to pursue the occupation of one's choice. Whatever progress has been witnessed in the areas of personal security, belief, and speech has at the very least been offset by the retrogression that has occurred with economic freedoms.[5] This makes it very difficult to sustain Spencer's prediction regarding the universal acceptance of the principle of equal freedom.

Toward the end of his philosophic career, Spencer did read the signs of the coming trend against his moral formula. "Daily legislation," he warned, "betrays little anxiety that each shall have that which belongs to him, but great anxiety that each shall have that which belongs to someone else" (1897, 44). Spencer, however, never yielded to this trend by resigning himself to a larger role for government. Some commentators have indeed spoken of "a drift toward conservatism," but any such drift did not extend to Spencer's expectation that the end of history would involve a minimal state.[6] Spencer interpreted the socialistic and statist movements of the late nineteenth century as temporary aberrations that would eventually give way to the larger trend toward the realization of a society in which each person would be satisfied to exercise his or her freedom and remain content with the outcomes thereof, while letting others do the same. An obstacle to this trend, Spencer argued, has been the propensity to engage in war, whose imperatives force governments to restrict people's freedoms to ensure obedience and loyalty to the national cause. But once war is eliminated from the human scene—which Spencer predicted it will be, given its incompatibility with the pacifism favored in modern commercial-industrial societies—then the complete establishment of the principle of equal freedom will be in sight. Nor will the imposition of statist modes of governance ultimately prevent this outcome. Evolution, Spencer insisted, will continue to select those societies that function best. This dynamic bodes ill for those governments that actively intervene in social and economic life, the effect of which is to foster maladaptive behaviors—namely, free riding and a lack of enterprise on the part of individuals—that lead to economic failure. Such regimes cannot last and must inevitably, under the competitive pressures of evolution, give way to societies that permit the spontaneous ordering of its economic affairs. As Spencer explains, "[T]he implication is that where the harmony has been deranged, it gradually re-establishes itself—that where change of circumstances has put the powers and requirements out of agreement, then slowly either by survival of the fittest or by the inherited effects of use and disuse, or by both, come into agreement again" (1897, 258). A society dedicated to the principle of equal freedom cannot be eroded without succumbing to this evolutionary correction. For Spencer, therefore, this kind of society represents the end of history.

5. In this regard, it is worth noting that among the top-twenty nations in the Human Freedom Index calculated by the Cato Institute, only one country (Hong Kong) has a higher level of economic freedom than of personal freedom (Vasquez and Porcnik 2018). The other nineteen nations exhibit higher levels of personal freedom than of economic freedom.

6. For the view that Spencer came to accept a larger role for the state in economic life, see Wiltshire 1978, 105–31. For a critique of the "drift toward conservatism" thesis, see Miller 1982.

Yet doubts remain, notwithstanding Spencer's attempt here to guard against the charge that his predictions have not come true. For one thing, Spencer suggests a correlation between a lower occurrence of wars and a greater implementation of the principle of equal freedom. However, since the end of World War II, the rate of international conflicts has declined, particularly among the developed Western countries, and yet the role of government in the economy has expanded (Pinker 2012, 249–51). Second, it is far from evident that evolutionary processes must eventually force state-directed economies out of existence. That may well be said to have happened to socialist regimes of the Soviet variety that sought to organize the entire economy. But that does not appear to be the case with the social democratic and welfare-state systems that currently prevail in the Western world. One can certainly argue that such regimes lower the rate of economic growth below what it otherwise might be in a more Spencerian universe (Bassanini and Scarpetta 2005). But it is much harder to argue that this less than optimal level of performance is going to be selected away by a law of evolution. The lower rate of growth may well suffice for Western societies to get by for a long time.

Conclusion

Following a strategy adopted by philosophers since the seventeenth century, Herbert Spencer attempts to uncover a formula to resolve moral issues and guide the framing of social institutions and public policies. Unlike most other philosophers who have been deterred by the naturalistic fallacy, Spencer proposes to arrive at a moral formula through a scientific analysis. That analysis leads him to the evolutionary processes of nature as the ground of morality. From what he calls the law of evolution, by which all things change from homogeneity to heterogeneity, he deduces the principle of equal freedom. That is, each person is free to do whatever he or she wishes so long as he or she does not infringe the freedom of others to do the same. Though the validity of this principle is ultimately based on the deductive form of reasoning, Spencer acknowledges that it requires confirmation via induction. He attempts to provide this confirmation by explaining that societies have evolved toward a recognition of the equal freedom of individuals.

This proof of Spencer's formula can withstand the more obvious objections to his reasoning. His support of Lamarck's theory concerning the inheritance of acquired characteristics does not pose an insurmountable dilemma. It occupies a subsidiary role in his overall understanding of evolution. Besides, the phenomena attributed to Lamarck's theory can otherwise be explained as part of the developments that societies themselves undergo, according to Spencer. Nor does the naturalistic fallacy undercut Spencer's project given his view that all human action takes place under the governance of causal laws.

Nevertheless, Spencer's proof contains major defects. The real problems with his demonstration of the principle of ethical freedom lie in the bias exhibited toward egoism and the overconfidence exuded in the historical inevitability of his moral formula. In

deriving that formula from the law of evolution, he underemphasizes the role that the emergence of altruistic drives played in enabling human beings to prosper as a species. Moreover, judging by the course of events since Spencer wrote, history's verdict on the principle of equal freedom has been mostly negative. Nor does he offer solid grounds for believing that evolutionary forces will reverse this trend.

This is not to say that Spencer's attempt to provide a science of morality is hopeless. The analysis here suggests that an evolutionary theory of morals can succeed by more fully recognizing than Spencer does the implications of the presence of altruism in our species' development. This theory might involve a synthesis of Spencer's ethics with contemporary evolutionary approaches so as to yield a moral theory that recognizes the virtues of tending to one's self alongside the obligations one has to others that in general dominate current value judgments. Any such moral theory, too, will need to be detached from the claim that history is on its side. Instead of seeking empirical corroboration of the principle of equal freedom in grand social trends, a more effective defense would involve focusing on specific applications of that principle and consulting the evidence about how those applications fare in advancing human well-being. With respect to freedom of speech, for example, a modern-day Spencerian would be less anxious to show the inevitability of its universal acceptance and more concerned about verifying how letting people express their ideas conduces to the flourishing of individuals and societies. Metanarratives would be dispensed with in favor of narrowly construed demonstrations. Philosophy of history would give way to social science and case studies. No doubt, the advocacy of the principle of equal freedom would thereby become a more piecemeal affair. But it would proceed on more solid ground.

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