



The Concept of Law and Justice in the Select Novels of William Dean Howells

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Abstract:

The present research paper centers on “The Concept of Law and Justice in the Select Fictions of William Dean Howells”. It is clear from the novels that Howells rejects any concept of law or justice as absolute in human experience. Rather, law and justice are problematic and, in a pragmatic manner, are subject to the test of experience. Man’s knowledge about universal laws, for example, is imperfect and obscure because of the limitations of his human nature. In situations involving a conflict of interests or goods, justice is not automatically secured by following some abstract concept of law. Justice or injustice inheres in a situation according to action taken to resolve a conflict. Criteria for judgment, then, are not absolute but are discovered through inquiry into the actualities of a situation with a view toward effecting consequent good for the persons involved; and good is not only for the short run; it is for the long run as well.

Keywords: Imperfect, Obscure, Justice, Injustice, Actualities, consequent.

In speaking of law and justice in Howells’ fiction, it should be understood that they are conceived there in ways that are philosophical and ethical rather than legalistic. The primary concern has to do with questions of man’s relationship to the universe and his relationship with his fellowman. While the general problem of law and justice is touched upon in as early a novel as *A Foregone Conclusion* (1875), it is given fuller expression in later novels, some of which, along with *A Foregone Conclusion*, are considered here.

The conflict of Don Ippolito in *A Foregone Conclusion* is between his priesthood, which he does not believe in, and his desire to escape from it into freedom as a man. In that he explicitly echoes the Shylock of *The Merchant of Venice*, however, Don Ippolito is particular and universal in his conflict between his actuality and his intention. Like Shylock, Don Ippolito pleads for recognition of his essential humanity as against his particular identity as an Italian priest. Neither the Jew nor, in the novel, the

priest chose the circumstances which made them the persons they are; but it is those circumstances that have made their identities, identities which are unique and yet which alienate Jew and priest from all other men. In that Don Ippolito is a priest, however, his priesthood is emblematic of his commitment to a faith in God, to a belief, in other words, that all men are somehow one in absolute reality. The point is that Don Ippolito, like all men, is alienated from his kind in the actual world where identities are many; and he is yet one with his kind in the essential humanity all have in common. Don Ippolito’s conflict, then, is one between his actuality and his spirit, between his aspiration for absolute freedom and the necessary limitations of his actual human condition, which he finally is able to accept. Justice for the priest, no more than for Shylock, can be absolute or perfect by fact of the limitations of their human actuality.

A Modern Instance, a novel in which Howells is close to tragedy. It is a work,

too, in which the problem of justice is complicated by man's inability to know absolute truth. The issues reach a climax in the scene in the Indiana divorce-court; for when we ask whether Bartley Hubbard or Marcia Gaylord is more to blame for their marriage that ends in divorce, the complexity of their situation urgently asserts itself. We remember that it is sometime before the divorce proceedings that Atherton says to his wife about Bartley and Marcia: "In some sort they chose misery for themselves,--we make our own hell in this life and the next, -- or it was chosen for them by undisciplined wills that they inherited. In the long run their fate must be a just one." Here Atherton accounts for what happened to Bartley and Marcia in three different ways, and at least two of them would seem to be mutually contradictory. He says in the first place that Marcia and Bartley "chose misery for themselves," implying free will in their actions. He then contradicts this by suggesting that misery may have been "chosen for them by undisciplined wills they inherited." Finally, he appeals to a concept of fate in the long run as being just. How right or wrong Atherton may be in any part or all of what he tells his wife is something we never know in the novel; and we can't know it by reason of the complexity in the lives of Marcia and Bartley, a complexity that prohibits categorical answers and judgments.

Atherton's doctrine that it is "our deeds that judge us" is central to intention and actuality in the novel. We learn early, for example, that Bartley Hubbard is not a person who recognizes that he has any particular responsibility for his deeds. For the most part he is free and easy and apt to excuse his actions on the grounds that he did not intend them. Marcia Gaylord, on the other hand, is of a passionate and rigid nature and allows no lightness or flexibility in acts or intentions. She is never able to understand or accept the manner in which Bartley flirts with life. Their quarrel over Hannah Morrison, which finally drives them apart, recalls Bartley's flirtation with Hannah and

Marcia's subsequent breaking of her engagement with him early in the novel. The characters of Bartley and Marcia, in conjunction, prove fatal to them both; for the qualities of the one act upon the qualities of the other. To say of Bartley and Marcia that either one of them is judged by his deeds is to implicate the other. Their life together is complicity, and where neither one of them intends harm to the other, no simple pronouncements about their individual guilt nor can innocence be made.

The complicity in the lives of Marcia and Bartley sheds light on Atherton's suggestion that perhaps they had "inherited" weak wills and that perhaps theirs was a fate which would be just in the long run. For according to Howells' idea of complicity the lives of all persons are involved together. This is implied early in the novel in the environmental influences and hereditary traits affecting Bartley and Marcia. Bartley, for example, is an orphan and tends to look upon himself as a "self-made" man. Marcia's resemblance to her father is pointed out. Then there is some description of the nature of personal relationships within the Gaylord family and of its relationship to the town of Equity.

All this serves to place Atherton's doctrine in a more meaningful light, as it does that doctrine in the novel that is opposed to Atherton's. Ben Halleck contends that persons are to be judged by their intentions rather than their deeds. At one point in the novel Halleck speaks to Atherton of God's judgment of man and imagines "the relief the rest, the complete exposure of Judgment Day" (288). If we take Halleck's view of the matter, the case against Marcia and Bartley would seem to be considerably simplified. But we cannot take either Halleck's or Atherton's view exclusively: both intention and deed are to be reckoned with in understanding Bartley and Marcia. If it is felt that Howells' inclines toward Atherton's view, it is because the author's realism demanded that he deal first of all with the concreteness of experience as it

manifested itself in the external world of actuality; but this did not cause him to dismiss the inner life as of no importance. It is just because he would not oversimplify experience that actualities in Howells' novels are complex and problematic. Furthermore, as we saw in the case of Don Ippolito, actualities are a common ground and area of experience among men in their knowledge of one another. It is the publicity of that knowledge that is the field of complicity.

Clearly, then, Halleck and Atherton, in their different ways, oversimplify in their doctrines. Squire Gaylord also oversimplifies when he boasts of his "facts" and his "witnesses" in the divorce-court. For it is not simply Bartley Hubbard (or Marcia) who is on trial. All mankind is. Insofar, for example, as Marcia's qualities were inherited from her father, and insofar as he shaped her growing character, Squire Gaylord himself is on trial. Within the complex scheme of things absolute moral responsibility cannot be fixed. Justice is necessarily imperfect. Full justice demands Halleck's God, who knows the intricate and obscure reaches of all intention; and it demands an accounting for deeds, also. But even granting this, where intention and acts are contradictory, any form of absolute justice seems inconceivable. Only where the half worlds of intention and deed are absolutely one world is an absolute justice conceivable. Only where Halleck's doctrine (or law) and Atherton's are in fact one can their contradiction be overcome and make possible that perfect law and justice that is impossible in human experience.

A *Modern Instance*, in its demonstration of the complexity in the lives of Marcia Gaylord and Bartley Hubbard, shows that men can never have wholly adequate knowledge on which to make moral judgments. Acts of judgment, the novel implies, are always far from perfect; and insofar as they assume to be absolutely authoritative they are presumptuously overbearing. At the end of the novel, both Halleck and Atherton begin to have some inkling of the deficiencies of their exclusive points of

view. Halleck glimpses the necessity of reckoning with deeds, and Atherton, the necessity of reckoning with intentions. In that their experience has been the test of both men, Atherton's doctrine of the deed that judges comes off better than Halleck's; but Atherton's conception of experience has been too shallow to account for the complexities in which he has been involved. Where he would judge, he has been judged. As Raymond Jaffe observes in *The Pragmatic Conception of Justice*; "In a sense, the character of the judger is the subject of the moral inquiry. It is his competence to judge, his standard of judgment or conception of the desirable that is being investigated."

Man's inability to see clearly beyond the limits of his own experience and to give absolute answers about the meaning of that experience marks Silas Lapham's situation at the end of *The Rise of Silas Lapham*. When Sewell, wondering how Lapham feels now after his failure in business, asks him whether he has any regrets, Lapham replies: "I don't know as I should always say it paid; but if I done it, and the thing was to do over again, right in the same way, I guess I should have to do it." Lapham at the last speaks of his life not out of any dogmatic certainty about its meaning; rather, he speaks out of a humble awareness of the mystery of his life in its involvement with all existence. He does not urge his guilt or innocence or question whether justice or injustice has been done. He senses that, somehow, he is a part of all that is, and he is able to accept his life on these terms.

The way in which Lapham is educated into his sense of a larger life which includes his own-- first, in the part he plays in helping to solve the conflict of the love-plot which involves his daughters and Tom Corey; and, second, in his refusal to act dishonestly in the business deal with Rogers and the Englishmen and in his identification with a common good-- has been well pointed out by Donald Pizer. The thematic similarity in the two plots is that both involve a principle of morality which requires that the individual determine correct action by reference to

the common good rather than to an individual need. Within the subplot this principle requires Lapham to choose on the basis of an 'economy of pain' formula in which the fewest suffer. Within the main plot it requires him to weigh his own and Rogers's personal needs against the greater need of all men for decency and honesty. (p.323)

It is in these terms, Pizer adds, that Lapham's rise is to be posited. That rise, then, is to be regarded as Lapham's growth in awareness of his involvement with other men. His ultimate rise, however, as George Arms has said, comes "in the testing of his sensibility by Sewell.... Now at last he refuses to indulge in overweening righteousness..." (xv). Out of the conflict between Lapham's self-centered intentions and that actuality in which he is involved with others, he achieves a fuller perception of his actuality in its complicity with all other existence} and his acceptance of his limitation, a reconciliation of his conflict, is his true rise.

Pizer suggests that the "ethical core" of *The Rise of Silas Lapham* "can be described as utilitarianism (as interpreted by John Stuart Mill)"; and according to it the right action in a situation involving conflicting interests "is that which results in the greatest happiness for the greatest number" (p.325). Still, in view of Howells' method of testing his characters in the novel, and in view of the emphasis on the spiritual growth of Lapham himself, it may effectively be argued that the author's attitude is closer to pragmatism than utilitarianism. In this connection Raymond Jaffe writes: "In any conflict of goods, the morally obligatory action is that which produces the greatest good, not in the sense of producing the consequences most satisfying to the greatest number in this situation, but in the sense of producing consequences which improve the necessary instrument for creating the greatest possible good" (pp. 93-94). In the novel the necessary instruments for creating the greatest possible good are persons themselves; and Lapham's "improvement" is his growth in acquiring

a finer sensibility and a fuller perception that better equip him to deal with conflicts in experience. Furthermore, Lapham's own growth is instrumental in effecting the novel's symbolic reconciliation of conflict in the ultimate marriage of Penelope Lapham and Tom Corey. Their union of differences in the ties of love, the novel implies, represents man's greatest possible good within the limitations of his human situation.

In *A Modern Instance* no single character achieves that reconciliation of self-intention with human actuality that is Lapham's. There is no character in that novel who perceives existence as a complex wholeness; and this does not except Atherton, who speaks for an exclusive kind of social responsibility. Rather than a reconciliation of conflict and a growth of persons, there remains contradiction and isolation. Lives are truncated in spirit and wasted. Where concepts of law as operative in man's life are probed in *A Modern Instance* and are found to resist all efforts of finite intelligence to make them yield absolute meaning and certainty, the lives of the characters are baffled and even destroyed by the profound contradictions in human experience. At the end of the novel Halleck is paralyzed by a faith he dares not doubt; Atherton, that bulwark of rational order, is confounded by the inadequacy of his own doctrine; Marcia has withdrawn to a bitter isolation in Equity; and Bartley Hubbard is shot and killed in Whited Sepulchre, Arizona. In *The Rise of Silas Lapham*, on the other hand, there is a modest but triumphant acceptance of man's situation. There is a progress in Lapham from isolation in proud and selfish intention into conflict, and out of conflict a reconciliation of self with others, of self with existence as a vast and ultimately mysterious complicity in which justice is a condition obtaining among men in the quality of that life they all share in common. The novel affirms, as Pizer has pointed out, its author's commitment to mankind.

In *Annie Kilburn* (1888) the possibilities for realizing justice are again

shown to be limited by the complexity of the human condition. Justice in the novel is largely thought of as social justice and has to do with the problem of equitable relationships among men. Annie Kilburn, high minded and well-intentioned, comes home to Hatboro, Massachusetts, from Rome in order to do well and be of use in the world. The point the novel makes is how difficult it is to do well in the conflicting actualities of experience. Annie learns this and is able to accept the fact that social justice among persons is limited by the differences in individuals that separate them from one another. Whatever social justice can be achieved, the novel says, depends on the recognition by men of their common interests and on their voluntary cooperation in working together to realize those interests.

An absolute social justice in which all men will be treated as equals is the dream of the idealistic Reverend Mr. Peck. In “the truly Christian state,” he declares, “there shall be no more asking and no more giving, no more gratitude and no more merit, no more charity, but only and evermore justice; all shall share alike, and want and luxury and killing toil and heartless indolence shall cease together” (p.240). Annie is drawn to Peck’s idealism and, after his death, works to establish the Peck Social Union; but, we are told, “its working is by no means ideal” (326). Nevertheless, Annie is “mostly happy” even in the modest good that she is able to do in an imperfect situation. Her education into the difficulties of affecting even a limited union among persons in Hatboro helps her to understand her own limitations and teaches her to work within them. If ever Peck’s ideal social justice is to be achieved, it will not be in this world. Here, in view of the differences among men, social justice can only be approximated; and the means to an approximate justice are through intelligent and humane action in the daily tasks of ordinary life. The view that the humbler means of common life are the best way to possible social justice is enforced by Annie’s perception of the complicity of life near the end of the novel:

“A perception of the unity of all things under the sun flashed and faded upon her, as such glimpses do” (319). Once again, as in *The Rise of Silas Lapham*, intention and actuality are reconciled in the perception of existence as complicity. Justice is not conceived in absolute terms but in limited, human ones as a possible good where men are willing to assume their responsibility in a common task.

It is near the end of *The Quality of Mercy*, Howells’ psychological study of a defaulter who believes himself to be innocent, that Putney and Morrell question the meaning of the life of John Milton Northwick who, Putney says, seemed to be a “mere creature of circumstances--like the rest of us!” The “great ball of life,” he continues, “seems to roll calmly along, and get where it's going” without apparent regard for what human beings “o or don’t do.” Putney guesses that it may all be “Fate.” Dr. Morrell suggests, however, that it may be “Law.” Then, seeing “that most things seem to turn out pretty well in the end,” Putney is willing to “split the difference” with Dr. Morrell and call it “mercy.”

The concepts of fate and law suggested by Putney and Morrell are attempts to account for what happens in human experience (Northwick’s in particular) according to some ultimate, unifying principle as operative in the lives of men. But fate and law, as well as the God Northwick himself had called on, suggest alternative meanings for human experience and are problematic in the novel rather than definitive answers to the whole problem of law and justice. Before Northwick can be brought to trial and justice for his crime against society, he dies. The novel implies that Northwick’s death, before he can be tried and the Ponkwasset Mills (society at large) collect its pound of flesh, is mercy--for both Northwick and the society which would bring him to the bar of its narrow justice. For the self-righteous justice which society would exact in Northwick’s case would be unjust in view of the man’s complexity of innocence and guilt in his intention and his actuality. Furthermore,

one feels that the Board of Directors of the Ponkwasset Mills seeks not humane justice through the discipline of jurisprudence but, rather, vengeance, as Squire Gaylord had sought it against Bartley Hubbard in *A Modern Instance*.

Just as Silas Lapham at last acknowledged his involvement with society, so in the later novel *Northwick* is able at last to believe, regardless of what he had intended, that his actions had been an offense against society and that he does have a debt to pay. Having fled to exile in Canada, where he lived solely for his own purposes and intentions, *Northwick* at last finally gives up his presumptuousness about his absolute innocence and recognizes that his act of stealing company funds constituted a crime against the public welfare; and before he dies he is eager to make what reparation he can by way of "atonement." *Northwick's* act of atonement serves to indicate his acceptance of his involvement with other men in the complicity of their existence and, the novel implies, it is a complicity in which all are innocent and guilty together. That society was denied the opportunity of executing its self-righteous justice on *Northwick* was mercy for all.

Stated baldly, the problem in *The Son of Royal Langbrith* is whether or not the persons concerned should reveal the evil life of the dead Royal Langbrith to his son, James, and to the people of the town of Saxmills, Massachusetts. In James's eyes especially, and in those of the town's people, Royal Langbrith's image as a great man is almost sacred. During his lifetime, Langbrith had lived something of a double life; in private he was cruel and selfish; in public he was a distinguished and respected businessman. James Langbrith finally learns about his father from John Langbrith, the dead man's brother. Whether the revelation to the son about his father is to be attributed to Divine Providence at work in the actualities of human life, or whether it is to be attributed to John Langbrith's dyspeptic and inflammatory nature, is at once humorous and problematic in the novel. Indeed, the "real" meaning of the whole

situation concerning Royal Langbrith is problematic. Dr. Anther attempts to answer the problem from his scientific and naturalistic point of view. Reverend Mr. Enderby, on the other hand, appeals to some "mystical legislation" as the ultimate principle behind the complex actualities of experience.

Anther's view and Enderby's are alternative possibilities of meaning in the experience of the novel; but what bearing either view has on the absolute meaning of that experience remains an open question. When, however, the question becomes one of whether or not to reveal Royal Langbrith's hidden evil to the townspeople, Anther and Enderby, and others as well, decide against it for the reason that it could do the townspeople no good to know it. It could only make them hither and encourage dishonesty. The decision not to reveal Royal Langbrith's past, then, is made on the basis of what the probable consequences for the community would be if it knew about that past. The point here, as in *The Rise of Silas Lapham*, is that the common good comes first. In *The Son of Royal Langbrith* duty to some abstract truth or justice is superseded in favor of duty to one's fellow man for the sake of the common good. Similarly, good is served in James Langbrith's learning about his father; for it educates him into the complexities of human experience and saves him from an arrogant self-righteousness. Dr. Anther, who "had believed that he wanted justice done," (p.283) undergoes a similar kind of education. In becoming aware of the complexity of the situation in which he is involved, he gains a larger perspective on his own intentions in their relationship to actuality; and he is able to reconcile himself to that complexity as one beyond his limited power to fully understand or control. As he does in other of his novels, Howells, in *The Son of Royal Langbrith*, symbolically reconciles conflict in marriage. The symbolic reconciliation of conflict in human experience in the marriage of James Langbrith and Hope Hawberk, the daughter of the man who had been cruelly wronged by Royal

Langbrith, points to the continuing possibility of good for man in his struggle to live wisely with himself.

In the novels considered here, law and justice have been shown to be problematic in the diverse multiplicity of human experience. Truth has not been absolute and one; it has been limited and pluralistic and emergent in experience. Conflicts of interests or goods have been resolved by reference to a mode of action which seeks the greatest possible good for all concerned. Sacrifice, whether Lapham's or Northwick's or Anther's, or even Don Ippolito's, has not been for the sake of the sacrifice. It has been for a felt necessity where these characters, in their different ways, have accepted their lot in that complicity of human life which is at once the particular and universal identity of every man. A commitment to law and justice in the novels, then, has been a commitment to the possibility of good among men when men themselves have been willing to assume their responsibility for the achievement of that good in common.

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