

Nozick begins from the premise that people have certain basic moral rights, which he calls **Lockean rights**. By alluding to the political philosophy of John Locke (1632–1704), Nozick wishes to underscore that these rights are both negative and natural. They are negative because they require only that people forbear from acting in certain ways—in particular, that we refrain from interfering with others. Beyond this, we are not obliged to do anything positive for anyone else, nor is anyone required to do anything positive for us. We have no right, for example, to be provided with satisfying work or with any material goods that we might need. These negative rights, according to Nozick, are natural in the sense that we possess them independently of any social or political institutions.

These individual rights impose firm, nearly absolute restrictions (or, in Nozick’s phrase, “side constraints”) on how we may act. We cannot morally infringe on someone’s rights for any purpose. Not only are we forbidden to interfere with a person’s liberty in order to promote the general good, we are prohibited from doing so even if violating that individual’s rights would somehow prevent other individuals’ rights from being violated. Each individual is autonomous and responsible and should be left to fashion his or her own life free from the interference of others—as long as doing so is compatible with the rights of others to do the same. Only an acknowledgment of this almost absolute right to be free from coercion, Nozick argues, fully respects the distinctiveness of individuals, each with a unique life to lead.

A belief in these rights shapes Nozick’s theory of economic justice, which he calls the **entitlement theory**. Essentially, Nozick maintains that people are entitled to their holdings (that is, goods, money, and property) as long as they have acquired them fairly. Stated another way, if you have obtained your possessions without violating other people’s Lockean rights, then you are entitled to them and may dispose of them as you choose. No one else has a legitimate claim on them. If you have secured a vast fortune without injuring other people, defrauding them, or otherwise violating their rights, then you are morally permitted to do with your fortune whatever you wish—bequeath it to a relative, endow a university, or squander it in riotous living. Even though other people may be going hungry, justice imposes no obligation on you to help them.

The *first principle of Nozick’s entitlement theory* concerns the original acquisition of holdings—that is, the appropriation of unheld goods or the creation of new goods. If a person acquires a holding in accordance with this principle, then he or she is entitled to it. If, for example, you discover and remove minerals from the wilderness or make something out of materials you already legitimately possess, then you have justly acquired this new holding. Nozick does not spell out this principle or specify fully what constitutes a just original acquisition, but the basic idea is clear and reflects the thinking of John Locke.

Property is a moral right, said Locke, because individuals are morally entitled to the products of their labor. When they mix their labor with the natural world, they are entitled to the resulting product. Thus, if a man works the land, then he is entitled to the land and its products because through his labor he has put something of himself into them. This investment of self through labor is the moral basis of ownership, Locke wrote, but he acknowledged limits to this right:

In the beginning . . . men had a right to appropriate, by their labour, each one of himself, as much of the things of nature, as he could use. . . . Whatsoever he tilled and reaped, laid up and made use of, before it spoiled, that was his peculiar right; whatsoever he enclosed, and could feed, and make use of, the cattle and product was also his. But if either the grass of his inclosure rotted on the ground, or the fruit of his planting perished without gathering, and laying up, this part of the earth . . . was still to be looked on as waste, and might be the possession of any other.⁶⁰

In this early **state of nature** (the phrase is Locke’s) prior to the formation of government, property rights were limited not only by the requirement that one not waste what

According to Nozick’s theory, you are entitled to your holdings if you have acquired them without violating other people’s rights.

one claimed, but also by the restriction that “enough and as good” be left for others—that is, that one’s appropriation not make others worse off. Later, however, with the introduction of money, Locke thought that both these restrictions were overcome. You can pile up money beyond your needs without its spoiling; and if your property is used productively and the proceeds are offered for sale, then your appropriation leaves others no worse off than before.

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SUMMARY

The libertarian philosopher Robert Nozick defends the entitlement theory. This theory holds that the distribution of goods, money, and property is just if people are entitled to what they have—that is, if they have acquired their possessions without violating the rights of anyone else.

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All that matters for Nozick is how people came to have what they have, not the pattern or results of the distribution of goods.

Nozick’s second principle concerns transfers of already-owned goods from one person to another: how people may legitimately transfer holdings to others and how they may legitimately get holdings from others. If a person possesses a holding because of a legitimate transfer, then he or she is entitled to it. Again, Nozick does not work out the details, but it is clear that acquiring something by purchase, as a gift, or through exchange would constitute a legitimate acquisition. Gaining something through theft, force, or fraud would violate the principle of justice in transfer.

Nozick’s third and final principle states that one can justly acquire a holding only in accord with the two principles previously discussed. If you come by a holding in some other way, you are not entitled to it.

Nozick sums up his theory this way:

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.
2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.
3. No one is entitled to a holding except by (repeated) applications of principles 1 and 2.

In short, the distribution of goods in a society is just if and only if all are entitled to the holdings they possess. Nozick calls his entitlement theory “historical” because what matters is how people come to have what they have. If people are entitled to their possessions, then the distribution of economic holdings is just, regardless of what the actual distribution happens to look like (for instance, how far people are above or below the average income) or what its consequences are.

NOZICK’S WILT CHAMBERLAIN EXAMPLE

Nozick argues that respect for liberty inescapably leads one to repudiate other conceptions of economic justice in favor of his entitlement approach. One of his most ingenious examples features Wilt Chamberlain, the late basketball star.

Suppose, Nozick says, that things are distributed according to your favorite non-entitlement theory, whatever it is. (He calls this distribution D_1 .) Now imagine that Wilt Chamberlain signs a contract with a team that guarantees him \$5 from the price of each ticket. Whenever people buy a ticket to a game, they drop \$5 into a special box with Chamberlain’s name on it. To them, seeing him play is worth \$5. Imagine then that in the course of a season, 1 million people attend his games, and Chamberlain ends up with far more than the average income—far more, indeed, than anyone else in the society earns. This result (D_2) upsets the initial distributional pattern (D_1). Can the proponent of D_1 complain? Nozick thinks not:

Is [Chamberlain] entitled to this income? Is this new distribution, D_2 , unjust? If so, why? There is *no* question about whether each of the people was entitled to the control over the resources they held in D_1 ; because that was the distribution (your favorite) that (for the purposes of the argument) we assumed was acceptable. Each of these persons *chose* to give [\$5] of their money to Chamberlain. . . . If D_1 was a just distribution, and people voluntarily moved from it to D_2 , transferring parts of their

shares they were given under D_1 . . . isn't D_2 also just? If the people were entitled to dispose of the resources to which they were entitled (under D_1), didn't this include their being entitled to give it to, or exchange it with, Wilt Chamberlain? Can anyone else complain on grounds of justice?⁶¹

Having defended the legitimacy of Chamberlain's new wealth, Nozick pushes his case further, arguing that any effort to maintain some initial distributional arrangement like D_1 will interfere with people's liberty to use their resources as they wish. To preserve this original distribution, he writes, society would have to "forbid capitalist acts between consenting adults":

The general point illustrated by the Wilt Chamberlain example . . . is that no [non-entitlement] principle of justice can be continuously realized without continuous interference with people's lives. Any favored pattern would be transformed into one unfavored by the principle, by people choosing to act in various ways; for example, by people exchanging goods and services with other people, or giving things to other people. . . . To maintain a pattern one must either continually interfere to stop people from transferring resources as they wish to, or continually (or periodically) interfere to take from some persons resources that others for some reason chose to transfer to them.⁶²

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SUMMARY

In the Wilt Chamberlain example, Nozick argues that other theories of economic justice inevitably fail to respect people's liberty.

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THE LIBERTARIAN VIEW OF LIBERTY

Libertarianism clearly involves a commitment to leaving market relations—buying, selling, and other exchanges—totally unrestricted.* Force and fraud are forbidden, of course, but there should be no meddling with the uncoerced exchanges of consenting individuals. Not only is the market morally legitimate, but any attempt to interfere with voluntary and nonfraudulent transactions between adults will be unacceptable, even unjust. Thus, libertarians are for economic *laissez faire* and against any governmental economic activity that interferes with the marketplace, even if the point of the interference is to enhance the performance of the economy.

It is important to emphasize that libertarianism's enthusiasm for the market rests on this commitment to liberty. By contrast, utilitarians who defend an unregulated market do so on the ground that it works better than either a planned, socialist economy or the sort of regulated capitalism with some welfare benefits that we in fact have in the United States. If a utilitarian defends *laissez faire*, he or she does so because of its consequences. If we convinced a utilitarian that some other form of economic organization would better promote human well-being, the utilitarian would advocate that instead. With libertarians this is definitely not the case. As a matter of fact, libertarians typically agree with Adam Smith that unregulated capitalist behavior best promotes everyone's interests. But even if, hypothetically, someone like Nozick were convinced that some sort of socialism or welfare capitalism would outperform *laissez-faire* capitalism economically—leading, say, to greater productivity, a shorter workday, and a higher standard of living—he or she would still reject this alternative as morally unacceptable. To tinker with the market, however beneficial it might be, would involve violating someone's liberty.

Libertarians say that their commitment to an unrestricted **free market** reflects the priority of liberty over other values. However, libertarians do not value liberty in the mundane sense of people's freedom to do what they want to do. Rather, libertarians understand freedom in terms of their theory of rights, thus building a commitment to private property into their concept of liberty. According to them, being able to do what you want does not automatically represent an increase in your liberty. It does so only if you remain within the boundaries set by the Lockean rights of others. Likewise, one is unfree or coerced only when one's rights are infringed.

Libertarians build a commitment to private property into their concept of liberty.

*Chapter 4 examines the nature of market economies in general and capitalism in particular.

Imagine, for example, that having purchased the forest in which I occasionally stroll, the new owner bars my access to it. It would seem that my freedom has been reduced because I can no longer ramble where I wish. But libertarians deny that this is a restriction of my liberty. My liberty is restricted if and only if someone violates my Lockean rights, which no one has done. Suppose that I go for a hike in the forest anyway. If the sheriff's deputies arrest me, they prevent me from doing what I want to do. But according to libertarianism, they do not restrict my liberty, nor do they coerce me. Why not? Because my hiking in the forest violates the landowner's rights.

Here libertarians seem driven to an unusual use of familiar terminology, but they have no choice. They cannot admit that abridging the landowner's freedom to do as he wants with his property would expand my freedom. If they did, then their theory would be in jeopardy. They would have to acknowledge that restricting the liberty or property rights of some could enhance the liberty of others. In other words, if their theory committed them simply to promoting as much as possible the goal of people doing what they want to do, then libertarians would be in the position of balancing the freedom of some against the freedom of others. But this sort of balancing and trading off is exactly what libertarians dislike about utilitarianism.

If liberty means being free to do what you want, it's not true that libertarians value it above everything else. What they value are Lockean property rights, which then set the parameters of liberty. Libertarians frequently contend that (1) private property is necessary for freedom and (2) any society that doesn't respect private property rights is coercive. But libertarianism makes 1 true by definition, and 2 is incorrect. Any system of property (whether Lockean, socialist, or something in between) necessarily puts restrictions on people's conduct; its rules are coercive. What one system of property permits, another forbids. Society X prevents me from hiking in your woods, whereas society Y prevents you from stopping me. Both systems of rules are coercive. Both grant some freedoms and withhold others.

MARKETS AND FREE EXCHANGE

Libertarians defend market relations, then, as necessary to respect human liberty (as their theory understands liberty). However, in doing so, libertarians do not assert that, morally speaking, people *deserve* what they receive from others through gift or exchange, only that they are *entitled* to whatever they receive. The market tends generally, libertarians believe, to reward people for skill, diligence, and successful performance. Yet luck plays a role, too. Jack makes a fortune from having been in the right place at the right time with jeggings, while Jill loses her investment because the market for bottled water collapses. The libertarian position is not that Jack deserves to be wealthy and Jill does not; rather, it is that Jack is entitled to his holdings if he has acquired them in accordance with the principles of justice.

The same point comes up with regard to gifts and inheritance. Inheritance strikes many people as patently unfair. How can it be just, they ask, that one child inherits a vast fortune, the best schooling, and social, political, and business connections that will ensure his or her future, while another child inherits indigence, inferior schooling, and connections with crime? At birth neither youngster deserves anything—a fact suggesting, perhaps, that an equal division of holdings and opportunities would be the only fair allocation. For his part, Nozick contends that deserving has no bearing on the justice of inherited wealth; people are simply entitled to it as long as it is not ill-gotten. Or looking at it the other way, if one is entitled to one's holdings, then one has a right to do with them as one wishes, including using them to benefit one's children.

According to libertarians, a totally free market is necessary for people to exercise their fundamental rights. Sometimes, however, unregulated market transactions can

Libertarians don't contend that people morally deserve what they get in a free market, but only that they are entitled to it.

lead to disastrous results. Unfortunately, this is more than just a theoretical possibility. Amartya Sen, the Nobel Prize-winning economist, has shown how in certain circumstances changing market entitlements have led to mass starvation. Although the average person thinks of famine as caused simply by a shortage of food, Sen and other experts have established that famines are frequently accompanied by no shortfall of food in absolute terms. Indeed, even more food may be available during a famine than in nonfamine years—if one has the money to buy it. Famine occurs because large numbers of people lack the financial wherewithal to obtain the necessary food.⁶³

For example, drought may cause food output in one area to decline and the peasants in that area to starve because they lack the means to buy food from elsewhere, even though there is no dearth of food in the country as a whole (Ethiopia in 1973). Or famine may result when the purchasing power of one occupational group shoots up, ruining the chances of other groups, whose nominal incomes have not changed, to buy food (Bengal in 1943). A reduction of food output because of potato blight triggered the great Irish famine of the 1840s, which killed a higher proportion of the population than any other famine in recorded history. But if one looks at the United Kingdom as a whole, there was no shortage of food. Food could certainly have moved from Britain to Ireland if the Irish could have afforded to purchase it. As it was, at the height of the famine, food was exported from Ireland to England because the prosperous English could pay a higher price for it.⁶⁴

Libertarians would find it immoral and unjust to force people to aid the starving or to tax the affluent in order to set up programs to relieve hunger or prevent famines in the first place. Nor does justice require that a wealthy merchant assist the hungry children in his community to stay alive. And it would certainly violate the merchant's property rights for the children to help themselves to his excess food. Nevertheless, although justice does not require that one assist those in need, libertarians would generally acknowledge that we have some humanitarian obligations toward others. Accordingly, they would not only permit but also presumably encourage people to voluntarily assist others. Justice does not require the merchant to donate, and it forbids us from forcing him to do so, but charity on his part would be a good thing. This reflects the libertarian's firm commitment to **property rights**: What you have legitimately acquired is yours to do with as you will.

Unregulated market transactions can sometimes lead to disastrous results, as Amartya Sen has shown.

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SUMMARY

Libertarians operate with a distinctive concept of liberty, defend free exchange and laissez-faire markets without regard to results, put a priority on freedom over all other values, and see property rights as existing prior to any social arrangements.

Critics contest each of these features of libertarianism.

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Joel Stettenheim/Corbis

According to the libertarian theory of justice, the people who own the house in the background have no obligation to assist the homeless. The wealth that they have acquired is theirs to dispose of entirely as they wish.

PROPERTY RIGHTS

Nozick's theory makes property rights nearly sacrosanct. From the perspective of libertarianism, property rights grow out of one's basic moral rights, reflecting one's initial creation or appropriation of the product, some sort of exchange or transfer between consenting persons, or a combination of these. Property rights exist prior to any social arrangements and are morally antecedent to any legislative decisions that a society might make. However, Nozick's critics argue that it is a mistake to think of property as a simple, pre-social relation between a person and a physical thing.

It is a mistake to think of property as a simple pre-social relation between a person and a thing.

First, property is not restricted to material objects like cars, watches, or houses. In developed societies, it may include abstract goods, interests, and claims. For instance, property may include the right to pay debts with the balance in a bank account, the right to dividends from a corporate investment, and the right to collect from a pension plan one has joined. In fact, the courts have counted as property a wide range of items such as new life forms, an original idea, pension payments, the news, or a place on the welfare rolls.⁶⁵

Second, property ownership involves a bundle of different rights governing one's ability to possess, use, manage, dispose of, or restrict others' access to something in certain specified ways. The nature of this bundle differs among societies, as do the types of things that can be owned. In any society, property ownership is structured by the various implicit or explicit rules and regulations governing the legitimate acquisition and transfer of various types of goods, interests, and claims. Not only do property rights differ between societies, but the nature of ownership can also change over time in any given society. As a general trend, the social restrictions on property ownership in the United States have increased dramatically during our history (much to the displeasure of libertarians).

Most nonlibertarian theorists believe that property rights are determined by social institutions.

For these reasons, most nonlibertarian social and political theorists view property rights as a function of the particular institutions of a given society. This is not to say that a society's property arrangements cannot be criticized. On the contrary, their morality can be assessed just as the morality of any other institution can.

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RAWLS'S THEORY OF JUSTICE

A Theory of Justice by John Rawls (1921–2002) is generally thought to be the most influential work of the post–World War II period in social and political philosophy, at least in the English language.⁶⁶ Not only has Rawls's elegant theory touched a responsive chord in many readers, but also his book helped rejuvenate serious work in normative theory. Even those who are not persuaded by Rawls find themselves obliged to come to terms with his thinking. Although Rawls's basic approach is not difficult to explain (and Rawls himself had sketched out his key concepts in earlier articles), *A Theory of Justice* elaborates his ideas with such painstaking care and philosophical thoroughness that even vigorous critics of the book (such as his colleague Robert Nozick) pay sincere tribute to its many virtues.

By his own account, Rawls presents his theory as a modern alternative to utilitarianism, one that he hopes will be compatible with the belief that justice must be associated with fairness and the moral equality of persons. Rawls firmly wishes to avoid reducing justice to a matter of society utility. At the same time, his approach differs fundamentally from Nozick's. Rawls conceives of society as a cooperative venture among its members, and he elaborates a conception of justice that is thoroughly social. He does not base his theory, as Nozick does, on the postulate that individuals possess certain natural rights prior to any political or social organization.

Two features of Rawls's theory are particularly important: his hypothetical contract approach and the principles of justice that he derives with it. Rawls's strategy is to ask

what we would choose as the fundamental principles to govern society if, hypothetically, we were to meet for this purpose in what he calls the **original position**. He then elaborates the nature of this original position, the constraints on the choice facing us, and the reasoning that he thinks people in the original position would follow. In this way, Rawls offers a modern variant of social contract theory, in the tradition of Hobbes, Locke, Rousseau, and other earlier philosophers. Rawls argues that people in the original position would agree on two principles as the basic governing principles of their society and that these principles are, accordingly, the principles of justice. The first is a guarantee of certain familiar and fundamental liberties to each person. The second—more controversial—holds in part that social and economic inequalities are justified only if those inequalities benefit the least advantaged members of society. These principles are examined at some length later in this chapter.

Rawls's strategy is to ask what principles people would choose to govern their society if they were in the "original position."

THE ORIGINAL POSITION

Various principles of economic justice have been proposed, but an important question for philosophers is whether, and how, any such principles can be justified. Thinking of possible principles of economic distribution is not very difficult, but proving the soundness of such a principle, or at least showing it to be more plausible than its rivals, is a challenging task. After all, people seem to differ in their intuitions about what is just and unjust, and their sentiments are bound to be influenced by their social position. Nozick's entitlement theory, for example, with its priority on property rights, is bound to seem more plausible to a corporate executive than to a migrant farmworker. The justice of a world in which some children are born into wealth while other children struggle to get by on welfare is unlikely to seem as obvious to the poor as it may to the well-to-do.

The strategy Rawls employs to identify and justify the basic principles of justice is to imagine that people come together for the purpose of deciding on the ground rules for their society, in particular on the rules governing economic distribution. Although in the past groups of people have written down constitutions and similar political documents, never have the members of a society decided from scratch on the basic principles of justice that should govern them. Nor is it even remotely likely that people will do this in the future. What Rawls imagines is a thought experiment. The question is hypothetical: What principles would people choose in this sort of original position? If we can identify these principles, Rawls contends, then we will have identified the principles of justice precisely because they are the principles that we would all have agreed to.

The Nature of the Choice

On what basis are we to choose these principles? The most obvious answer is that we should select principles that strike us as just. But this won't work. Even if we all agreed about what is just and unjust, we would be relying on our already existing ideas about justice as a basis for choosing the principles to govern our society. Philosophically, this approach doesn't accomplish anything. We would simply be going in a circle, using our existing conception of justice to prove the principles of justice.

Rawls suggests instead that we imagine people in the original position choosing solely on the basis of self-interest: Each individual chooses the set of principles for governing society that will be best for himself or herself (and loved ones). We don't have to imagine that people are antagonistic or that outside of the original position they are selfish; we simply imagine that they hope to get the group to choose those principles that will, more than any other possible principles, benefit them. If people in the original position can agree on some governing principles on the basis of mutual self-interest, then these principles will be, Rawls thinks, the principles of justice. Why? Because the principles are agreed to under conditions of equality and free choice. By analogy, if we

make up a game and all agree ahead of time, freely and equally, on how the game is to be played, nobody can later complain that the rules are unfair.

The Veil of Ignorance

If people in the original position are supposed to choose principles on the basis of self-interest, agreement seems unlikely. If Carolyn has vast real estate holdings, she will certainly want rules that guarantee her extensive property rights, whereas her tenants are likely to support rules that permit rent control. Likewise, the wealthy will tend to advocate rules rather like Nozick's entitlement theory, whereas the poor will, on the basis of their self-interest, desire a redistribution of property. Conflicts of self-interest seem bound to create totally irreconcilable demands. For instance, artists may contend that they should be rewarded more than professional people, men that they should earn more than women, and laborers that they merit more than people with desk jobs.

Given that some rules would benefit one group while other rules would benefit another, it seems improbable that people in the original position would concur. As a way around this problem, Rawls asks us to imagine that people in the original position do not know what social position or status they hold in society. They do not know whether they are rich or poor, nor do they know their personal talents and characteristics—whether, for example, they are athletic or sedentary, artistic or tone deaf, intelligent or not very bright, or physically sound or handicapped in some way. They do not know their race or even their gender. Behind what Rawls calls the **veil of ignorance**, people in the original position know nothing about themselves personally or about what their individual situation will be once the rules are chosen and the veil is lifted. They do, however, have a general knowledge of history, sociology, and psychology—although no specific information about the society they will be in once the veil is lifted.

Under the veil of ignorance, the people in Rawls's original position have no knowledge about themselves or their situation that would lead them to argue from a partial or biased point of view. No individual is likely to argue that some particular group—such as white men, property owners, star athletes, or philosophers—should receive special social and economic privileges when, for all that individual knows, he or she will be nonwhite, propertyless, unathletic, and bored by philosophy when the veil is lifted. Because individuals in the original position are all equally ignorant of their personal predicaments and they are all trying to advance their self-interest, agreement is possible. The reasoning of any one person will be the same as the reasoning of each of the others, for each is in identical circumstances and each has the same motivation. As a result, no actual group has to perform Rawls's thought experiment. People who read Rawls's book can imagine that they are in the original position and then decide whether they would choose the principles Rawls thinks they would.

The veil of ignorance, in effect, forces people in the original position to be objective and impartial and makes agreement possible. Also, according to Rawls, the fact that people have no special knowledge that would allow them to argue in a biased way accords with our sense of fairness. The circumstances of the original position are genuinely equal and fair, and because of this, the principles agreed to under these conditions have a good claim to be considered the principles of justice.

CHOOSING THE PRINCIPLES

Although people in the original position are ignorant of their individual circumstances, they know that whatever their particular goals, interests, and talents turn out to be, they will want more, rather than less, of what Rawls calls **primary social goods**. These include not only income and wealth but also rights, liberties, opportunities, status, and

The veil of ignorance eliminates bias and makes the original position a fair way of choosing principles.

self-respect. Of course, once the veil of ignorance is lifted, people will have more specific ideas about what is good for them. For example, they may choose a life built around religion, one spent in commerce and industry, or one devoted to academic study. But whatever these particular individual goals, interests, and plans turn out to be, they will almost certainly be furthered, and definitely never limited, by the fact that people in the original position secured for themselves more rather than less in the way of primary goods.

How, then, will people in the original position choose their principles? *A Theory of Justice* explores in depth the reasoning that Rawls thinks would guide their choice. At the heart of Rawls's argument is the contention that people in the original position will be conservative, in the sense that they will not wish to gamble with their futures. In setting up the ground rules for their society, they are determining their own fates and those of their children. This exercise is not something to be taken lightly, a game to be played and replayed. Rather, with so much at stake, people will reason cautiously.

Consider, for example, the possibility that people in the original position will set up a feudal society: 10 percent of the population will be nobles, living a life of incredible wealth, privilege, and leisure; the other 90 percent will be serfs, toiling away long hours to support the extravagant lifestyles of the aristocracy. Perhaps some people would consider the joy of being a pampered noble so great that they would vote for such an arrangement behind the veil of ignorance, but they would be banking on a long shot. When the veil of ignorance is lifted, the odds are nine to one that they will be poor and miserable serfs, not lords. Rawls thinks that people in the original position will not, in fact, gamble with their futures. They will not agree to rules that make it overwhelmingly likely that they will have to face a grim life of hardship.

Rawls argues that for similar reasons, people in the original position will not adopt the utilitarian standard to govern their society, because the utilitarian principle might sacrifice the well-being of some to enhance society's total happiness. People in the original position, Rawls argues, will not be willing to risk sacrificing their own happiness, once the veil of ignorance is lifted, for the greater good.

What people in the original position would actually do, Rawls believes, is follow what game strategists call the **maximin rule** for making decisions. According to this rule, you should select the alternative under which the worst that could happen to you is better than the worst that could happen to you under any other alternative—that is, you should try to *maximize* the *minimum* that you will receive. This rule makes sense when you care much more about avoiding an unacceptable or disastrous result (such as being a serf) than about getting the best possible result (being a noble) and when you have no real idea what odds you are facing. It is a conservative decision principle, but Rawls thinks that people in the original position will find it a rational and appropriate guideline for their deliberations.

RAWLS'S TWO PRINCIPLES

Rawls argues that after considering various alternatives, people in the original position will eventually endorse the following two principles as the fundamental governing principles of their society:

1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.⁶⁷
2. Social and economic inequalities are to satisfy two conditions: First, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest expected benefit of the least-advantaged members of society.⁶⁸

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SUMMARY

John Rawls's theory of justice lies within the social-contract tradition. He asks us to imagine people meeting in the original position to choose the basic principles that are to govern their society. Although in this original position people choose on the basis of self-interest, we are to imagine that they are behind a veil of ignorance, with no personal information about themselves. Rawls contends that any principles agreed to under these circumstances have a strong claim to be considered the principles of justice.

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Rawls believes that people in the original position would endorse his two principles.

These are the principles of justice because they would be agreed to in an initial situation of equality and fairness.

These principles, because they are agreed to in an initial situation of equality and fairness, will be the principles of justice. Once these two principles of justice have been endorsed, people in the original position can gradually be given more information about their specific society. They can then go on to design their basic social and political institutions in more detail.

According to Rawls, the first principle takes priority over the second, at least for societies that have attained a moderate level of affluence. The liberties Rawls has in mind are the traditional democratic ones of freedom of thought, conscience, and religious worship, as well as freedom of the person and political liberty. Explicitly absent are “the right to own certain kinds of property (e.g., means of production), and freedom of contract as understood by the doctrine of *laissez-faire*.” The first principle guarantees not only equal liberty to individuals but also as much liberty to individuals as possible, compatible with others having the same amount of liberty. There is no reason why people in the original position would settle for anything less.

All regulations could be seen as infringing on personal liberty, because they limit what a person may do. The law that requires you to drive on the right-hand side of the road denies you the freedom to drive on either side whenever you wish. Some would argue that justice requires only an equal liberty. For example, as long as every motorist is required to drive on the right-hand side of the road, justice is being served; or if everyone in a dictatorial society is forbidden to criticize the leader’s decisions, then all are equal in their liberty. But Rawls argues that if more extensive liberty is possible, without inhibiting the liberty of others, then it would be irrational to settle for a lesser degree of liberty. In the case of driving, permitting me to drive on either side of the road would only interfere with the liberty of others to drive efficiently to their various destinations, but introducing right-turn-on-red laws enhances everyone’s liberty. In the dictatorship example, free speech could be more extensive without limiting anyone’s liberty.

The second principle concerns social and economic inequalities. Regarding inequalities, Rawls writes:

It is best to understand not *any* differences between offices and positions, but differences in the benefits and burdens attached to them either directly or indirectly, such as prestige and wealth, or liability to taxation and compulsory services. Players in a game do not protest against there being different positions, such as batter, pitcher, catcher, and the like, nor to there being various privileges and powers as specified by the rules; nor do the citizens of a country object to there being the different offices of government such as president, senator, governor, judge, and so on, each with their special rights and duties.⁶⁹

Rather, at issue are differences in wealth and power, honors and rewards, and privileges and salaries that attach to different roles in society.

Rawls’s second principle states that insofar as inequalities are permitted—that is, insofar as it is compatible with justice for some jobs or positions to bring greater rewards than others—these positions must be open to all. In other words, there must be meaningful equality of opportunity in the competition among individuals for those positions in society that bring greater economic and social rewards. This, of course, is a familiar ideal, but what exactly a society must do to achieve not just legal but full and fair equality of opportunity will be a matter of debate.

The other part of the second principle is less familiar and more controversial. Called the **difference principle**, it is the distinctive core of Rawls’s theory. It states that inequalities are justified only if they work to the benefit of the least-advantaged members of society. By “least-advantaged,” Rawls simply means those who are least well-off. But what does it mean to require that inequalities work to the benefit of this group?