

ISSUES IN MORAL PHILOSOPHY

Thomas Donaldson

Loyola University of Chicago

McGraw-Hill Publishing Company

New York St. Louis San Francisco Auckland Bogotá Caracas
Hamburg Lisbon London Madrid Mexico Milan
Montreal New Delhi Oklahoma City Paris San Juan
São Paulo Singapore Sydney Tokyo Toronto

test by which to judge of all human conduct; from whence it necessarily follows that it must be the criterion of morality, since a part is included in the whole.

JUSTICE

Distributive Justice

John Rawls

We may think of a human society as a more or less self-sufficient association regulated by a common conception of justice and aimed at advancing the good of its members.¹ As a co-operative venture for mutual advantage, it is characterized by a conflict as well as an identity of interests. There is an identity of interests since social co-operation makes possible a better life for all than any would have if everyone were to try to live by his own efforts; yet at the same time men are not indifferent as to how the greater benefits produced by their joint labours are distributed, for in order to further their own aims each prefers a larger to a lesser share. A conception of justice is a set of principles for choosing between the social arrangements which determine this division and for underwriting a consensus as to the proper distributive shares.

Now at first sight the most rational conception of justice would seem to be utilitarian. For consider: each man in realizing his own good can certainly balance his own losses against his own gains. We can impose a sacrifice on ourselves now for the sake of a greater advantage later. A man quite properly acts, as long as others are not affected, to achieve his own greatest good, to advance his ends as far as possible. Now, why should not a society act on precisely the same principle? Why is not that which is rational in the case of one man right in the case of a group of men? Surely the simplest and most direct conception of the right, and so of justice, is that of maximizing the good. This assumes a prior understanding of what is good, but we can think of the good as already given by the interests of rational individuals. Thus just as the principle of individual choice is to achieve one's greatest good, to advance so far as possible one's own system of rational desires, so the principle of social choice is to realize the greatest good (similarly defined) summed over all the

From *Philosophy, Politics, and Society*, ed. by Peter Laslett and W. G. Runciman (Basil Blackwell, Oxford; Barnes and Noble Books, Totowa, N.J., 1967). Reprinted by permission of Basil Blackwell, Oxford; Barnes and Noble Books, Totowa, New Jersey.

¹In this essay I try to work out some of the implications of the two principles of justice discussed in 'Justice as Fairness' which first appeared in the *Philosophical Review*, 1958, and which is reprinted in *Philosophy, Politics and Society*, Series II, pp. 132-57.

members of society. We arrive at the principle of utility in a natural way: by this principle a society is rightly ordered, and hence just, when its institutions are arranged so as to realize the greatest sum of satisfactions.

The striking feature of the principle of utility is that it does not matter, except indirectly, how this sum of satisfactions is distributed among individuals, any more than it matters, except indirectly, how one man distributes his satisfactions over time. Since certain ways of distributing things affect the total sum of satisfactions, this fact must be taken into account in arranging social institutions; but according to this principle the explanation of common-sense precepts of justice and their seemingly stringent character is that they are those rules which experience shows must be strictly respected and departed from only under exceptional circumstances if the sum of advantages is to be maximized. The precepts of justice are derivative from the one end of attaining the greatest net balance of satisfactions. There is no reason in principle why the greater gains of some should not compensate for the lesser losses of others; or why the violation of the liberty of a few might not be made right by a greater good shared by many. It simply happens, at least under most conditions, that the greatest sum of advantages is not generally achieved in this way. From the standpoint of utility the strictness of common-sense notions of justice has a certain usefulness, but as a philosophical doctrine it is irrational.

If, then, we believe that as a matter of principle each member of society has an inviolability founded on justice which even the welfare of everyone else cannot override, and that a loss of freedom for some is not made right by a greater sum of satisfactions enjoyed by many, we shall have to look for another account of the principles of justice. The principle of utility is incapable of explaining the fact that in a just society the liberties of equal citizenship are taken for granted, and the rights secured by justice are not subject to political bargaining nor to the calculus of social interests. Now, the most natural alternative to the principle of utility is its traditional rival, the theory of the social contract. The aim of the contract doctrine is precisely to account for the strictness of justice by supposing that its principles arise from an agreement among free and independent persons in an original position of equality and hence reflect the integrity and equal sovereignty of the rational persons who are the contractees. Instead of supposing that a conception of right, and so a conception of justice, is simply an extension of the principle of choice for one man to society as a whole, the contract doctrine assumes that the rational individuals who belong to society must choose together, in one joint act, what is to count among them as just and unjust. They are to decide among themselves once and for all what is to be their conception of justice. This decision is thought of as being made in a suitably defined initial situation one of the significant features of which is that no one knows his position in society, nor even his place in the distribution of natural talents and abilities. The principles of justice to which all are forever bound are chosen in the absence of this sort of specific information. A veil of ignorance prevents anyone from being

advantaged or disadvantaged by the contingencies of social class and fortune; and hence the bargaining problems which arise in everyday life from the possession of this knowledge do not affect the choice of principles. On the contract doctrine, then, the theory of justice, and indeed ethics itself, is part of the general theory of rational choice, a fact perfectly clear in its Kantian formulation.

Once justice is thought of as arising from an original agreement of this kind, it is evident that the principle of utility is problematical. For why should rational individuals who have a system of ends they wish to advance agree to a violation of their liberty for the sake of a greater balance of satisfactions enjoyed by others? It seems more plausible to suppose that, when situated in an original position of equal right, they would insist upon institutions which returned compensating advantages for any sacrifices required. A rational man would not accept an institution merely because it maximized the sum of advantages irrespective of its effect on his own interests. It appears, then, that the principle of utility would be rejected as a principle of justice, although we shall not try to argue this important question here. Rather, our aim is to give a brief sketch of the conception of distributive shares implicit in the principles of justice which, it seems, would be chosen in the original position. The philosophical appeal of utilitarianism is that it seems to offer a single principle on the basis of which a consistent and complete conception of right can be developed. The problem is to work out a contractarian alternative in such a way that it has comparable if not all the same virtues.

In our discussion we shall make no attempt to derive the two principles of justice which we shall examine; that is, we shall not try to show that they would be chosen in the original position.² It must suffice that it is plausible that they would be, at least in preference to the standard forms of traditional theories. Instead we shall be mainly concerned with three questions: first, how to interpret these principles so that they define a consistent and complete conception of justice; second, whether it is possible to arrange the institutions of a constitutional democracy so that these principles are satisfied, at least approximately; and third, whether the conception of distributive shares which they define is compatible with common-sense notions of justice. The significance of these principles is that they allow for the strictness of the claims

²This question is discussed very briefly in 'Justice as Fairness,' see pp. 138–41. The intuitive idea is as follows. Given the circumstances of the original position, it is rational for a man to choose as if he were designing a society in which his enemy is to assign him his place. Thus, in particular, given the complete lack of knowledge (which makes the choice one under uncertainty), the fact that the decision involves one's life-prospects as a whole and is constrained by obligations to third parties (e.g., one's descendants) and duties to certain values (e.g., to religious truth), it is rational to be conservative and so to choose in accordance with an analogue of the maximum principle. Viewing the situation in this way, the interpretation given to the principles of justice earlier is perhaps natural enough. Moreover, it seems clear how the principle of utility can be interpreted; it is the analogue of the Laplacean principle for choice uncertainty. (For a discussion of these choice criteria, see R. D. Luce and H. Raiffa, *Games and Decisions* (1957), pp. 275–98).

of justice; and if they can be understood so as to yield a consistent and complete conception, the contractarian alternative would seem all the more attractive.

The two principles of justice which we shall discuss may be formulated as follows: first, each person engaged in an institution or affected by it has an equal right to the most extensive liberty compatible with a like liberty for all; and second, inequalities as defined by the institutional structure or fostered by it are arbitrary unless it is reasonable to expect that they will work out to everyone's advantage and provided that the positions and offices to which they attach or from which they may be gained are open to all. These principles regulate the distributive aspects of institutions by controlling the assignment of rights and duties throughout the whole social structure, beginning with the adoption of a political constitution in accordance with which they are then to be applied to legislation. It is upon a correct choice of a basic structure of society, its fundamental system of rights and duties, that the justice of distributive shares depends.

The two principles of justice apply in the first instance to this basic structure, that is, to the main institutions of the social system and their arrangement, how they are combined together. Thus, this structure includes the political constitution and the principal economic and social institutions which together define a person's liberties and rights and affect his life-prospects, what he may expect to be and how well he may expect to fare. The intuitive idea here is that those born into the social system at different positions, say in different social classes, have varying life-prospects determined, in part, by the system of political liberties and personal rights, and by the economic and social opportunities which are made available to these positions. In this way the basic structure of society favours certain men over others, and these are the basic inequalities, the ones which affect their whole life-prospects. It is inequalities of this kind, presumably inevitable in any society, with which the two principles of justice are primarily designed to deal.

Now the second principle holds that an inequality is allowed only if there is reason to believe that the institution with the inequality, or permitting it, will work out for the advantage of every person engaged in it. In the case of the basic structure this means that all inequalities which affect life-prospects, say the inequalities of income and wealth which exist between social classes, must be to the advantage of everyone. Since the principle applies to institutions, we interpret this to mean that inequalities must be to the advantage of the representative man for each relevant social position; they should improve each such man's expectation. Here we assume that it is possible to attach to each position an expectation, and that this expectation is a function of the whole institutional structure: it can be raised and lowered by reassigning rights and duties throughout the system. Thus the expectation of any position depends upon the expectations of the others, and these in turn depend upon the pattern of rights and duties established by the basic structure. But it is not clear what is meant by saying that inequalities must be to the advantage of every

representative man....[One]...interpretation [of what is meant by saying that inequalities must be to the advantage of every representative man]...is to choose some social position by reference to which the pattern of expectations as a whole is to be judged, and then to maximize with respect to the expectations of this representative man consistent with the demands of equal liberty and equality of opportunity. Now, the one obvious candidate is the representative man of those who are least favoured by the system of institutional inequalities. Thus we arrive at the following idea: the basic structure of the social system affects the life-prospects of typical individuals according to their initial places in society, say the various income classes into which they are born, or depending upon certain natural attributes, as when institutions make discriminations between men and women or allow certain advantages to be gained by those with greater natural abilities. The fundamental problem of distributive justice concerns the differences in life-prospects which come about in this way. We interpret the second principle to hold that these differences are just if and only if the greater expectations of the more advantaged, when playing a part in the working of the whole social system, improve the expectations of the least advantaged. The basic structure is just throughout when the advantages of the more fortunate promote the well-being of the least fortunate, that is, when a decrease in their advantages would make the least fortunate even worse off than they are. The basic structure is perfectly just when the prospects of the least fortunate are as great as they can be.

In interpreting the second principle (or rather the first part of it which we may, for obvious reasons, refer to as the difference principle), we assume that the first principle requires a basic equal liberty for all, and that the resulting political system, when circumstances permit, is that of a constitutional democracy in some form. There must be liberty of the person and political equality as well as liberty of conscience and freedom of thought. There is one class of equal citizens which defines a common status for all. We also assume that there is equality of opportunity and a fair competition for the available positions on the basis of reasonable qualifications. Now, given this background, the differences to be justified are the various economic and social inequalities in the basic structure which must inevitably arise in such a scheme. These are the inequalities in the distribution of income and wealth and the distinctions in social prestige and status which attach to the various positions and classes. The difference principle says that these inequalities are just if and only if they are part of a larger system in which they work out to the advantage of the most unfortunate representative man. The just distributive shares determined by the basic structure are those specified by this constrained maximum principle.

Thus, consider the chief problem of distributive justice, that concerning the distribution of wealth as it affects the life-prospects of those starting out in the various income groups. These income classes define the relevant representative men from which the social system is to be judged. Now, a son of a member of the entrepreneurial class (in a capitalist society) has a better prospect than that of the son of an unskilled labourer. This will be true, it seems, even when the

social injustices which presently exist are removed and the two men are of equal talent and ability; the inequality cannot be done away with as long as something like the family is maintained. What, then, can justify this inequality in life-prospects? According to the second principle it is justified only if it is to the advantage of the representative man who is worst off, in this case the representative unskilled labourer. The inequality is permissible because lowering it would, let's suppose, make the working man even worse off than he is. Presumably, given the principle of open offices (the second part of the second principle), the greater expectations allowed to entrepreneurs has the effect in the longer run of raising the life-prospects of the labouring class. The inequality in expectation provides an incentive so that the economy is more efficient, industrial advance proceeds at a quicker pace, and so on, the end result of which is that greater material and other benefits are distributed throughout the system. Of course, all of this is familiar, and whether true or not in particular cases, it is the sort of thing which must be argued if the inequality in income and wealth is to be acceptable by the difference principle.

We should now verify that this interpretation of the second principle gives a natural sense in which everyone may be said to be made better off. Let us suppose that inequalities are chain-connected: that is, if an inequality raises the expectations of the lowest position, it raises the expectations of all positions in between. For example, if the greater expectations of the representative entrepreneur raises that of the unskilled labourer, it also raises that of the semi-skilled. Let us further assume that inequalities are close-knit: that is, it is impossible to raise (or lower) the expectations of any representative man without raising (or lowering) the expectations of every other representative man, and in particular, without affecting one way or the other that of the least fortunate. There is no loose-jointedness, so to speak, in the way in which expectations depend upon one another. Now, with these assumptions, everyone does benefit from an inequality which satisfies the difference principle, and the second principle as we have formulated it reads correctly. For the representative man who is better off in any pair-wise comparison gains by being allowed to have his advantage, and the man who is worse off benefits from the contribution which all inequalities make to each position below. Of course, chain-connection and close-knitness may not obtain; but in this case those who are better off should not have a veto over the advantages available for the least advantaged. The stricter interpretation of the difference principle should be followed, and all inequalities should be arranged for the advantage of the most unfortunate even if some inequalities are not to the advantage of those in middle positions. Should these conditions fail, then, the second principle would have to be stated in another way.

It may be observed that the difference principle represents, in effect, an original agreement to share in the benefits of the distribution of natural talents and abilities, whatever this distribution turns out to be, in order to alleviate as far as possible the arbitrary handicaps resulting from our initial starting places in society. Those who have been favoured by nature, whoever they are, may

gain from their good fortune only on terms that improve the well-being of those who have lost out. The naturally advantaged are not to gain simply because they are more gifted, but only to cover the costs of training and cultivating their endowments and for putting them to use in a way which improves the position of the less fortunate. We are led to the difference principle if we wish to arrange the basic social structure so that no one gains (or loses) from his luck in the natural lottery of talent and ability, or from his initial place in society, without giving (or receiving) compensating advantages in return. (The parties in the original position are not said to be attracted by this idea and so agree to it; rather, given the symmetries of their situation, and particularly their lack of knowledge, and so on, they will find it to their interest to agree to a principle which can be understood in this way.) And we should note also that when the difference principle is perfectly satisfied, the basic structure is optimal by the efficiency principle. There is no way to make anyone better off without making someone worse off, namely, the least fortunate representative man. Thus the two principles of justice define distributive shares in a way compatible with efficiency, at least as long as we move on this highly abstract level. If we want to say (as we do, although it cannot be argued here) that the demands of justice have an absolute weight with respect to efficiency, this claim may seem less paradoxical when it is kept in mind that perfectly just institutions are also efficient.

Our second question is whether it is possible to arrange the institutions of a constitutional democracy so that the two principles are satisfied, at least approximately. We shall try to show that this can be done provided the government regulates a free economy in a certain way. More fully, if law and government act effectively to keep markets competitive, resources fully employed, property and wealth widely distributed over time, and to maintain the appropriate social minimum, then if there is equality of opportunity underwritten by education for all, the resulting distribution will be just. Of course, all of these arrangements and policies are familiar. The only novelty in the following remarks, if there is any novelty at all, is that this framework of institutions can be made to satisfy the difference principle. To argue this, we must sketch the relations of these institutions and how they work together.

First of all, we assume that the basic social structure is controlled by a just constitution which secures the various liberties of equal citizenship. Thus the legal order is administered in accordance with the principle of legality, and liberty of conscience and freedom of thought are taken for granted. The political process is conducted, so far as possible, as a just procedure for choosing between governments and for enacting just legislation. From the standpoint of distributive justice, it is also essential that there be equality of opportunity in several senses. Thus, we suppose that, in addition to maintaining the usual social overhead capital, government provides for equal educational opportunities for all either by subsidizing private schools or by operating a public school system. It also enforces and underwrites equality of opportunity

in commercial ventures and in the free choice of occupation. This result is achieved by policing business behaviour and by preventing the establishment of barriers and restriction to the desirable positions and markets. Lastly, there is a guarantee of a social minimum which the government meets by family allowances and special payments in times of unemployment, or by a negative income tax.

In maintaining this system of institutions the government may be thought of as divided into four branches. Each branch is represented by various agencies (or activities thereof) charged with preserving certain social and economic conditions. These branches do not necessarily overlap with the usual organization of government, but should be understood as purely conceptual. Thus the allocation branch is to keep the economy feasibly competitive, that is, to prevent the formation of unreasonable market power. Markets are competitive in this sense when they cannot be made more so consistent with the requirements of efficiency and the acceptance of the facts of consumer preferences and geography. The allocation branch is also charged with identifying and correcting, say by suitable taxes and subsidies wherever possible, the more obvious departures from efficiency caused by the failure of prices to measure accurately social benefits and costs. The stabilization branch strives to maintain reasonably full employment so that there is no waste through failure to use resources and the free choice of occupation and the deployment of finance is supported by strong effective demand. These two branches together are to preserve the efficiency of the market economy generally.

The social minimum is established through the operations of the transfer branch. Later on we shall consider at what level this minimum should be set, since this is a crucial matter; but for the moment, a few general remarks will suffice. The main idea is that the workings of the transfer branch take into account the precept of need and assign it an appropriate weight with respect to the other common-sense precepts of justice. A market economy ignores the claims of need altogether. Hence there is a division of labour between the parts of the social system as different institutions answer to different common-sense precepts. Competitive markets (properly supplemented by government operations) handle the problem of the efficient allocation of labour and resources and set a weight to the conventional precepts associated with wages and earnings (the precepts of each according to his work and experience, or responsibility and the hazards of the job, and so on), whereas the transfer branch guarantees a certain level of well-being and meets the claims of need. Thus it is obvious that the justice of distributive shares depends upon the whole social system and how it distributes total income, wages plus transfers. There is with reason strong objection to the competitive determination of total income, since this would leave out of account the claims of need and of a decent standard of life. From the standpoint of the original position it is clearly rational to insure oneself against these contingencies. But now, if the appropriate minimum is provided by transfers, it may be perfectly fair that the other part of total income is competitively determined. Moreover, this way of

dealing with the claims of need is doubtless more efficient, at least from a theoretical point of view, than trying to regulate prices by minimum wage standards and so on. It is preferable to handle these claims by a separate branch which supports a social minimum. Henceforth, in considering whether the second principle of justice is satisfied, the answer turns on whether the total income of the least advantaged, that is, wages plus transfers, is such as to maximize their long-term expectations consistent with the demands of liberty.

Finally, the distribution branch is to preserve an approximately just distribution of income and wealth over time by affecting the background conditions of the market from period to period. Two aspects of this branch may be distinguished. First of all, it operates a system of inheritance and gift taxes. The aim of these levies is not to raise revenue, but gradually and continually to correct the distribution of wealth and to prevent the concentrations of power to the detriment of liberty and equality of opportunity. It is perfectly true, as some have said,³ that unequal inheritance of wealth is no more inherently unjust than unequal inheritance of intelligence; as far as possible the inequalities founded on either should satisfy the difference principle. Thus, the inheritance of greater wealth is just as long as it is to the advantage of the worst off and consistent with liberty, including equality of opportunity. Now by the latter we do not mean, of course, the equality of expectations between classes, since differences in life-prospects arising from the basic structure are inevitable, and it is precisely the aim of the second principle to say when these differences are just. Indeed, equality of opportunity is a certain set of institutions which assures equally good education and changes of culture for all and which keeps open the competition for positions on the basis of qualities reasonably related to performance, and so on. It is these institutions which are put in jeopardy when inequalities and concentrations of wealth reach a certain limit; and the taxes imposed by the distribution branch are to prevent this limit from being exceeded. Naturally enough where this limit lies is a matter for political judgment guided by theory, practical experience, and plain hunch; on this question the theory of justice has nothing to say.

The second part of the distribution branch is a scheme of taxation for raising revenue to cover the costs of public goods, to make transfer payments, and the like. This scheme belongs to the distribution branch since the burden of taxation must be justly shared. Although we cannot examine the legal and economic complications involved, there are several points in favour of proportional expenditure taxes as part of an ideally just arrangement. For one thing, they are preferable to income taxes at the level of common-sense precepts of justice, since they impose a levy according to how much a man takes out of the common store of goods and not according to how much he contributes (assuming that income is fairly earned in return for productive efforts). On the other hand, proportional taxes treat everyone in a clearly

³Example F. von Hayek, *The Constitution of Liberty* (1960), p. 90.

defined uniform way (again assuming that income is fairly earned) and hence it is preferable to use progressive rates only when they are necessary to preserve the justice of the system as a whole, that is, to prevent large fortunes hazardous to liberty and equality of opportunity, and the like. If proportional expenditure taxes should also prove more efficient, say because they interfere with incentives, or whatever, this would make the case for them decisive provided a feasible scheme could be worked out.⁴ Yet these are questions of political judgment which are not our concern; and, in any case, a proportional expenditure tax is part of an idealized scheme which we are describing. It does not follow that even steeply progressive income taxes, given the injustice of existing systems, do not improve justice and efficiency all things considered. In practice we must usually choose between unjust arrangements and then it is a matter of finding the lesser injustice.

Whatever form the distribution branch assumes, the argument for it is to be based on justice: we must hold that once it is accepted the social system as a whole—the competitive economy surrounded by a just constitutional and legal framework—can be made to satisfy the principles of justice with the smallest loss in efficiency. The long-term expectations of the least advantaged are raised to the highest level consistent with the demands of equal liberty. In discussing the choice of a distribution scheme we have made no reference to the traditional criteria of taxation according to ability to pay or benefits received; nor have we mentioned any of the variants of the sacrifice principle. These standards are subordinate to the two principles of justice; once the problem is seen as that of designing a whole social system, they assume the status of secondary precepts with no more independent force than the precepts of common sense in regard to wages. To suppose otherwise is not to take a sufficiently comprehensive point of view. In setting up a just distribution branch these precepts may or may not have a place depending upon the demands of the two principles of justice when applied to the entire system....

The sketch of the system of institutions satisfying the two principles of justice is now complete....

In order... to establish just distributive shares a just total system of institutions must be set up and impartially administered. Given a just constitution and the smooth working of the four branches of government, and so on, there exists a procedure such that the actual distribution of wealth, whatever it turns out to be, is just. It will have come about as a consequence of a just system of institutions satisfying the principles to which everyone would agree and against which no one can complain. The situation is one of pure procedural justice, since there is no independent criterion by which the outcome can be judged. Nor can we say that a particular distribution of wealth is just because it is one which could have resulted from just institutions although it has not, as this would be to allow too much. Clearly there are many distributions which may

⁴See N. Kaldor, *An Expenditure Tax* (1955).

be reached by just institutions, and this is true whether we count patterns of distributions among social classes or whether we count distributions of particular goods and services among particular individuals. There are indefinitely many outcomes and what makes one of these just is that it has been achieved by actually carrying out a just scheme of co-operation as it is publicly understood. It is the result which has arisen when everyone receives that to which he is entitled given his and others' actions guided by their legitimate expectations and their obligations to one another. We can no more arrive at a just distribution of wealth except by working together within the framework of a just system of institutions than we can win or lose fairly without actually betting.

This account of distributive shares is simply an elaboration of the familiar idea that economic rewards will be just once a perfectly competitive price system is organized as a fair game. But in order to do this we have to begin with the choice of a social system as a whole, for the basic structure of the entire arrangement must be just. The economy must be surrounded with the appropriate framework of institutions, since even a perfectly efficient price system has no tendency to determine just distributive shares when left to itself. Not only must economic activity be regulated by a just constitution and controlled by the four branches of government, but a just saving-function must be adopted to estimate the provision to be made for future generations....

Justice as Entitlement

Robert Nozick

The term "distributive justice" is not a neutral one. Hearing the term "distribution," most people presume that some thing or mechanism uses some principle or criterion to give out a supply of things. Into this process of distributing shares some error may have crept. So it is an open question, at least, whether redistribution should take place; whether we should do again what has already been done once, though poorly. However, we are not in the position of children who have been given portions of pie by someone who now makes last minute adjustments to rectify careless cutting. There is no central distribution, no person or group entitled to control all the resources, jointly deciding how they are to be doled out. What each person gets, he gets from others who give to him in exchange for something, or as a gift. In a free society, diverse persons control different resources, and new holdings arise out of the voluntary exchanges and actions of persons. There is no more a distributing or distribution of shares than there is a distributing of mates in a society in which persons choose whom they shall marry....

From *Anarchy, State, and Utopia* by Robert Nozick. © 1974 by Basic Books, Inc., Publishers. Reprinted by permission of the publisher.

THE ENTITLEMENT THEORY

The subject of justice in holdings consists of three major topics. The first is the *original acquisition of holdings*, the appropriation of unheld things. This includes the issues of how unheld things may come to be held, the process, or processes, by which unheld things may come to be held, the things that may come to be held by these processes, the extent of what comes to be held by a particular process, and so on. We shall refer to the complicated truth about this topic, which we shall not formulate here, as the principle of justice in acquisition. The second topic concerns the *transfer of holdings* from one person to another. By what processes may a person transfer holdings to another? How may a person acquire a holding from another who holds it? Under this topic come general descriptions of voluntary exchange, and gift and (on the other hand) fraud, as well as reference to particular conventional details fixed upon in a given society. The complicated truth about this subject (with placeholders for conventional details) we shall call the principle of justice in transfer. (And we shall suppose it also includes principles governing how a person may divest himself of a holding, passing it into an unheld state.)

If the world were wholly just, the following inductive definition would exhaustively cover the subject of justice in holdings.

- 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 1 and 2.

The complete principle of distributive justice would say simply that a distribution is just if [all are] entitled to the holdings they possess under the distribution.

A distribution is just if it arises from another just distribution by legitimate means. The legitimate means of moving from one distribution to another are specified by the principle of justice in transfer. The legitimate first "moves" are specified by the principle of justice in acquisition. Whatever arises from a just situation by just steps is itself just... from a just situation a situation *could* have arisen via justice-preserving means does *not* suffice to show its justice. The fact that a thief's victims voluntarily *could* have presented him with gifts does not entitle the thief to his ill-gotten gains. Justice in holdings is historical; it depends upon what actually has happened. We shall return to this point later.

Not all actual situations are generated in accordance with the two principles of justice in holdings: the principle of justice in acquisition and the principle of justice in transfer. Some people steal from others, or defraud them, or enslave them, seizing their product and preventing them from living as they choose, or forcibly exclude others from competing in exchanges. None of these are forcibly exclude others from competing in exchanges. None of these are