

institutions if they were brought together in an imaginary "original position" for this purpose.

In Rawls's view, society is to be seen as a "cooperative venture for mutual advantage," and one should imagine the individuals in the hypothetical original position as choosing, in an initial situation of equality and fairness, those principles most in accord with their rational self-interest. These people do not choose the principles they do because they believe them to be just. They are concerned with their share of the primary social goods (including wealth, power, self-respect, and liberty) and seek to look after their own interests. The principles chosen are principles of justice because they would be chosen by such persons under the (fair) conditions of the original position.

These conditions are elaborated by Rawls in the following selections. One crucial feature of the original position is that its participants are ignorant of their personal characteristics and endowments, their social position, and their historical period. If the procedure is to be fair, none of these things, argues Rawls, should be known. This "veil of ignorance" makes the decision impartial and, thus, unanimity possible. Since the conditions and constraints on the original position are, in Rawls's view, fair, the principles chosen have a certain justification. In addition, the principles are thought by Rawls to conform with our considered convictions or intuitions about justice.

Under conditions of ignorance, a rational person in the original position would reason conservatively. Not knowing his or her particular situation, one would wish to reduce one's loss in the event of the worst possible outcome. Thus, Rawls contends, a person in the original position would choose the general principle that all social values—including liberty, income, and opportunity—be distributed equally unless an unequal distribution of these goods is to everyone's advantage. Under appropriate conditions of material well-being, the general conception yields to the "special conception" of justice, composed of two principles. The first, which has priority over the second, calls for as extensive a system of equal liberty as possible. The second guarantees equality of opportunity and requires that any social and economic inequalities benefit the least advantaged. Contrary to utilitarianism, it is not enough that inequalities increase the total social good; they must work to the favor of the least advantaged members of society.

A virtue of the two principles, according to Rawls, is their acceptability once the veil of ignorance is lifted. In contrast again to utilitarianism, they are thought by him to be principles to which the participants could remain committed no matter what their situation in society. Their implementation would result in both a stable society and one that promotes the self-respect of its citizens. The type of economic system that would be best in this society is, Rawls says, for social scientists to determine; but he does believe that a regime of either welfare capitalism or democratic socialism could realize his two principles of justice.

John Rawls

A Theory of Justice

AN OVERVIEW OF THE THEORY

The Subject of Justice

Many different kinds of things are said to be just and unjust: not only laws, institutions, and social systems, but also particular actions of many kinds, including decisions, judgments, and imputations. We also call the attitudes and dispositions of persons, and persons themselves, just and unjust. Our topic, however, is that of social justice. For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions I understand the political constitution and the principal economic and social arrangements. Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major social institutions. Taken together as one scheme, the major institutions define men's rights and duties and influence their life-prospects, what they can expect to be and how well they can hope to do. The basic structure is the primary subject of justice because its effects are so profound and present from the start. The intuitive notion here is that this structure contains various social positions and that men born into different positions have different expectations of life determined, in part, by the political system as well as by economic and social circumstances. In this way the institutions of society favor certain starting places over others. These are especially deep inequalities. Not only are they pervasive, but they affect men's initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit or desert. It is these inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice must in the first instance apply. These principles, then, regulate the choice of a political constitution and the main elements of the economic and social system. The justice of a social scheme depends

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essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society.

The Main Idea of the Theory of Justice

My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau, and Kant.¹ In order to do this we are not to think of the original contract as one to enter a particular society or to set up a particular form of government. Rather, the guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. These principles are to regulate all further agreements: they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. This way of regarding the principles of justice I shall call justice as fairness.

Thus we are to imagine that those who engage in social cooperation choose together, in one joint act, the principles which are to assign basic rights and duties and to determine the division of social benefits. Men are to decide in advance how they are to regulate their claims against one another and what is to be the foundation charter of their society. Just as each person must decide by rational reflection what constitutes his good, that is, the system of ends which it is rational for him to pursue, so a group of persons must decide once and for all what is to count among them as just and unjust. The choice which rational men would make in this hypothetical situation of equal liberty, assuming for the present that this choice problem has a solution, determines the principles of justice.

In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. This original position is not, of course, thought of as an actual historical state of affairs, much less as a primitive condition of culture. It is understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice.² Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. For given the circumstances of the original position, the symmetry of everyone's relations to each other, this initial situation is fair between individuals as moral persons, that is, as

rational beings with their own ends and capable, I shall assume, of a sense of justice. The original position is, one might say, the appropriate initial status quo, and thus the fundamental agreements reached in it are fair. This explains the propriety of the name "justice as fairness": it conveys the idea that the principles of justice are agreed to in an initial situation that is fair. The name does not mean that the concepts of justice and fairness are the same, any more than the phrase "poetry as metaphor" means that the concepts of poetry and metaphor are the same.

Justice as fairness begins, as I have said, with one of the most general of all choices which persons might make together, namely, with the choice of the first principles of a conception of justice which is to regulate all subsequent criticism and reform of institutions. Then, having chosen a conception of justice, we can suppose that they are to choose a constitution and a legislature to enact laws, and so on, all in accordance with the principles of justice initially agreed upon. Our social situation is just if it is such that by this sequence of hypothetical agreements we would have contracted into the general system of rules which defines it. Moreover, assuming that the original position does determine a set of principles (that is, that a particular conception of justice would be chosen), it will then be true that whenever social institutions satisfy these principles those engaged in them can say to one another that they are cooperating on terms to which they would agree if they were free and equal persons whose relations with respect to one another were fair. They could all view their arrangements as meeting the stipulations which they would acknowledge in an initial situation that embodies widely accepted and reasonable constraints on the choice of principles. The general recognition of this fact would provide the basis for a public acceptance of the corresponding principles of justice. No society can, of course, be a scheme of cooperation which men enter voluntarily in a literal sense; each person finds himself placed at birth in some particular position in some particular society, and the nature of this position materially affects his life prospects. Yet a society satisfying the principles of justice as fairness comes as close as a society can to being a voluntary scheme, for it meets the principles which free and equal persons would assent to under circumstances that are fair. In this sense its members are autonomous and the obligations they recognize self-imposed.

One feature of justice as fairness is to think of the parties in the initial situation as rational and mutually disinterested. This does not mean that the parties are egoists, that is, individuals with only certain kinds of interests, say in wealth, prestige, and domination. But they are conceived as not taking an interest in one another's interests. They are to presume that even their spiritual aims may be opposed, in the way that the aims of those of different religions may be opposed. Moreover, the concept of rationality must be interpreted as far as possible in the narrow sense, standard in economic theory, of taking the most effective means to given ends. I shall modify this concept to some extent, as explained later, but one must try to avoid introducing into it any controversial ethical elements. The initial situation must be characterized by stipulations that are widely accepted.

In working out the conception of justice as fairness one main task clearly is to determine which principles of justice would be chosen in the original position. To do this we must describe this situation in some detail and formulate with care the problem of choice which it presents. These matters I shall take up in the immediately succeeding chapters. It may be observed, however, that once the principles of justice are thought of as arising from an original agreement in a situation of equality, it is an open question whether the principle of utility would be acknowledged. Offhand it hardly seems likely that persons who view themselves as equals, entitled to press their claims upon one another, would agree to a principle which may require lesser life prospects for some simply for the sake of a greater sum of advantages enjoyed by others. Since each desires to protect his interests, his capacity to advance his conception of the good, no one has a reason to acquiesce in an enduring loss for himself in order to bring about a greater net balance of satisfaction. In the absence of strong and lasting benevolent impulses, a rational man would not accept a basic structure merely because it maximized the algebraic sum of advantages irrespective of its permanent effects on his own basic rights and interests. Thus it seems that the principle of utility is incompatible with the conception of social cooperation among equals for mutual advantage. It appears to be inconsistent with the idea of reciprocity implicit in the notion of a well-ordered society. Or, at any rate, so I shall argue.

I shall maintain instead that the persons in the initial situation would choose two rather different principles: the first requires equality in the assignment of basic rights and duties, while the second holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society. These principles rule out justifying institutions on the grounds that the hardships of some are offset by a greater good in the aggregate. It may be expedient but it is not just that some should have less in order that others may prosper. But there is no injustice in the greater benefits earned by a few provided that the situation of persons not so fortunate is thereby improved. The intuitive idea is that since everyone's well-being depends upon a scheme of cooperation without which no one could have a satisfactory life, the division of advantages should be such as to draw forth the willing cooperation of everyone taking part in it, including those less well situated. Yet this can be expected only if reasonable terms are proposed. The two principles mentioned seem to be a fair agreement on the basis of which those better endowed, or more fortunate in their social position, neither of which we can be said to deserve, could expect the willing cooperation of others when some workable scheme is a necessary condition of the welfare of all. Once we decide to look for a conception of justice that nullifies the accidents of natural endowment and the contingencies of social circumstance as counters in quest for political and economic advantage, we are led to these principles. They express the result of leaving aside those aspects of the social world that seem arbitrary from a moral point of view.

The problem of the choice of principles, however, is extremely difficult. I do not expect the answer I shall suggest to be convincing to everyone. It is, therefore, worth noting from the outset that justice as fairness, like other contract views, consists of two parts: (1) an interpretation of the initial situation and of the problem of choice posed there, and (2) a set of principles which, it is argued, would be agreed to. One may accept the first part of the theory (or some variant thereof), but not the other, and conversely. The concept of the initial contractual situation may seem reasonable although the particular principles proposed are rejected. To be sure, I want to maintain that the most appropriate conception of this situation does lead to principles of justice contrary to utilitarianism and perfectionism, and therefore that the contract doctrine provides an alternative to these views. Still, one may dispute this contention even though one grants that the contractarian method is a useful way of studying ethical theories and of setting forth their underlying assumptions.

Justice as fairness is an example of what I have called a contract theory. Now there may be an objection to the term "contract" and related expressions, but I think it will serve reasonably well. Many words have misleading connotations which at first are likely to confuse. The terms "utility" and "utilitarianism" are surely no exception. They too have unfortunate suggestions which hostile critics have been willing to exploit; yet they are clear enough for those prepared to study utilitarian doctrine. The same should be true of the term "contract" applied to moral theories. As I have mentioned, to understand it one has to keep in mind that it implies a certain level of abstraction. In particular, the content of the relevant agreement is not to enter a given society or to adopt a given form of government, but to accept certain moral principles. Moreover, the undertakings referred to are purely hypothetical: a contract view holds that certain principles would be accepted in a well-defined initial situation.

The merit of the contract terminology is that it conveys the idea that principles of justice may be conceived as principles that would be chosen by rational persons, and that in this way conceptions of justice may be explained and justified. The theory of justice is a part, perhaps the most significant part, of the theory of rational choice. Furthermore, principles of justice deal with conflicting claims upon the advantages won by social cooperation; they apply to the relations among several persons or groups. The word "contract" suggests this plurality as well as the condition that the appropriate division of advantages must be in accordance with principles acceptable to all parties. The condition of publicity for principles of justice is also connoted by the contract phraseology. Thus, if these principles are the outcome of an agreement, citizens have a knowledge of the principles that others follow. It is characteristic of contract theories to stress the public nature of political principles. Finally there is the long tradition of the contract doctrine. Expressing the tie with this line of thought helps to define ideas and accords with natural piety. There are then several advantages in the use of the term "contract." With due precautions taken, it should not be misleading.

The Original Position and Justification

I have said that the original position is the appropriate initial status quo which insures that the fundamental agreements reached in it are fair. This fact yields the name "justice as fairness." It is clear, then, that I want to say that one conception of justice is more reasonable than another, or justifiable with respect to it, if rational persons in the initial situation would choose its principles over those of the other for the role of justice. Conceptions of justice are to be ranked by their acceptability to persons so circumstanced. Understood in this way the question of justification is settled by working out a problem of deliberation: we have to ascertain which principles it would be rational to adopt given the contractual situation. This connects the theory of justice with the theory of rational choice.

If this view of the problem of justification is to succeed, we must, of course, describe in some detail the nature of this choice problem. A problem of rational decision has a definite answer only if we know the beliefs and interests of the parties, their relations with respect to one another, the alternatives between which they are to choose, the procedure whereby they make up their minds, and so on. As the circumstances are presented in different ways, correspondingly different principles are accepted. The concept of the original position, as I shall refer to it, is that of the most philosophically favored interpretation of this initial choice situation for the purposes of a theory of justice.

But how are we to decide what is the most favored interpretation? I assume, for one thing, that there is a broad measure of agreement that principles of justice should be chosen under certain conditions. To justify a particular description of the initial situation one shows that it incorporates these commonly shared presumptions. One argues from widely accepted but weak premises to more specific conclusions. Each of the presumptions should by itself be natural and plausible; some of them may seem innocuous or even trivial. The aim of the contract approach is to establish that taken together they impose significant bounds on acceptable principles of justice. The ideal outcome would be that these conditions determine a unique set of principles; but I shall be satisfied if they suffice to rank the main traditional conceptions of social justice.

One should not be misled, then, by the somewhat unusual conditions which characterize the original position. The idea here is simply to make vivid to ourselves the restrictions that it seems reasonable to impose on arguments for principles of justice, and therefore on these principles themselves. Thus it seems reasonable and generally acceptable that no one should be advantaged or disadvantaged by natural fortune or social circumstances in the choice of principles. It also seems widely agreed that it should be impossible to tailor principles to the circumstances of one's own case. We should insure further that particular inclinations and aspirations, and persons' conceptions of their good do not affect the principles adopted. The aim is to rule out those principles that it would be rational to propose for acceptance, however little the chance of success, only if one knew certain things that are irrelevant from the standpoint of justice. For

example, if a man knew that he was wealthy, he might find it rational to advance the principle that various taxes for welfare measures be counted unjust; if he knew that he was poor, he would most likely propose the contrary principle. To represent the desired restrictions one imagines a situation in which everyone is deprived of this sort of information. One excludes the knowledge of those contingencies which sets men at odds and allows them to be guided by their prejudices. In this manner the veil of ignorance is arrived at in a natural way. This concept should cause no difficulty if we keep in mind the constraints on arguments that it is meant to express. At any time we can enter the original position, so to speak, simply by following a certain procedure, namely, by arguing for principles of justice in accordance with these restrictions.

It seems reasonable to suppose that the parties in the original position are equal. That is, all have the same rights in the procedure for choosing principles; each can make proposals, submit reasons for their acceptance, and so on. Obviously the purpose of these conditions is to represent equality between human beings as moral persons, as creatures having a conception of their good and capable of a sense of justice. The basis of equality is taken to be similarity in these two respects. Systems of ends are not ranked in value; and each man is presumed to have the requisite ability to understand and to act upon whatever principles are adopted. Together with the veil of ignorance, these conditions define the principles of justice as those which rational persons concerned to advance their interests would consent to as equals when none are known to be advantaged or disadvantaged by social and natural contingencies.

There is, however, another side to justifying a particular description of the original position. This is to see if the principles which would be chosen match our considered convictions of justice or extend them in an acceptable way. We can note whether applying these principles would lead us to make the same judgments about the basic structure of society which we now make intuitively and in which we have the greatest confidence; or whether, in cases where our present judgments are in doubt and given with hesitation, these principles offer a resolution which we can affirm on reflection. There are questions which we feel sure must be answered in a certain way. For example, we are confident that religious intolerance and racial discrimination are unjust. We think that we have examined these things with care and have reached what we believe is an impartial judgment not likely to be distorted by an excessive attention to our own interests. These convictions are provisional fixed points which we presume any conception of justice must fit. But we have much less assurance as to what is the correct distribution of wealth and authority. Here we may be looking for a way to remove our doubts. We can check an interpretation of the initial situation, then, by the capacity of its principles to accommodate our firmest convictions and to provide guidance where guidance is needed.

In searching for the most favored description of this situation we work from both ends. We begin by describing it so that it represents generally shared and preferably weak conditions. We then see if these conditions are strong enough to yield a significant set of principles. If not,

we look for further premises equally reasonable. But if so, and these principles match our considered convictions of justice, then so far well and good. But presumably there will be discrepancies. In this case we have a choice. We can either modify the account of the initial situation or we can revise our existing judgments, for even the judgments we take provisionally as fixed points are liable to revision. By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgments and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgments duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium³. It is an equilibrium because at last our principles and judgments coincide; and it is reflective since we know to what principles our judgments conform and the premises of their derivation. At the moment everything is in order. But this equilibrium is not necessarily stable. It is liable to be upset by further examination of the conditions which should be imposed on the contractual situation and by particular cases which may lead us to revise our judgments. Yet for the time being we have done what we can to render coherent and to justify our convictions of social justice. We have reached a conception of the original position.

I shall not, of course, actually work through this process. Still, we may think of the interpretation of the original position that I shall present as the result of such a hypothetical course of reflection. It represents the attempt to accommodate within one scheme both reasonable philosophical conditions on principles as well as our considered judgments of justice. In arriving at the favored interpretation of the initial situation there is no point at which an appeal is made to self-evidence in the traditional sense either of general conceptions or particular convictions. I do not claim for the principles of justice proposed that they are necessary truths or derivable from such truths. A conception of justice cannot be deduced from self-evident premises or conditions on principles; instead, its justification is a matter of the mutual support of many considerations, of everything fitting together into one coherent view.

A final comment. We shall want to say that certain principles of justice are justified because they would be agreed to in an initial situation of equality. I have emphasized that this original position is purely hypothetical. It is natural to ask why, if this agreement is never actually entered into, we should take any interest in these principles, moral or otherwise. The answer is that the conditions embodied in the description of the original position are ones that we do in fact accept. Or if we do not, then perhaps we can be persuaded to do so by philosophical reflection. Each aspect of the contractual situation can be given supporting grounds. Thus what we shall do is to collect together into one conception a number of conditions on principles that we are ready upon due consideration to recognize as reasonable. These constraints express what we are prepared to regard as limits on fair terms of social cooperation. One way to look at the idea of the original position, therefore, is to see it as an expository device which sums up the meaning of these conditions and helps us to

extract their consequences. On the other hand, this conception is also an intuitive notion that suggests its own elaboration, so that led on by it we are drawn to define more clearly the standpoint from which we can best interpret moral relationships. We need a conception that enables us to envision our objective from afar: the intuitive notion of the original position is to do this for us. . . .

The Veil of Ignorance

The idea of the original position is to set up a fair procedure so that any principles agreed to will be just. The aim is to use the notion of pure procedural justice as a basis of theory. Somehow we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume that the parties are situated behind a veil of ignorance. They do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations.¹

It is assumed, then, that the parties do not know certain kinds of particular facts. First of all, no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor, again, does anyone know his conception of the good, the particulars of his rational plan of life, or even the special features of his psychology such as his aversion to risk or liability to optimism or pessimism. More than this, I assume that the parties do not know the particular circumstances of their own society. That is, they do not know its economic or political situation, or the level of civilization and culture it has been able to achieve. The persons in the original position have no information as to which generation they belong. These broader restrictions on knowledge are appropriate in part because questions of social justice arise between generations as well as within them, for example, the question of the appropriate rate of capital saving and of the conservation of natural resources and the environment of nature. There is also, theoretically anyway, the question of a reasonable genetic policy. In these cases too, in order to carry through the idea of the original position, the parties must not know the contingencies that set them in opposition. They must choose principles the consequences of which they are prepared to live with whatever generation they turn out to belong to.

As far as possible, then, the only particular facts which the parties know is that their society is subject to the circumstances of justice and whatever this implies. It is taken for granted, however, that they know the general facts about human society. They understand political affairs and the principles of economic theory; they know the basis of social organization and the laws of human psychology. Indeed, the parties are presumed to know whatever general facts affect the choice of the principles of justice. There are no limitations on general information, that is, on general laws and theories, since conceptions of justice must be adjusted to the charac-

teristics of the systems of social cooperation which they are to regulate, and there is no reason to rule out these facts. It is, for example, a consideration against a conception of justice that in view of the laws of moral psychology, men would not acquire a desire to act upon it even when the institutions of their society satisfied it. For in this case there would be difficulty in securing the stability of social operation. It is an important feature of a conception of justice that it should generate its own support. That is, its principles should be such that when they are embodied in the basic structure of society men tend to acquire the corresponding sense of justice. Given the principles of moral learning, men develop a desire to act in accordance with its principles. In this case a conception of justice is stable. This kind of general information is admissible in the original position.

The notion of the veil of ignorance raises several difficulties. Some may object that the exclusion of nearly all particular information makes it difficult to grasp what is meant by the original position. Thus it may be helpful to observe that one or more persons can at any time enter this position, or perhaps, better, simulate the deliberations of this hypothetical situation, simply by reasoning in accordance with the appropriate restrictions. In arguing for a conception of justice we must be sure that it is among the permitted alternatives and satisfies the stipulated formal constraints. No considerations can be advanced in its favor unless they would be rational ones for us to urge were we to lack the kind of knowledge that is excluded. The evaluation of principles must proceed in terms of the general consequences of their public recognition and universal application, it being assumed that they will be complied with by everyone. To say that a certain conception of justice would be chosen in the original position is equivalent to saying that rational deliberation satisfying certain conditions and restrictions would reach a certain conclusion. If necessary, the argument to this result could be set out more formally. I shall, however, speak throughout in terms of the notion of the original position. It is more economical and suggestive, and brings out certain essential features that otherwise one might easily overlook. . . .

Thus there follows the very important consequence that the parties have no basis for bargaining in the usual sense. No one knows his situation in society nor his natural assets, and therefore no one is in a position to tailor principles to his advantage. We might imagine that one of the contractees threatens to hold out unless the others agree to principles favorable to him. But how does he know which principles are especially in his interests? The same holds for the formation of coalitions: if a group were to decide to band together to the disadvantage of the others, they would not know how to favor themselves in the choice of principles. Even if they could get everyone to agree to their proposal, they would have no assurance that it was to their advantage, since they cannot identify themselves either by name or description. . . .

The restrictions on particular information in the original position are, then, of fundamental importance. Without them we would not be able to work out any definite theory of justice at all. We would have to be

content with a vague formula stating that justice is what would be agreed to without being able to say much, if anything, about the substance of the agreement itself. The formal constraints of the concept of right, those applying to principles directly, are not sufficient for our purpose. The veil of ignorance makes possible a unanimous choice of a particular conception of justice. Without these limitations on knowledge the bargaining problem of the original position would be hopelessly complicated. Even if theoretically a solution were to exist, we would not, at present anyway, be able to determine it. . . .

The Rationality of the Parties

I have assumed throughout that the persons in the original position are rational. In choosing between principles each tries as best he can to advance his interests. But I have also assumed that the parties do not know their conception of the good. This means that while they know that they have some rational plan of life, they do not know the details of this plan, the particular ends and interests which it is calculated to promote. How, then, can they decide which conceptions of justice are most to their advantage? Or must we suppose that they are reduced to mere guessing? To meet this difficulty, I postulate. . . that they would prefer more primary social goods rather than less [i.e., rights and liberties, powers and opportunities, income and wealth and self-respect]. . . . Of course, it may turn out once the veil of ignorance is removed, that some of them for religious or other reasons may not, in fact, want more of these goods. But from the standpoint of the original position, it is rational for the parties to suppose that they do want a larger share, since in any case they are not compelled to accept more if they do not wish to nor does a person suffer from a greater liberty. Thus even though the parties are deprived of information about their particular ends, they have enough knowledge to rank the alternatives. They know that in general they must try to protect their liberties, widen their opportunities, and enlarge their means for promoting their aims whatever these are. Guided by the theory of the good and the general facts of moral psychology, their deliberations are no longer guesswork. They can make a rational decision in the ordinary sense. . . .

The assumption of mutually disinterested rationality, then, comes to this: the persons in the original position try to acknowledge principles which advance their system of ends as far as possible. They do this by attempting to win for themselves the highest index of primary social goods, since this enables them to promote their conception of the good most effectively whatever it turns out to be. The parties do not seek to confer benefits or to impose injuries on one another; they are not moved by affection or rancor. Nor do they try to gain relative to each other; they are not envious or vain. Put in terms of a game, we might say: they strive for as high an absolute score as possible. They do not wish a high or a low score for their opponents, nor do they seek to maximize or minimize the difference between their successes and those of others. The idea of a game

does not really apply, since the parties are not concerned to win but to get as many points as possible judged by their own system of ends. . . .

Once we consider the idea of a contract theory it is tempting to think that it will not yield the principles we want unless the parties are to some degree at least moved by benevolence, or an interest in one another's interests. . . . Now the combination of mutual disinterest and the veil of ignorance achieves the same purpose as benevolence. For this combination of conditions forces each person in the original position to take the good of others into account. In justice as fairness, then, the effects of good will are brought about by several conditions working jointly. The feeling that this conception of justice is egoistic is an illusion fostered by looking at but one of the elements of the original position. Furthermore, this pair of assumptions has enormous advantages over that of benevolence plus knowledge. As I have noted, the latter is so complex that no definite theory at all can be worked out. Not only are the complications caused by so much information insurmountable, but the motivational assumption requires clarification. For example, what is the relative strength of benevolent desires? In brief, the combination of mutual disinterestedness plus the veil of ignorance has the merits of simplicity and clarity while at the same time insuring the effects of what are at first sight morally more attractive assumptions. And if it is asked why one should not postulate benevolence with the veil of ignorance the answer is that there is no need for so strong a condition. Moreover, it would defeat the purpose of grounding the theory of justice on weak stipulations, as well as being incongruous with the circumstances of justice. . . .

THE PRINCIPLES OF JUSTICE

Two Principles of Justice

I shall now state in a provisional form the two principles of justice that I believe would be chosen in the original position. In this section I wish to make only the most general comments, and therefore the first formulation of these principles is tentative. As we go on I shall run through several formulations and approximate step by step the final statement to be given much later. I believe that doing this allows the exposition to proceed in a natural way.

The first statement of the two principles reads as follows.

First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.

There are two ambiguous phrases in the second principle, namely "everyone's advantage" and "equally open to all." Determining their sense more exactly will lead to a second formulation of the principle. . . .

By way of general comment, these principles primarily apply, as I have said, to the basic structure of society. They are to govern the assignment of rights and duties and to regulate the distribution of social and economic advantages. As their formulation suggests, these principles presuppose that the social structure can be divided into two more or less distinct parts, the first principle applying to the one, the second to the other. They distinguish between those aspects of the social system that define and secure the equal liberties of citizenship and those that specify and establish social and economic inequalities. The basic liberties of citizens are, roughly speaking, political liberty (the right to vote and to be eligible for public office) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. These liberties are all required to be equal by the first principle, since citizens of a just society are to have the same basic rights.

The second principle applies, in the first approximation, to the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility, or chains of command. While the distribution of wealth and income need not be equal, it must be to everyone's advantage, and at the same time, positions of authority and offices of command must be accessible to all. One applies the second principle by holding positions open, and then, subject to this constraint, arranges social and economic inequalities so that everyone benefits.

These principles are to be arranged in a serial order with the first principle prior to the second. This ordering means that a departure from the institutions of equal liberty required by the first principle cannot be justified by, or compensated for, by greater social and economic advantages. The distribution of wealth and income, and the hierarchies of authority, must be consistent with both the liberties of equal citizenship and equality of opportunity.

It is clear that these principles are rather specific in their content, and their acceptance rests on certain assumptions that I must eventually try to explain and justify. A theory of justice depends upon a theory of society in ways that will become evident as we proceed. For the present, it should be observed that the two principles (and this holds for all formulations) are a special case of a more general conception of justice that can be expressed as follows.

All social values—liberty and opportunity, income and wealth, and the bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage.

Injustice, then, is simply inequalities that are not to the benefit of all. Of course, this conception is extremely vague and requires interpretation.

As a first step, suppose that the basic structure of society distributes certain primary goods, that is, things that every rational man is presumed to want. These goods normally have a use whatever a person's rational plan of life. For simplicity, assume that the chief primary goods at

the disposition of society are rights and liberties, powers and opportunities, income and wealth. (Later on in Part Three the primary good of self-respect has a central place.) These are the social primary goods. Other primary goods such as health and vigor, intelligence and imagination, are natural goods; although their possession is influenced by the basic structure, they are not so directly under its control. Imagine, then, a hypothetical initial arrangement in which all the social primary goods are equally distributed: everyone has similar rights and duties, and income and wealth are evenly shared. This state of affairs provides a benchmark for judging improvements. If certain inequalities of wealth and organizational powers would make everyone better off than in this hypothetical starting situation, then they accord with the general conception.

Now it is possible, at least theoretically, that by giving up some of their fundamental liberties men are sufficiently compensated by the resulting social and economic gains. The general conception of justice imposes no restrictions on what sort of inequalities are permissible; it only requires that everyone's position be improved. We need not suppose anything so drastic as consenting to a condition of slavery. Imagine instead that men forego certain political rights when the economic returns are significant and their capacity to influence the course of policy by the exercise of these rights would be marginal in any case. It is this kind of exchange which the two principles as stated rule out; being arranged in serial order they do not permit exchanges between basic liberties and economic and social gains. The serial ordering of principles expresses an underlying preference among primary social goods. When this preference is rational so likewise is the choice of these principles in this order. . . .

The fact that the two principles apply to institutions has certain consequences. Several points illustrate this. First of all, the rights and liberties referred to by these principles are those which are defined by the public rules of the basic structure. Whether men are free is determined by the rights and duties established by the major institutions of society. Liberty is a certain pattern of social forms. The first principle simply requires that certain sorts of rules, those defining basic liberties, apply to everyone equally and that they allow the most extensive liberty compatible with a like liberty for all. The only reason for circumscribing the rights defining liberty and making men's freedom less extensive than it might otherwise be is that these equal rights as institutionally defined would interfere with one another.

Another thing to bear in mind is that when principles mention persons, or require that everyone gain from an inequality, the reference is to representative persons holding the various social positions, or offices, or whatever, established by the basic structure. Thus in applying the second principle I assume that it is possible to assign an expectation of well-being to representative individuals holding these positions. This expectation indicates their life prospects as viewed from their social station. In general, the expectations of representative persons depend upon the distribution of rights and duties throughout the basic structure. When this changes, expectations change. I assume, then, that expectations are connected: by

raising the prospects of the representative man in one position we presumably increase or decrease the prospects of representative men in other positions. Since it applies to institutional forms, the second principle (or rather the first part of it) refers to the expectations of representative individuals. As I shall discuss below, neither principle applies to distributions of particular goods to particular individuals who may be identified by their proper names. The situation where someone is considering how to allocate certain commodities to needy persons who are known to him is not within the scope of the principles. They are meant to regulate basic institutional arrangements. We must not assume that there is much similarity from the standpoint of justice between an administrative allotment of goods to specific persons and the appropriate design of society.

Now the second principle insists that each person benefit from permissible inequalities in the basic structure. This means that it must be reasonable for each relevant representative man defined by this structure, when he views it as a going concern, to prefer his prospects with the inequality to his prospects without it. One is not allowed to justify differences in income or organizational powers on the ground that the disadvantages of those in one position are outweighed by the greater advantages of those in another. Much less can infringements of liberty be counterbalanced in this way. Applied to the basic structure, the principle of utility would have us maximize the sum of expectations of representative men (weighted by the number of persons they represent, on the classical view); and this would permit us to compensate for the losses of some by the gains of others. Instead, the two principles require that everyone benefit from economic and social inequalities. It is obvious, however, that there are indefinitely many ways in which all may be advantaged when the initial arrangement of equality is taken as a benchmark. How then are we to choose among these possibilities? The principles must be specified so that they yield a determinate conclusion. I now turn to this problem.

Interpretations of the Second Principle

I have already mentioned that since the phrases "everyone's advantage" and "equally open to all" are ambiguous, both parts of the second principle have two natural senses. Because these senses are independent of one another, the principle has four possible meanings. Assuming that the first principle of equal liberty has the same sense throughout, we then have four interpretations of the two principles. These are indicated in the table on page 28.

I shall sketch in turn these three interpretations: the system of natural liberty, liberal equality, and democratic equality. In some respects this sequence is the more intuitive one, but the sequence via the interpretation of natural aristocracy is not without interest and I shall comment on it briefly. In working out justice as fairness, we must decide which interpretation is to be preferred. I shall adopt that of democratic equality, explaining in this chapter what this notion means. The argument for its acceptance in the original position does not begin until the next chapter.

"Equally Open"	"Everyone's advantage"	
	Principle of Efficiency	Difference Principle
Equality as careers open to talents	System of Natural Liberty	Natural Aristocracy
Equality as equality of fair opportunity	Liberal Equality	Democratic Equality

The first interpretation (in either sequence) I shall refer to as the system of natural liberty. In this rendering the first part of the second principle is understood as the principle of efficiency adjusted so as to apply to institutions or, in this case, to the basic structure of society; and the second part is understood as an open social system in which, to use the traditional phrase, careers are open to talents. I assume in all interpretations that the first principle of equal liberty is satisfied and that the economy is roughly a free market system, although the means of production may or may not be privately owned. The system of natural liberty asserts, then, that a basic structure satisfying the principle of efficiency and in which positions are open to those able and willing to strive for them will lead to a just distribution. Assigning rights and duties in this way is thought to give a scheme which allocates wealth and income, authority and responsibility, in a fair way whatever this allocation turns out to be. The doctrine includes an important element of pure procedural justice which is carried over to the other interpretations.

At this point it is necessary to make a brief digression to explain the principle of efficiency. . . . The principle holds that a configuration is efficient whenever it is impossible to change it so as to make some persons (at least one) better off without at the same time making other persons (at least one) worse off. Thus a distribution of a stock of commodities among certain individuals is efficient if there exists no redistribution of these goods that improves the circumstances of at least one of these individuals without another being disadvantaged. The organization of production is efficient if there is no way to alter inputs so as to produce more of some commodity without producing less of another. For if we could produce more of one good without having to give up some of another, the larger stock of goods could be used to better the circumstances of some persons without making that of others any worse. These applications of the principle show that it is, indeed, a principle of efficiency. A distribution of goods or a scheme of production is inefficient when there are ways of doing still better for some individuals without doing any worse for others. I shall assume that the parties in the original position accept this principle to judge the efficiency of economic and social arrangements. . . .

There are, however, many configurations that are efficient. For example, the distributions in which one person receives the entire stock of

commodities is efficient, since there is no rearrangement that will make some better off and none worse off. . . .

Now these reflections show only what we knew all along, that is, that the principle of efficiency cannot serve alone as a conception of justice.⁵ Therefore it must be supplemented in some way. Now in the system of natural liberty the principle of efficiency is constrained by certain background institutions: when these constraints are satisfied, any resulting efficient distribution is accepted as just. The system of natural liberty selects an efficient distribution roughly as follows. Let us suppose that we know from economic theory that under the standard assumptions defining a competitive market economy, income and wealth will be distributed in an efficient way, and that the particular efficient distribution which results in any period of time is determined by the initial distribution of assets, that is, by the initial distribution of income and wealth, and of natural talents and abilities. With each initial distribution, a definite efficient outcome is arrived at. Thus it turns out that if we are to accept the outcome as just, and not merely as efficient, we must accept the basis upon which over time the initial distribution of assets is determined.

In the system of natural liberty the initial distribution is regulated by the arrangements implicit in the conception of careers open to talents (as earlier defined). These arrangements presuppose a background of equal liberty (as specified by the first principle) and a free market economy. They require a formal equality of opportunity in that all have at least the same legal rights of access to all advantaged social positions. But since there is no effort to preserve an equality, or similarity, of social conditions, except insofar as this is necessary to preserve the requisite background institutions, the initial distribution of assets for any period of time is strongly influenced by natural and social contingencies. The existing distribution of income and wealth, say, is the cumulative effect of prior distributions of natural assets—that is, natural talents and abilities—as these have been developed or left unrealized, and their use favored or disfavored over time by social circumstances and such chance contingencies as accident and good fortune. Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view.

The liberal interpretation, as I shall refer to it, tries to correct for this by adding to the requirement of careers open to talents the further condition of the principle of fair equality of opportunity. The thought here is that positions are to be not only open in a formal sense, but that all should have a fair chance to attain them. Offhand it is not clear what is meant, but we might say that those with similar abilities and skills should have similar life chances. More specifically, assuming that there is a distribution of natural assets, those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system, that is, irrespective of the income class into which they are born. In all sectors of society there should be roughly equal prospects of culture and achievement for everyone similarly motivated and endowed. The expecta-

tions of those with the same abilities and aspirations should not be affected by their social class.

The liberal interpretation of the two principles seeks, then, to mitigate the influence of social contingencies and natural fortune on distributive shares. To accomplish this end it is necessary to impose further basic structural conditions on the social system. Free market arrangements must be set within a framework of political and legal institutions which regulates the overall trends of economic events and preserves the social conditions necessary for fair equality of opportunity. The elements of this framework are familiar enough, though it may be worthwhile to recall the importance of preventing extensive accumulations of property and wealth and of maintaining equal opportunities of education for all. Chances to acquire cultural knowledge and skills should not depend upon one's class position, and so the school system, whether public or private, should be designed to even out class barriers.

While the liberal conception seems clearly preferable to the system of natural liberty, intuitively it still appears defective. For one thing, even if it works to perfection in eliminating the influence of social contingencies, it still permits the distribution of wealth and income to be determined by the natural distribution of abilities and talents. Within the limits allowed by the background arrangements, distributive shares are decided by the outcome of the natural lottery; and this outcome is arbitrary from a moral perspective. There is no more reason to permit the distribution of income and wealth to be settled by the distribution of natural assets than by historical and social fortune. Furthermore, the principle of fair opportunity can be only imperfectly carried out, at least as long as the institution of the family exists. The extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances. It is impossible in practice to secure equal chances of achievement and culture for those similarly endowed, and therefore we may want to adopt a principle which recognizes this fact and also mitigates the arbitrary effects of the natural lottery itself. That the liberal conception fails to do this encourages one to look for another interpretation of the two principles of justice.

Before turning to the conception of democratic equality, we should note that of natural aristocracy. On this view no attempt is made to regulate social contingencies beyond what is required by formal equality of opportunity, but the advantages of persons with greater natural endowments are to be limited to those that further the good of the poorer sectors of society. The aristocratic ideal is applied to a system that is open, at least from a legal point of view, and the better situation of those favored by it is regarded as just only when less would be had by those below, if less were given to those above.⁶ In this way the idea of *noblesse oblige* is carried over to the conception of natural aristocracy.

Now both the liberal conception and that of natural aristocracy are unstable. For once we are troubled by the influence of either social contin-

gencies or natural chance on the determination of distributive shares, we are bound, on reflection, to be bothered by the influence of the other. From a moral standpoint the two seem equally arbitrary. So however we move away from the system of natural liberty, we cannot be satisfied short of the democratic conception. This conception I have yet to explain. And, moreover, none of the preceding remarks are an argument for this conception, since in a contract theory all arguments, strictly speaking, are to be made in terms of what it would be rational to choose in the original position. But I am concerned here to prepare the way for the favored interpretation of the two principles so that these criteria, especially the second one, will not strike the reader as too eccentric or bizarre. I have tried to show that once we try to find a rendering of them which treats everyone equally as a moral person, and which does not weight men's share in the benefits and burdens of social cooperation according to their social fortune or their luck in the natural lottery, it is clear that the democratic interpretation is the best choice among the four alternatives. With these comments as a preface, I now turn to this conception.

Democratic Equality and the Difference Principle

The democratic interpretation, as the table suggests, is arrived at by combining the principle of fair equality of opportunity with the difference principle. This principle removes the indeterminateness of the principle of efficiency by singling out a particular position from which the social and economic inequalities of the basic structure are to be judged. Assuming the framework of institutions required by equal liberty and fair equality of opportunity, the higher expectations of those better situated are just if and only if they work as part of a scheme which improves the expectations of the least advantaged members of society. The intuitive idea is that the social order is not to establish and secure the more attractive prospects of those better off unless doing so is to the advantage of those less fortunate. . . .

To illustrate the difference principle, consider the distribution of income among social classes. Let us suppose that the various income groups correlate with representative individuals by reference to whose expectations we can judge the distribution. Now those starting out as members of the entrepreneurial class in a property-owning democracy, say, have a better prospect than those who begin in the class of unskilled laborers. It seems likely that this will be true even when the social injustices which now exist are removed. What, then, can possibly justify this kind of initial inequality in life prospects? According to the difference principle, it is justifiable only if the difference in expectation is to the advantage of the representative man who is worse off, in this case the representative unskilled worker. The inequality in expectation is permissible only if lowering it would make the working class even more worse off. Supposedly, given the rider in the second principle concerning open positions, and the principle of liberty generally, the greater expectations allowed to entrepreneurs encourages them to do things which raise the long-term prospects of the

laboring class. Their better prospects act as incentives so that the economic process is more efficient, innovation proceeds at a faster pace, and so on. Eventually the resulting material benefits spread throughout the system and to the least advantaged. I shall not consider how far these things are true. The point is that something of this kind must be argued if these inequalities are to be just by the difference principle. . . .

. . . And therefore, as the outcome of the last several sections, the second principle is to read as follows.

Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.

Finally, it should be observed that the difference principle, or the idea expressed by it, can easily be accommodated to the general conception of justice. In fact, the general conception is simply the difference principle applied to all primary goods including liberty and opportunity and so no longer constrained by other parts of the special conception. This is evident from the earlier brief discussion of the principles of justice. These principles in serial order are, as I shall indicate from time to time, the form that the general conception finally assumes as social conditions improve. This question ties up with that of the priority of liberty which I shall discuss later on. For the moment it suffices to remark that in one form or another the difference principle is basic throughout. . . .

The Tendency to Equality

I wish to conclude this discussion of the two principles by explaining the sense in which they express an egalitarian conception of justice. Also I should like to forestall the objection to the principle of fair opportunity that it leads to a callous meritocratic society. In order to prepare the way for doing this, I note several aspects of the conception of justice that I have set out.

First we may observe that the difference principle gives some weight to the considerations singled out by the principle of redress. This is the principle that undeserved inequalities call for redress; and since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for.⁷ Thus the principle holds that in order to treat all persons equally, to provide genuine equality of opportunity, society must give more attention to those with fewer native assets and to those born into the less favorable social positions. The idea is to redress the bias of contingencies in the direction of equality. In pursuit of this principle greater resources might be spent on the education of the less rather than the more intelligent, at least over a certain time of life, say the earlier years of school.

Now the principle of redress has not to my knowledge been proposed as the sole criterion of justice, as the single aim of the social order.

It is plausible as most such principles are only as a *prima facie* principle, one that is to be weighed in the balance with others. For example, we are to weigh it against the principle to improve the average standard of life, or to advance the common good. But whatever other principles we hold, the claims of redress are to be taken into account. It is thought to represent one of the elements in our conception of justice. Now the difference principle is not of course the principle of redress. It does not require society to try to even out handicaps as if all were expected to compete on a fair basis in the same race. But the difference principle would allocate resources in education, say, so as to improve the long-term expectation of the least favored. If this end is attained by giving more attention to the better endowed, it is permissible; otherwise not. And in making this decision, the value of education should not be assessed only in terms of economic efficiency and social welfare. Equally if not more important is the role of education in enabling a person to enjoy the culture of his society and to take part in its affairs, and in this way to provide for each individual a secure sense of his own worth.

Thus although the difference principle is not the same as that of redress, it does achieve some of the intent of the latter principle. It transforms the aims of the basic structure so that the total scheme of institutions no longer emphasizes social efficiency and technocratic values. We see then that the difference principle represents, in effect, an agreement to regard the distribution of natural talents as a common asset and to share in the benefits of this distribution whatever it turns out to be. Those who have been favored by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out. The naturally advantaged are not to gain merely because they are more gifted, but only to cover the costs of training and education and for using their endowments in ways that help the less fortunate as well. No one deserves his greater natural capacity nor merits a more favorable starting place in society. But it does not follow that one should eliminate these distinctions. There is another way to deal with them. The basic structure can be arranged so that these contingencies work for the good of the least fortunate. Thus we are led to the difference principle if we wish to set up the social system so that no one gains or loses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return.

In view of these remarks we may reject the contention that the injustice of institutions is always imperfect because the distribution of natural talents and the contingencies of social circumstance are unjust, and this injustice must inevitably carry over to human arrangements. Occasionally this reflection is offered as an excuse for ignoring injustice, as if the refusal to acquiesce in injustice is on a par with being unable to accept death. The natural distribution is neither just nor unjust; nor is it unjust that men are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts. Aristocratic and caste societies are unjust because they make these contingencies the ascriptive basis for belonging to more or

less enclosed and privileged social classes. The basic structure of these societies incorporates the arbitrariness found in nature. But there is no necessity for men to resign themselves to these contingencies. The social system is not an unchangeable order beyond human control but a pattern of human action. In justice as fairness men agree to share one another's fate. In designing institutions they undertake to avail themselves of the accidents of nature and social circumstance only when doing so is for the common benefit. The two principles are a fair way of meeting the arbitrariness of fortune; and while no doubt imperfect in other ways, the institutions which satisfy these principles are just.

A further point is that the difference principle expresses a conception of reciprocity. It is a principle of mutual benefit. We have seen that, at least when chain connection holds, each representative man can accept the basic structure as designed to advance his interests. The social order can be justified to everyone, and in particular to those who are least favored; and in this sense it is egalitarian. But it seems necessary to consider in an intuitive way how the condition of mutual benefit is satisfied. Consider any two representative men A and B, and let B be the one who is less favored. Actually, since we are most interested in the comparison with the least favored man, let us assume that B is this individual. Now B can accept A's being better off since A's advantages have been gained in ways that improve B's prospects. If A were not allowed his better position, B would be even worse off than he is. The difficulty is to show that A has no grounds for complaint. Perhaps he is required to have less than he might since his having more would result in some loss to B. Now what can be said to the more favored man? To begin with, it is clear that the well-being of each depends on a scheme of social cooperation without which no one could have a satisfactory life. Secondly, we can ask for the willing cooperation of everyone only if the terms of the scheme are reasonable. The difference principle, then, seems to be a fair basis on which those better endowed, or more fortunate in their social circumstances, could expect others to collaborate with them when some workable arrangement is a necessary condition of the good of all.

There is a natural inclination to object that those better situated deserve their greater advantages whether or not they are to the benefit of others. At this point it is necessary to be clear about the notion of desert. It is perfectly true that given a just system of cooperation as a scheme of public rules and the expectations set up by it, those who, with the prospect of improving their condition, have done what the system announces that it will reward are entitled to their advantages. In this sense the more fortunate have a claim to their better situation; their claims are legitimate expectations established by social institutions, and the community is obligated to meet them. But this sense of desert presupposes the existence of the cooperative scheme; it is irrelevant to the question whether in the first place the scheme is to be designed in accordance with the difference principle or some other criterion.

Perhaps some will think that the person with greater natural endowments deserves those assets and the superior character that made their

development possible. Because he is more worthy in this sense, he deserves the greater advantages that he could achieve with them. This view, however, is surely incorrect. It seems to be one of the fixed points of our considered judgments that no one deserves his place in the distribution of native endowments, any more than one deserves one's initial starting place in society. The assertion that a man deserves the superior character that enables him to make the effort to cultivate his abilities is equally problematic; for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit. The notion of desert seems not to apply to these cases. Thus the more advantaged representative man cannot say that he deserves and therefore has a right to a scheme of cooperation in which he is permitted to acquire benefits in ways that do not contribute to the welfare of others. There is no basis for his making this claim. From the standpoint of common sense, then, the difference principle appears to be acceptable both to the more advantaged and to the less advantaged individual. Of course, none of this is strictly speaking an argument for the principle, since in a contract theory arguments are made from the point of view of the original position. But these intuitive considerations help to clarify the nature of the principle and the sense in which it is egalitarian. . . .

THE REASONING LEADING TO THE TWO PRINCIPLES

It seems clear from these remarks that the two principles are at least a plausible conception of justice. The question, though, is how one is to argue for them more systematically. Now there are several things to do. One can work out their consequences for institutions and note their implications for fundamental social policy. In this way they are tested by a comparison with our considered judgments of justice. . . . But one can also try to find arguments in their favor that are decisive from the standpoint of the original position. In order to see how this might be done, it is useful as a heuristic device to think of the two principles as the maximin solution to the problem of social justice. There is an analogy between the two principles and the maximin rule for choice under uncertainty.⁸ This is evident from the fact that the two principles are those a person would choose for the design of a society in which his enemy is to assign him his place. The maximin rule tells us to rank alternatives by their worst possible outcomes: we are to adopt the alternative the worst outcome of which is superior to the worst outcomes of the others. The persons in the original position do not, of course, assume that their initial place in society is decided by a malevolent opponent. As I note below, they should not reason from false premises. The veil of ignorance does not violate this idea, since an absence of information is not misinformation. But that the two principles of justice would be chosen if the parties were forced to protect themselves against such a contingency explains the sense in which this conception is the maximin solution. And this analogy suggests that if the original position has been described so that it is rational for the parties to

adopt the conservative attitude expressed by this rule, a conclusive argument can indeed be constructed for these principles. Clearly the maximin rule is not, in general, a suitable guide for choices under uncertainty. But it is attractive in situations marked by certain special features. My aim, then, is to show that a good case can be made for the two principles based on the fact that the original position manifests these features to the fullest possible degree, carrying them to the limit, so to speak.

Consider the gain-and-loss table below. It represents the gains and losses for a situation which is not a game of strategy. There is no one playing against the person making the decision; instead he is faced with several possible circumstances which may or may not obtain. Which circumstances happen to exist does not depend upon what the person choosing decides or whether he announces his moves in advance. The numbers in the table are monetary values (in hundreds of dollars) in comparison with some initial situation. The gain (g) depends upon the individual's decision (d) and the circumstances (c). Thus $g = f(d, c)$. Assuming that there are three possible decisions and three possible circumstances, we might have this gain-and-loss table.

Decisions	Circumstances		
	C_1	C_2	C_3
d_1	-7	8	12
d_2	-8	7	14
d_3	5	6	8

The maximin rule requires that we make the third decision. For in this case the worst that can happen is that one gains five hundred dollars, which is better than the worst for the other actions. If we adopt one of these we may lose either eight or seven hundred dollars. Thus, the choice of d_3 maximizes $f(d, c)$ for that value of c , which for a given d , minimizes f . The term "maximin" means the *maximum minimorum*; and the rule directs our attention to the worst that can happen under any proposed course of action, and to decide in the light of that.

Now there appear to be three chief features of situations that give plausibility to this unusual rule.⁹ First, since the rule takes no account of the likelihoods of the possible circumstances, there must be some reason for sharply discounting estimates of these probabilities. Offhand, the most natural rule of choice would seem to be to compute the expectation of monetary gain for each decision and then to adopt the course of action with the highest prospect. . . . Thus it must be, for example, that the situation is one in which a knowledge of likelihoods is impossible, or at best extremely insecure. In this case it is unreasonable not to be skeptical of probabilistic calculations unless there is no other way out, particularly if the decision is a fundamental one that needs to be justified to others.

The second feature that suggests the maximin rule is the following: the person choosing has a conception of the good such that he cares

very little, if anything, for what he might gain above the minimum stipend that he can, in fact, be sure of by following the maximin rule. It is not worthwhile for him to take a chance for the sake of a further advantage, especially when it may turn out that he loses much that is important to him. This last provision brings in the third feature, namely, that the rejected alternatives have outcomes that one can hardly accept. The situation involves grave risks. Of course these features work most effectively in combination. The paradigm situation for following the maximin rule is when all three features are realized to the highest degree. This rule does not, then, generally apply, nor of course is it self-evident. Rather, it is a maxim, a rule of thumb, that comes into its own in special circumstances. Its application depends upon the qualitative structure of the possible gains and losses in relation to one's conception of the good, all this against a background in which it is reasonable to discount conjectural estimates of likelihoods.

It should be noted, as the comments on the gain-and-loss table say, that the entries in the table represent monetary values and not utilities. This difference is significant since for one thing computing expectations on the basis of such objective values is not the same thing as computing expected utility and may lead to different results. The essential point though is that in justice as fairness the parties do not know their conception of the good and cannot estimate their utility in the ordinary sense. In any case, we want to go behind *de facto* preferences generated by given conditions. Therefore expectations are based upon an index of primary goods and the parties make their choice accordingly. The entries in the example are in terms of money and not utility to indicate this aspect of the contract doctrine.

Now, as I have suggested, the original position has been defined so that it is a situation in which the maximin rule applies. In order to see this, let us review briefly the nature of this situation with these three special features in mind. To begin with, the veil of ignorance excludes all but the vaguest knowledge of likelihoods. The parties have no basis for determining the probable nature of their society, or their place in it. Thus they have strong reasons for being wary of probability calculations if any other course is open to them. They must also take in account the fact that their choice of principles should seem reasonable to others, in particular their descendants, whose rights will be deeply affected by it. There are further grounds for discounting that I shall mention as we go along. For the present it suffices to note that these considerations are strengthened by the fact that the parties know very little about the gain-and-loss table. Not only are they unable to conjecture the likelihoods of the various possible circumstances, they cannot say much about what the possible circumstances are, much less enumerate them and foresee the outcome of each alternative available. Those deciding are much more in the dark than the illustration by a numerical table suggests. It is for this reason that I have spoken of an analogy with the maximin rule.

Several kinds of arguments for the two principles of justice illustrate the second feature. Thus, if we can maintain that these principles

provide a workable theory of social justice, and that they are compatible with reasonable demands of efficiency, then this conception guarantees a satisfactory minimum. There may be, on reflection, little reason for trying to do better. Thus much of the argument . . . is to show, by their application to the main questions of social justice, that the two principles are a satisfactory conception. These details have a philosophical purpose. Moreover, this line of thought is practically decisive if we can establish the priority of liberty, the lexical ordering of the two principles. For this priority implies that the persons in the original position have no desire to try for greater gains at the expense of the equal liberties. The minimum assured by the two principles in lexical order is not one that the parties wish to jeopardize for the sake of greater economic and social advantages. . . . I present the case for this ordering [elsewhere].

Finally, the third feature holds if we can assume that other conceptions of justice may lead to institutions that the parties would find intolerable. For example, it has sometimes been held that under some conditions the utility principle (in either form) justifies, if not slavery or serfdom, at any rate serious infractions of liberty for the sake of greater social benefits. We need not consider here the truth of this claim, or the likelihood that the requisite conditions obtain. For the moment, this contention is only to illustrate the way in which conceptions of justice may allow for outcomes which the parties may not be able to accept. And having the ready alternative of the two principles of justice which secure a satisfactory minimum, it seems unwise, if not irrational, for them to take a chance that these outcomes are not realized.

So much, then, for a brief sketch of the features of situations in which the maximin rule comes into its own and of the way in which the arguments for the two principles of justice can be subsumed under them. . . . These principles would be selected by the rule. The original position clearly exhibits these special features to a very high degree in view of the fundamental character of the choice of a conception of justice. These remarks about the maximin rule are intended only to clarify the structure of the choice problem in the original position. They depict its qualitative anatomy. The arguments for the two principles will be presented more fully as we proceed. . . .

Some Main Grounds for the Two Principles of Justice

In this section my aim is to use the conditions of publicity and finality to give some of the main arguments for the two principles of justice. I shall rely upon the fact that for an agreement to be valid, the parties must be able to honor it under all relevant and foreseeable circumstances. There must be a rational assurance that one can carry through. The arguments I shall adduce fit under the heuristic schema suggested by the reasons for following the maximin rule. That is, they help to show that the two principles are an adequate minimum conception of justice in a situation of great uncertainty. Any further advantages that might be won by the principle of utility, or whatever, are highly problematical, whereas

the hardships if things turn out badly are intolerable. It is at this point that the concept of a contract has a definite role: it suggests the condition of publicity and sets limits upon what can be agreed to. Thus justice as fairness uses the concept of contract to a greater extent than the discussion so far might suggest.

The first confirming ground for the two principles can be explained in terms of what I earlier referred to as the strains of commitment. I said that the parties have a capacity for justice in the sense that they can be assured that their undertaking is not in vain. Assuming that they have taken everything into account, including the general facts of moral psychology, they can rely on one another to adhere to the principles adopted. Thus they consider the strains of commitment. They cannot enter into agreements that may have consequences they cannot accept. They will avoid those that they can adhere to only with great difficulty. Since the original agreement is final and made in perpetuity, there is no second chance. In view of the serious nature of the possible consequences, the question of the burden of commitment is especially acute. A person is choosing once and for all the standards which are to govern his life prospects. Moreover, when we enter an agreement we must be able to honor it even should the worst possibilities prove to be the case. Otherwise we have not acted in good faith. Thus the parties must weigh with care whether they will be able to stick by their commitment in all circumstances. Of course, in answering this question they have only a general knowledge of human psychology to go on. But this information is enough to tell which conception of justice involves the greater stress.

In this respect the two principles of justice have a definite advantage. Not only do the parties protect their basic rights but they insure themselves against the worst eventualities. They run no chance of having to acquiesce in a loss of freedom over the course of their life for the sake of a greater good enjoyed by others, an undertaking that in actual circumstances they might not be able to keep. Indeed, we might wonder whether such an agreement can be made in good faith at all. Compacts of this sort exceed the capacity of human nature. How can the parties possibly know, or be sufficiently sure, that they can keep such an agreement? Certainly they cannot base their confidence on a general knowledge of moral psychology. To be sure, any principle chosen in the original position may require a large sacrifice for some. The beneficiaries of clearly unjust institutions (those founded on principles which have no claim to acceptance) may find it hard to reconcile themselves to the changes that will have to be made. But in this case they will know that they could not have maintained their position anyway. Yet should a person gamble with his liberties and substantive interests hoping that the application of the principle of utility might secure him a greater well-being, he may have difficulty abiding by his undertaking. He is bound to remind himself that he had the two principles of justice as an alternative. If the only possible candidates all involved similar risks, the problem of the strains of commitment would have to be waived. This is not the case, and judged in this light the two principles seem distinctly superior.

A second consideration invokes the condition of publicity as well as that of the constraints on agreements. I shall present the argument in terms of the question of psychological stability. Earlier I stated that a strong point in favor of a conception of justice is that it generates its own support. When the basic structure of society is publicly known to satisfy its principles for an extended period of time, those subject to these arrangements tend to develop a desire to act in accordance with these principles and to do their part in institutions which exemplify them. A conception of justice is stable when the public recognition of its realization by the social system tends to bring about the corresponding sense of justice. Now whether this happens depends, of course, on the laws of moral psychology and the availability of human motives. I shall discuss these matters later on. At the moment we may observe that the principle of utility seems to require a greater identification with the interests of others than the two principles of justice. Thus the latter will be a more stable conception to the extent that this identification is difficult to achieve. When the two principles are satisfied, each person's liberties are secured and there is a sense defined by the difference principle in which everyone is benefited by social cooperation. Therefore we can explain the acceptance of the social system and the principles it satisfies by the psychological law that persons tend to love, cherish, and support whatever affirms their own good. Since everyone's good is affirmed, all acquire inclinations to uphold the scheme.

When the principle of utility is satisfied, however, there is no such assurance that everyone benefits. Allegiance to the social system may demand that some should forgo advantages for the sake of the greater good of the whole. Thus the scheme will not be stable unless those who must make sacrifices strongly identify with interests broader than their own. But this is not easy to bring about. The sacrifices in question are not those asked in times of social emergency when all or some must pitch in for the common good. The principles of justice apply to the basic structure of the social system and to the determination of life prospects. What the principle of utility asks is precisely a sacrifice of these prospects. We are to accept the greater advantages of others as a sufficient reason for lower expectations over the whole course of our life. This is surely an extreme demand. In fact, when society is conceived as a system of cooperation designed to advance the good of its members, it seems quite incredible that some citizens should be expected, on the basis of political principles, to accept lower prospects of life for the sake of others. It is evident then why utilitarians should stress the role of sympathy in moral learning and the central place of benevolence among the moral virtues. Their conception of justice is threatened with instability unless sympathy and benevolence can be widely and intensely cultivated. Looking at the question from the standpoint of the original position, the parties recognize that it would be highly unwise if not irrational to choose principles which may have consequences so extreme that they could not accept them in practice. They would reject the principle of utility and adopt the more realistic idea of designing the social order on a principle of reciprocal advantage. We need not suppose, of course, that persons never make substantial sacrifices for one another,

since moved by affection and ties of sentiment they often do. But such actions are not demanded as a matter of justice by the basic structure of society.

Furthermore, the public recognition of the two principles gives greater support to men's self-respect and this in turn increases the effectiveness of social cooperation. Both effects are reasons for choosing these principles. It is clearly rational for men to secure their self-respect. A sense of their own worth is necessary if they are to pursue their conception of the good with zest and to delight in its fulfillment. Self-respect is not so much a part of any rational plan of life as the sense that one's plan is worth carrying out. Now our self-respect normally depends upon the respect of others. Unless we feel that our endeavors are honored by them, it is difficult if not impossible for us to maintain the conviction that our ends are worth advancing. Hence for this reason the parties would accept the natural duty of mutual respect which asks them to treat one another civilly and to be willing to explain the grounds of their actions, especially when the claims of others are overruled. Moreover, one may assume that those who respect themselves are more likely to respect each other and conversely. Self-contempt leads to contempt of others and threatens their good as much as envy does. Self-respect is reciprocally self-supporting.

Thus a desirable feature of a conception of justice is that it should publicly express men's respect for one another. In this way they insure a sense of their own value. Now the two principles achieve this end. For when society follows these principles, everyone's good is included in a scheme of mutual benefit and this public affirmation in institutions of each man's endeavors supports men's self-esteem. The establishment of equal liberty and the operation of the difference principle are bound to have this effect. The two principles are equivalent, as I have remarked, to an undertaking to regard the distribution of natural abilities as a collective asset so that the more fortunate are to benefit only in ways that help those who have lost out. I do not say that the parties are moved by the ethical propriety of this idea. But there are reasons for them to accept this principle. For by arranging inequalities for reciprocal advantage and by abstaining from the exploitation of the contingencies of nature and social circumstance within a framework of equal liberty, persons express their respect for one another in the very constitution of their society. In this way they insure their self-esteem as it is rational for them to do.

Another way of putting this is to say that the principles of justice manifest in the basic structure of society men's desire to treat one another not as means only but as ends in themselves. I cannot examine Kant's view here. Instead I shall freely interpret it in the light of the contract doctrine. The notion of treating men as ends in themselves and never as only a means obviously needs an explanation. There is even a question whether it is possible to realize. How can we always treat everyone as an end and never as a means only? Certainly we cannot say that it comes to treating everyone by the same general principles, since this interpretation makes the concept equivalent to formal justice. On the contract interpretation treating men as ends in themselves implies at the very least treating them

in accordance with the principles to which they would consent in an original position of equality. For in this situation men have equal representation as moral persons who regard themselves as ends and the principles they accept will be rationally designed to protect the claims of their person. The contract view as such defines a sense in which men are to be treated as ends and not as means only.

But the question arises whether there are substantive principles which convey this idea. If the parties wish to express this notion visibly in the basic structure of their society in order to secure each man's rational interest in his self-respect, which principles should they choose? Now it seems that the two principles of justice achieve this aim: for all have an equal liberty and the difference principle explicates the distinction between treating men as a means only and treating them also as ends in themselves. To regard persons as ends in themselves in the basic design of society is to agree to forgo those gains which do not contribute to their representative expectations. By contrast, to regard persons as means is to be prepared to impose upon them lower prospects of life for the sake of the higher expectations of others. Thus we see that the difference principle, which at first appears rather extreme, has a reasonable interpretation. If we further suppose that social cooperation among those who respect each other and themselves as manifest in their institutions is likely to be more effective and harmonious, the general level of expectations, assuming we could estimate it, may be higher when the two principles of justice are satisfied than one might otherwise have thought. The advantage of the principle of utility in this respect is no longer so clear.

The principle of utility presumably requires some to forgo greater life prospects for the sake of others. . . .

CLASSICAL UTILITARIANISM

There are many forms of utilitarianism, and the development of the theory has continued in recent years. I shall not survey these forms here, nor take account of the numerous refinements found in contemporary discussions. My aim is to work out a theory of justice that represents an alternative to utilitarian thought generally and so to all of these different versions of it. I believe that the contrast between the contract view and utilitarianism remains essentially the same in all these cases. Therefore I shall compare justice as fairness with utilitarianism in order to bring out the underlying differences in the simplest way. With this end in mind, the kind of utilitarianism I shall describe here is the strict classical doctrine which receives perhaps its clearest and most accessible formulation in Sidgwick. The main idea is that society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it. . . .

The two main concepts of ethics are those of the right and the good; the concept of a morally worthy person is, I believe, derived from them. The structure of an ethical theory is, then, largely determined by

how it defines and connects these two basic notions. Now it seems that the simplest way of relating them is taken by teleological theories: the good is defined independently from the right, and then the right is defined as that which maximizes the good. More precisely, those institutions and acts are right which of the available alternatives produce the most good, or at least as much good as any of the other institutions and acts open as real possibilities (a rider needed when the maximal class is not a singleton). Teleological theories have a deep intuitive appeal since they seem to embody the idea of rationality. It is natural to think that rationality is maximizing something and that in morals it must be maximizing the good. Indeed, it is tempting to suppose that it is self-evident that things should be arranged so as to lead to the most good.

It is essential to keep in mind that in a teleological theory the good is defined independently from the right. This means two things. First, the theory accounts for our considered judgments as to which things are good (our judgments of value) as a separate class of judgments intuitively distinguishable by common sense, and then proposes the hypothesis that the right is maximizing the good as already specified. Second, the theory enables one to judge the goodness of things without referring to what is right. For example, if pleasure is said to be the sole good, then presumably pleasures can be recognized and ranked in value by criteria that do not presuppose any standards of right, or what we would normally think of as such. Whereas if the distribution of goods is also counted as a good, perhaps a higher order one, and the theory directs us to produce the most good (including the good of distribution among others), we no longer have a teleological view in the classical sense. The problem of distribution falls under the concept of right as one intuitively understands it, and so the theory lacks an independent definition of the good. The clarity and simplicity of classical teleological theories derives largely from the fact that they factor our moral judgments into two classes, the one being characterized separately while the other is then connected with it by a maximizing principle.

Teleological doctrines differ, pretty clearly, according to how the conception of the good is specified. If it is taken as the realization of human excellence in the various forms of culture, we have what may be called perfectionism. This notion is found in Aristotle and Nietzsche, among others. If the good is defined as pleasure, we have hedonism; if as happiness, eudaimonism, and so on. I shall understand the principle of utility in its classical form as defining the good as the satisfaction of desire, or perhaps better, as the satisfaction of rational desire. This accords with the view in all essentials and provides, I believe, a fair interpretation of it. The appropriate terms of social cooperation are settled by whatever in the circumstances will achieve the greatest sum of satisfaction of the rational desires of individuals. It is impossible to deny the initial plausibility and attractiveness of this conception.

The striking feature of the utilitarian view of justice 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. The correct distribution in either case is that which yields the maximum fulfillment. Society must allocate its means of satisfaction whatever these are, rights and duties, opportunities and privileges, and various forms of wealth, so as to achieve this maximum if it can. But in itself no distribution of satisfaction is better than another except that the more equal distribution is to be preferred to break ties. It is true that certain common sense precepts of justice, particularly those which concern the protection of liberties and rights, or which express the claims of desert, seem to contradict this contention. But from a utilitarian standpoint the explanation of these precepts and of their seemingly stringent character is that they are those precepts which experience shows should be strictly respected and departed from only under exceptional circumstances if the sum of advantages is to be maximized. Yet, as with all other precepts, those of justice are derivative from the one end of attaching the greatest balance of satisfaction. Thus there is no reason in principle why the greater gains of some should not compensate for the lesser losses of others; or more importantly, why the violation of the liberty of a few might not be made right by the greater good shared by many. It simply happens that under most conditions, at least in a reasonably advanced stage of civilization, the greatest sum of advantages is not attained in this way. No doubt the strictness of common sense precepts of justice has a certain usefulness in limiting men's propensities to injustice and to socially injurious actions, but the utilitarian believes that to affirm this strictness as a first principle of morals is a mistake. For just as it is rational for one man to maximize the fulfillment of his system of desires, it is right for a society to maximize the net balance of satisfaction taken over all of its members.

The most natural way, then, of arriving at utilitarianism (although not, of course, the only way of doing so) is to adopt for society as a whole the principle of rational choice for one man. . . . On this conception of society separate individuals are thought of as so many different lines along which rights and duties are to be assigned and scarce means of satisfaction allocated in accordance with rules so as to give the greatest fulfillment of wants. The nature of the decision made by the ideal legislator is not, therefore, materially different from that of an entrepreneur deciding how to maximize his profit by producing this or that commodity, or that of a consumer deciding how to maximize his satisfaction by the purchase of this or that collection of goods. In each case there is a single person whose system of desires determines the best allocation of limited means. The correct decision is essentially a question of efficient administration. This view of social cooperation is the consequence of extending to society the principle of choice for one man, and then, to make this extension work, conflating all persons into one through the imaginative acts of the impartial sympathetic spectator. Utilitarianism does not take seriously the distinction between persons. . . .

The last contrast that I shall mention now is that utilitarianism is a teleological theory whereas justice as fairness is not. By definition, then, the latter is a deontological theory, one that either does not specify the

good independently from the right, or does not interpret the right as maximizing the good. (It should be noted that deontological theories are defined as non-teleological ones, not as views that characterize the rightness of institutions and acts independently from their consequences. All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.) Justice as fairness is a deontological theory in the second way. For if it is assumed that the persons in the original position would choose a principle of equal liberty and restrict economic and social inequalities to those in everyone's interests, there is no reason to think that just institutions will maximize the good. (Here I suppose with utilitarianism that the good is defined as the satisfaction of rational desire.) Of course, it is not impossible that the most good is produced but it would be a coincidence. The question of attaining the greatest net balance of satisfaction never arises in justice as fairness; this maximum principle is not used at all.

There is a further point in this connection. In utilitarianism the satisfaction of any desire has some value in itself which must be taken into account in deciding what is right. In calculating the greatest balance of satisfaction it does not matter, except indirectly, what the desires are for. We are to arrange institutions so as to obtain the greatest sum of satisfactions; we ask no questions about their source or quality but only how their satisfaction would affect the total of well-being. Social welfare depends directly and solely upon the levels of satisfaction or dissatisfaction of individuals. Thus if men take a certain pleasure in discriminating against one another, in subjecting others to a lesser liberty as a means of enhancing their self-respect, then the satisfaction of these desires must be weighed in our deliberations according to their intensity, or whatever, along with other desires. If society decides to deny them fulfillment, or to suppress them, it is because they tend to be socially destructive and a greater welfare can be achieved in other ways.

In justice as fairness, on the other hand, persons accept in advance a principle of equal liberty and they do this without a knowledge of their more particular ends. They implicitly agree, therefore, to conform their conceptions of their good to what the principles of justice require, or at least not to press claims which directly violate them. An individual who finds that he enjoys seeing others in positions of lesser liberty understands that he has no claim whatever to this enjoyment. The pleasure he takes in other's deprivations is wrong in itself: it is a satisfaction which requires the violation of a principle to which he would agree in the original position. The principles of right, and so of justice, put limits on which satisfactions have value; they impose restrictions on what are reasonable conceptions of one's good. In drawing up plans and in deciding on aspirations men are to take these constraints into account. Hence in justice as fairness one does not take men's propensities and inclinations as given, whatever they are, and then seek the best way to fulfill them. Rather, their desires and aspirations are restricted from the outset by the principles of justice which specify the boundaries that men's systems of ends must respect. We can express this by saying that in justice as fairness the concept of right is

prior to that of the good. A just social system defines the scope within which individuals must develop their aims, and it provides a framework of rights and opportunities and the means of satisfaction within and by the use of which these ends may be equitably pursued. The priority of justice is accounted for, in part, by holding that the interests requiring the violation of justice have no value. Having no merit in the first place, they cannot override its claims. . . .

APPLICATIONS OF THE TWO PRINCIPLES

Fair Equality of Opportunity and Pure Procedural Justice

. . . Now I have said that the basic structure is the primary subject of justice. This means, as we have seen, that the first distributive problem is the assignment of fundamental rights and duties and the regulation of social and economic inequalities and of the legitimate expectations founded on these. Of course, any ethical theory recognizes the importance of the basic structure as a subject of justice, but not all theories regard its importance in the same way. In justice as fairness society is interpreted as a cooperative venture for mutual advantage. The basic structure is a public system of rules defining a scheme of activities that leads men to act together so as to produce a greater sum of benefits and assigns to each certain recognized claims to a share in the proceeds. What a person does depends upon what the public rules say he will be entitled to, and what a person is entitled to depends on what he does. The distribution which results is arrived at by honoring the claims determined by what persons undertake to do in the light of these legitimate expectations.

These considerations suggest the idea of treating the question of distributive shares as a matter of pure procedural justice. The intuitive idea is to design the social system so that the outcome is just whatever it happens to be, at least so long as it is within a certain range. The notion of pure procedural justice is best understood by a comparison with perfect and imperfect procedural justice. To illustrate the former, consider the simplest case of fair division. A number of men are to divide a cake: assuming that the fair division is an equal one, which procedure, if any, will give this outcome? Technicalities aside, the obvious solution is to have one man divide the cake and get the last piece, the others being allowed their pick before him. He will divide the cake equally, since in this way he assures for himself the largest share possible. This example illustrates the two characteristic features of perfect procedural justice. First, there is an independent criterion for what is a fair division, a criterion defined separately from and prior to the procedure which is to be followed. And second, it is possible to devise a procedure that is sure to give the desired outcome. Of course, certain assumptions are made here, such as that the man selected can divide the cake equally, wants as large a piece as he can get, and so on. But we can ignore these details. The essential thing is that

there is an independent standard for deciding which outcome is just and a procedure guaranteed to lead to it. Pretty clearly, perfect procedural justice is rare, if not impossible, in cases of much practical interest.

Imperfect procedural justice is exemplified by a criminal trial. The desired outcome is that the defendant should be declared guilty if and only if he has committed the offense with which he is charged. . . . Even though the law is carefully followed, and the proceedings fairly and properly conducted, it may reach the wrong outcome. An innocent man may be found guilty, a guilty man may be set free. In such cases we speak of a miscarriage of justice: the injustice springs from no human fault but from a fortuitous combination of circumstances which defeats the purpose of the legal rules. The characteristic mark of imperfect procedural justice is that while there is an independent criterion for the correct outcome, there is no feasible procedure which is sure to lead to it.

By contrast, pure procedural justice obtains when there is no independent criterion for the right result: instead there is a correct or fair procedure such that the outcome is likewise correct or fair, whatever it is, provided that the procedure has been properly followed. This situation is illustrated by gambling. If a number of persons engage in a series of fair bets, the distribution of cash after the last bet is fair, or at least not unfair, whatever this distribution is. . . . What makes the final outcome of betting fair, or not unfair, is that it is the one which has arisen after a series of fair gambles. A fair procedure translates its fairness to the outcome only when it is actually carried out.

In order, therefore, to apply the notion of pure procedural justice to distributive shares it is necessary to set up and to administer impartially a just system of institutions. Only against the background of a just basic structure, including a just political constitution and a just arrangement of economic and social institutions, can one say that the requisite just procedure exists. In Part Two I shall describe in some detail a basic structure that has the necessary features. Its various institutions are explained and connected with the two principles of justice. The intuitive idea is familiar. Suppose that law and government act effectively to keep markets competitive, resources fully employed, property and wealth (especially if private ownership of the means of production is allowed) widely distributed by the appropriate forms of taxation, or whatever, and to guarantee a reasonable social minimum. Assume also that there is fair equality of opportunity underwritten by education for all; and that the other equal liberties are secured. Then it would appear that the resulting distribution of income and the pattern of expectations will tend to satisfy the difference principle. In this complex of institutions, which we think of as establishing social justice in the modern state, the advantages of the better situated improve the condition of the least favored. Or when they do not, they can be adjusted to do so, for example, by setting the social minimum at the appropriate level. As these institutions presently exist they are riddled with grave injustices. But there presumably are ways of running them compatible with their basic design and intention so that the difference principle is satisfied consistent with the demands of liberty and fair equality of oppor-

tunity. It is this fact which underlies our assurance that these arrangements can be made just.

It is evident that the role of the principle of fair opportunity is to insure that the system of cooperation is one of pure procedural justice. Unless it is satisfied, distributive justice could not be left to take care of itself, even within a restricted range. Now the great practical advantage of pure procedural justice is that it is no longer necessary in meeting the demands of justice to keep track of the endless variety of circumstances and the changing relative positions of particular persons. . . .

The Four-Stage Sequence

. . . We may think of the political process as a machine which makes social decisions when the views of representatives and their constituents are fed into it. A citizen will regard some ways of designing this machine as more just than others. So a complete conception of justice is not only able to assess laws and policies but it can also rank procedures for selecting which political opinion is to be enacted into law. . . . The citizen accepts a certain constitution as just, and he thinks that certain traditional procedures are appropriate, for example, the procedure of majority rule duly circumscribed. Yet since the political process is at best one of imperfect procedural justice, he must ascertain when the enactments of the majority are to be complied with and when they can be rejected as no longer binding. In short, he must be able to determine the grounds and limits of political duty and obligation. Thus a theory of justice has to deal with [several] types of questions, and this indicates that it may be useful to think of the principles as applied in a several-stage sequence.

At this point, then, I introduce an elaboration of the original position. So far I have supposed that once the principles of justice are chosen, the parties return to their place in society and henceforth judge their claims on the social system by these principles. But if several intermediate stages are imagined to take place in a definite sequence, this sequence may give us a schema for sorting out the complications that must be faced. Each stage is to represent an appropriate point of view from which certain kinds of questions are considered. (The idea of a four-stage sequence is suggested by the United States Constitution and its history.) Thus I suppose that after the parties have adopted the principles of justice in the original position, they move to a constitutional convention. Here they are to decide upon the justice of political forms and choose a constitution: they are delegates, so to speak, to such a convention. Subject to the constraints of the principles of justice already chosen, they are to design a system for the constitutional powers of government and the basic rights of citizens. It is at this stage that they weigh the justice of procedures for coping with diverse political views. Since the appropriate conception of justice has been agreed upon, the veil of ignorance is partially lifted. The persons in the convention have, of course, no information about particular individuals: they do not know their own social position, their place in the distribution

of natural attributes, or their conception of the good. But in addition to an understanding of the principles of social theory, they now know the relevant general facts about their society, that is, its natural circumstances and resources, its level of economic advance and political culture, and so on. They are no longer limited to the information implicit in the circumstances of justice. Given their theoretical knowledge and the appropriate general facts about their society, they are to choose the most effective just constitution, the constitution that satisfies the principles of justice and is best calculated to lead to just and effective legislation.

At this point we need to distinguish two problems. Ideally a just constitution would be a just procedure arranged to insure a just outcome. The procedure would be the political process governed by the constitution, the outcome the body of enacted legislation, while the principles of justice would define an independent criterion for both procedure and outcome. In pursuit of this ideal of perfect procedural justice, the first problem is to design a just procedure. To do this the liberties of equal citizenship must be incorporated into and protected by the constitution. These liberties include those of liberty of conscience and freedom of thought, liberty of the person, and equal political rights. The political system, which I assume to be some form of constitutional democracy, would not be a just procedure if it did not embody these liberties.

Clearly any feasible political procedure may yield an unjust outcome. In fact, there is no scheme of procedural political rules which guarantees that unjust legislation will not be enacted. In the case of a constitutional regime, or indeed of any political form, the ideal of perfect procedural justice cannot be realized. The best attainable scheme is one of imperfect procedural justice. Nevertheless some schemes have a greater tendency than others to result in unjust laws. The second problem, then, is to select from among the procedural arrangements that are both just and feasible those which are most likely to lead to a just and effective legal order. Once again this is Bentham's problem of the artificial identification of interests, only here the rules (just procedure) are to be framed to give legislation (just outcome) likely to accord with the principles of justice rather than the principle of utility. To solve this problem intelligently requires a knowledge of the beliefs and interests that men in the system are liable to have and of the political tactics that they will find it rational to use given their circumstances. The delegates are assumed, then, to know these things. Provided they have no information about particular individuals including themselves, the idea of the original position is not affected.

In framing a just constitution I assume that the two principles of justice already chosen define an independent standard of the desired outcome. If there is no such standard, the problem of constitutional design is not well posed, for this decision is made by running through the feasible just constitutions (given, say, by enumeration on the basis of social theory) looking for the one that in the existing circumstances will most probably result in effective and just social arrangements. Now at this point we come to the legislative stage, to take the next step in the sequence. The justice of laws and policies is to be assessed from this perspective. Proposed bills are

judged from the position of a representative legislator who, as always, does not know the particulars about himself. Statutes must satisfy not only the principles of justice but whatever limits are laid down in the constitution. By moving back and forth between the stages of the constitutional convention and the legislature, the best constitution is found.

Now the question whether legislation is just or unjust, especially in connection with economic and social policies, is commonly subject to reasonable differences of opinion. In these cases judgment frequently depends upon speculative political and economic doctrines and upon social theory generally. Often the best that we can say of a law or policy is that it is at least not clearly unjust. The application of the difference principle in a precise way normally requires more information than we can expect to have and, in any case, more than the application of the first principle. It is often perfectly plain and evident when the equal liberties are violated. These violations are not only unjust but can be clearly seen to be unjust: the injustice is manifest in the public structure of institutions. But this state of affairs is comparatively rare with social and economic policies regulated by the difference principle.

I imagine then a division of labor between stages in which each deals with different questions of social justice. This division roughly corresponds to the two parts of the basic structure. The first principle of equal liberty is the primary standard for the constitutional convention. Its main requirements are that the fundamental liberties of the person and liberty of conscience and freedom of thought be protected and that the political process as a whole be a just procedure. Thus the constitution establishes a secure common status of equal citizenship and realizes political justice. The second principle comes into play at the stage of the legislature. It dictates that social and economic policies be aimed at maximizing the long-term expectations of the least advantaged under conditions of fair equality of opportunity, subject to the equal liberties being maintained. At this point the full range of general economic and social facts is brought to bear. The second part of the basic structure contains the distinctions and hierarchies of political, economic, and social forms which are necessary for efficient and mutually beneficial social cooperation. Thus the priority of the first principle of justice to the second is reflected in the priority of the constitutional convention to the legislative stage.

The last stage is that of the application of rules to particular cases by judges and administrators, and the following of rules by citizens generally. At this stage everyone has complete access to all the facts. No limits on knowledge remain since the full system of rules has now been adopted and applies to persons in virtue of their characteristics and circumstances. . . .

Equal Liberty of Conscience

Now it seems that equal liberty of conscience is the only principle that the persons in the original position can acknowledge. They cannot take chances with their liberty by permitting the dominant religious or moral

doctrine to persecute or to suppress others if it wishes. Even granting (what may be questioned) that it is more probable than not that one will turn out to belong to the majority (if a majority exists), to gamble in this way would show that one did not take one's religious or moral convictions seriously, or highly value the liberty to examine one's beliefs. Nor on the other hand, could the parties consent to the principle of utility. In this case their freedom would be subject to the calculus of social interests and they would be authorizing its restriction if this would lead to a greater net balance of satisfaction. Of course, as we have seen, a utilitarian may try to argue from the general facts of social life that when properly carried out the computation of advantages never justifies such limitations, at least under reasonably favorable conditions of culture. But even if the parties were persuaded of this, they might as well guarantee their freedom straightway by adopting the principle of equal liberty. There is nothing gained by not doing so, and to the extent that the outcome of the actuarial calculation is unclear a great deal may be lost. Indeed, if we give a realistic interpretation to the general knowledge available to the parties, they are forced to reject the utilitarian principle. These considerations have all the more force in view of the complexity and vagueness of these calculations (if we can so describe them) as they are bound to be made in practice. . . .

Toleration and the Common Interest

Justice as fairness provides, as we have now seen, strong arguments for an equal liberty of conscience. I shall assume that these arguments can be generalized in suitable ways to support the principle of equal liberty. Therefore the parties have good grounds for adopting this principle. It is obvious that these considerations are also important in making the case for the priority of liberty. From the perspective of the constitutional convention these arguments lead to the choice of a regime guaranteeing moral liberty and freedom of thought and belief, and of religious practice, although these may be regulated as always by the state's interest in public order and security. The state can favor no particular religion and no penalties or disabilities may be attached to any religious affiliation or lack thereof. The notion of a confessional state is rejected. Instead, particular associations may be freely organized as their members wish, and they may have their own internal life and discipline subject to the restriction that their members have a real choice of whether to continue their affiliation. The law protects the right of sanctuary in the sense that apostasy is not recognized, much less penalized, as a legal offense, any more than is having no religion at all. In these ways the state upholds moral and religious liberty.

Liberty of conscience is limited, everyone agrees, by the common interest in public order and security. This limitation itself is readily derivable from the contract point of view. First of all, acceptance of this limitation does not imply that public interests are in any sense superior to moral and religious interests; nor does it require that government view religious matters as things indifferent or claim the right to suppress philosophical

beliefs whenever they conflict with affairs of state. The government has no authority to render associations either legitimate or illegitimate any more than it has this authority in regard to art and science. These matters are simply not within its competence as defined by a just constitution. Rather, given the principles of justice, the state must be understood as the association consisting of equal citizens. It does not concern itself with philosophical and religious doctrine but regulates individuals' pursuit of their moral and spiritual interests in accordance with principles to which they themselves would agree in an initial situation of equality. By exercising its powers in this way the government acts as the citizens' agent and satisfies the demands of their public conception of justice. Therefore the notion of the omniscient laicist state is also denied, since from the principles of justice it follows that government has neither the right nor the duty to do what it or a majority (or whatever) wants to do in questions of morals and religion. Its duty is limited to underwriting the conditions of equal moral and religious liberty.

Granting all this, it now seems evident that, in limiting liberty by reference to the common interest in public order and security, the government acts on a principle that would be chosen in the original position. For in this position each recognizes that the disruption of these conditions is a danger for the liberty of all. This follows once the maintenance of public order is understood as a necessary condition for everyone's achieving his ends whatever they are (provided they lie within certain limits) and for his fulfilling his interpretation of his moral and religious obligations. To restrain liberty of conscience at the boundary, however inexact, of the state's interest in public order is a limit derived from the principle of the common interest, that is, the interest of the representative equal citizen. The government's right to maintain public order and security is an enabling right, a right which the government must have if it is to carry out its duty of impartially supporting the conditions necessary for everyone's pursuit of his interests and living up to his obligations as he understands them.

Furthermore, liberty of conscience is to be limited only when there is a reasonable expectation that not doing so will damage the public order which the government should maintain. This expectation must be based on evidence and ways of reasoning acceptable to all. It must be supported by ordinary observation and modes of thought (including the methods of rational scientific inquiry where these are not controversial) which are generally recognized as correct. Now this reliance on what can be established and known by everyone is itself founded on the principles of justice. It implies no particular metaphysical doctrine or theory of knowledge. For this criterion appeals to what everyone can accept. It represents an agreement to limit liberty only by reference to a common knowledge and understanding of the world. Adopting this standard does not infringe upon anyone's equal freedom. On the other hand, a departure from generally recognized ways of reasoning would involve a privileged place for the views of some over others, and a principle which permitted this could not be agreed to in the original position. Furthermore, in holding that the consequences for the security of public order should not be merely possi-

ble or in certain cases even probable, but reasonably certain or imminent, there is again no implication of a particular philosophical theory. Rather this requirement expresses the high place which must be accorded to liberty of conscience and freedom of thought. . . .

Toleration of the Intolerant

Let us now consider whether justice requires the toleration of the intolerant, and if so under what conditions. There are a variety of situations in which this question arises. Some political parties in democratic states hold doctrines that commit them to suppress the constitutional liberties whenever they have the power. Again, there are those who reject intellectual freedom but who nevertheless hold positions in the university. It may appear that toleration in these cases is inconsistent with the principles of justice, or at any rate not required by them. I shall discuss the matter in connection with religious toleration. With appropriate alterations the argument can be extended to these other instances.

Several questions should be distinguished. First, there is the question whether an intolerant sect has any title to complain if it is not tolerated; second, under what conditions tolerant sects have a right not to tolerate those which are intolerant; and last, when they have the right not to tolerate them, for what ends it should be exercised. Beginning with the first question, it seems that an intolerant sect has no title to complain when it is denied an equal liberty. At least this follows if it is assumed that one has no title to object to the conduct of others that is in accordance with principles one would use in similar circumstances to justify one's actions toward them. A person's right to complain is limited to violations of principles he acknowledges himself. A complaint is a protest addressed to another in good faith. It claims a violation of a principle that both parties accept. Now, to be sure, an intolerant man will say that he acts in good faith and that he does not ask anything for himself that he denies to others. His view, let us suppose, is that he is acting on the principle that God is to be obeyed and the truth accepted by all. This principle is perfectly general and by acting on it he is not making an exception in his own case. As he sees the matter, he is following the correct principle which others reject.

The reply to this defense is that, from the standpoint of the original position, no particular interpretation of religious truth can be acknowledged as binding upon citizens generally; nor can it be agreed that there should be one authority with the right to settle questions of theological doctrine. Each person must insist upon an equal right to decide what his religious obligations are. He cannot give up this right to another person or institutional authority. In fact, a man exercises his liberty in deciding to accept another as an authority even when he regards this authority as infallible, since in doing this he in no way abandons his equal liberty of conscience as a matter of constitutional law. For this liberty as secured by justice is imprescriptible: a person is always free to change his faith and this right does not depend upon his having exercised his powers of choice regularly or intelligently. . . .

Let us suppose, then, that an intolerant sect has no title to complain of intolerance. We still cannot say that tolerant sects have the right to suppress them. For one thing, others may have a right to complain. They may have this right not as a right to complain on behalf of the intolerant, but simply as a right to object whenever a principle of justice is violated. For justice is infringed whenever equal liberty is denied without sufficient reason. The question, then, is whether being intolerant of another is grounds enough for limiting someone's liberty. To simplify things, assume that the tolerant sects have the right not to tolerate the intolerant in at least one circumstance, namely, when they sincerely and with reason believe that intolerance is necessary for their own security. This right follows readily enough since, as the original position is defined, each would agree to the right of self-preservation. Justice does not require that men must stand idly by while others destroy the basis of their existence. Since it can never be to men's advantage, from a general point of view, to forgo the right of self-protection, the only question, then, is whether the tolerant have a right to curb the intolerant when they are of no immediate danger to the equal liberties of others.

Suppose that, in some way or other, an intolerant sect comes to exist within a well-ordered society accepting the two principles of justice. How are the citizens of this society to act in regard to it? Now certainly they should not suppress it simply because the members of the intolerant sect could not complain were they to do so. Rather, since a just constitution exists, all citizens have a natural duty of justice to uphold it. We are not released from this duty whenever others are disposed to act unjustly. A more stringent condition is required: there must be some considerable risks to our own legitimate interests. Thus just citizens should strive to preserve the constitution with all its equal liberties as long as liberty itself and their own freedom are not in danger. They can properly force the intolerant to respect the liberty of others, since a person can be required to respect the rights established by principles that he would acknowledge in the original position. But when the constitution itself is secure, there is no reason to deny freedom to the intolerant.

The question of tolerating the intolerant is directly related to that of the stability of a well-ordered society regulated by the two principles. We can see this as follows. It is from the position of equal citizenship that persons join the various religious associations, and it is from this position that they should conduct their discussions with one another. Citizens in a free society should not think one another incapable of a sense of justice unless this is necessary for the sake of equal liberty itself. If an intolerant sect appears in a well-ordered society, the others should keep in mind the inherent stability of their institutions. The liberties of the intolerant may persuade them to a belief in freedom. This persuasion works on the psychological principle that those whose liberties are protected by and who benefit from a just constitution will, other things equal, acquire an allegiance to it over a period of time. So even if an intolerant sect should arise, provided that it is not so strong initially that it can impose its will straightway, or does not grow so rapidly that the psychological principle has no time to take hold it will tend to lose its intolerance and accept

liberty of conscience. This is the consequence of the stability of just institutions, for stability means that when tendencies to injustice arise other forces will be called into play that work to preserve the justice of the whole arrangement. Of course, the intolerant sect may be so strong initially or growing so fast that the forces making for stability cannot convert it to liberty. This situation presents a practical dilemma which philosophy alone cannot resolve. Whether the liberty of the intolerant should be limited to preserve freedom under a just constitution depends on the circumstances. The theory of justice only characterizes the just constitution, the end of political action by reference to which practical decisions are to be made. In pursuing this end the natural strength of free institutions must not be forgotten. . . .

Some Remarks about Economic Systems

. . . Political economy is importantly concerned with the public sector and the proper form of the background institutions that regulate economic activity, with taxation and the rights of property, the structure of markets, and so on. An economic system regulates what things are produced and by what means, who receives them and in return for which contributions, and how large a fraction of social resources is devoted to saving and to the provision of public goods. Ideally all of these matters should be arranged in ways that satisfy the two principles of justice. But we have to ask whether this is possible and what in particular these principles require.

To begin with, it is helpful to distinguish between two aspects of the public sector; otherwise the difference between a private-property economy and socialism is left unclear. The first aspect has to do with the ownership of the means of production. The classical distinction is that the size of the public sector under socialism (as measured by the fraction of total output produced by state-owned firms and managed either by state officials or by workers' councils) is much larger. In a private-property economy the number of publicly owned firms is presumably small and in any event limited to special cases such as public utilities and transportation.

A second quite different feature of the public sector is the proportion of total social resources devoted to public goods. The distinction between public and private goods raises a number of intricate points, but the main idea is that a public good has two characteristic features, indivisibility and publicness. That is, there are many individuals, a public so to speak, who want more or less of this good, but if they are to enjoy it at all must each enjoy the same amount. The quantity produced cannot be divided up as private goods can and purchased by individuals according to their preferences for more and less. There are various kinds of public goods depending upon their degree of indivisibility and the size of the relevant public. The polar case of a public good is full indivisibility over the whole society. A standard example is the defense of the nation against (unjustified) foreign attack. All citizens must be provided with this good in the same amount; they cannot be given varying protection depending on their

wishes. The consequence of indivisibility and publicness in these cases is that the provision of public goods must be arranged for through the political process and not through the market. Both the amount to be produced and its financing need to be worked out by legislation. Since there is no problem of distribution in the sense that all citizens receive the same quantity, distribution costs are zero.

Various features of public goods derive from these two characteristics. First of all, there is the free-rider problem. Where the public is large and includes many individuals, there is a temptation for each person to try to avoid doing his share. This is because whatever one man does his action will not significantly affect the amount produced. He regards the collective action of others as already given one way or the other. If the public good is produced his enjoyment of it is not decreased by his not making a contribution. If it is not produced his action would not have changed the situation anyway. A citizen receives the same protection from foreign invasion regardless of whether he has paid his taxes. Therefore in the polar case trade and voluntary agreements cannot be expected to develop.

It follows that arranging for and financing public goods must be taken over by the state and some binding rule requiring payment must be enforced. Even if all citizens were willing to pay their share, they would presumably do so only when they are assured that others will pay theirs as well. Thus once citizens have agreed to act collectively and not as isolated individuals taking the actions of the others as given, there is still the task of tying down the agreement. The sense of justice leads us to promote just schemes and to do our share in them when we believe that others, or sufficiently many of them, will do theirs. But in normal circumstances a reasonable assurance in this regard can only be given if there is a binding rule effectively enforced. Assuming that the public good is to everyone's advantage, and one that all would agree to arrange for, the use of coercion is perfectly rational from each man's point of view. Many of the traditional activities of government, insofar as they can be justified, can be accounted for in this way. The need for the enforcement of rules by the state will still exist even when everyone is moved by the same sense of justice. The characteristic features of essential public goods necessitate collective agreements, and firm assurance must be given to all that they will be honored.

Another aspect of the public goods situation is that of externality. When goods are public and indivisible, their production will cause benefits and losses to others which may not be taken into account by those who arrange for these goods or who decide to produce them. Thus in the polar case, if but a part of the citizenry pays taxes to cover the expenditure on public goods, the whole society is still affected by the items provided. Yet those who agree to these levies may not consider these effects, and so the amount of public expenditure is presumably different from what it would be if all benefits and losses had been considered. The everyday cases are those where the indivisibility is partial and the public is smaller. Someone who has himself inoculated against a contagious disease helps others as well as himself; and while it may not pay him to obtain this protection, it may be worth it to the local community when all advantages are tallied up.

And, of course, there are the striking cases of public harms, as when industries sully and erode the natural environment. These costs are not normally reckoned with by the market, so that the commodities produced are sold at much less than their marginal social costs. There is a divergence between private and social accounting that the market fails to register. One essential task of law and government is to institute the necessary corrections.

It is evident, then, that the indivisibility and publicness of certain essential goods, and the externalities and temptations to which they give rise, necessitate collective agreements organized and enforced by the state. That political rule is founded solely on men's propensity to self-interest and injustice is a superficial view. For even among just men, once goods are indivisible over large numbers of individuals, their actions decided upon in isolation from one another will not lead to the general good. Some collective arrangement is necessary and everyone wants assurance that it will be adhered to if he is willingly to do his part. . . .

Having considered briefly . . . the public sector, I should like to conclude with a few comments about the extent to which economic arrangements may rely upon a system of markets in which prices are freely determined by supply and demand. Several cases need to be distinguished. All regimes will normally use the market to ration out the consumption goods actually produced. Any other procedure is administratively cumbersome, and rationing and other devices will be resorted to only in special cases. But in a free market system the output of commodities is also guided as to kind and quantity by the preferences of households as shown by their purchases on the market. Goods fetching a greater than normal profit will be produced in larger amounts until the excess is reduced. In a socialist regime planners' preferences or collective decisions often have a larger part in determining the direction of production. Both private-property and socialist systems normally allow for the free choice of occupation and of one's place of work. It is only under command systems of either kind that this freedom is overtly interfered with.

Finally, a basic feature is the extent to which the market is used to decide the rate of saving and the direction of investment, as well as the fraction of national wealth devoted to conservation and to the elimination of irremediable injuries to the welfare of future generations. Here there are a number of possibilities. A collective decision may determine the rate of saving while the direction of investment is left largely to individual firms competing for funds. In both a private-property as well as in a socialist society great concern may be expressed for preventing irreversible damages and for husbanding natural resources and preserving the environment. But again either one may do rather badly.

It is evident, then, that there is no essential tie between the use of free markets and private ownership of the instruments of production. The idea that competitive prices under normal conditions are just or fair goes back at least to medieval times. While the notion that a market economy is in some sense the best scheme has been most carefully investigated by so-called bourgeois economists, this connection is a historical contingency in

that, theoretically at least, a socialist regime can avail itself of the advantages of this system. One of these advantages is efficiency. Under certain conditions competitive prices select the goods to be produced and allocate resources to their production in such a manner that there is no way to improve upon either the choice of productive methods by firms, or the distribution of goods that arises from the purchases of households. There exists no rearrangement of the resulting economic configuration that makes one household better off (in view of its preferences) without making another worse off. No further mutually advantageous trades are possible; nor are there any feasible productive processes that will yield more of some desired commodity without requiring a cutback in another. For if this were not so, the situation of some individuals could be made more advantageous without a loss for anyone else. The theory of general equilibrium explains how, given the appropriate conditions, the information supplied by prices leads economic agents to act in ways that sum up to achieve this outcome. Perfect competition is a perfect procedure with respect to efficiency. Of course, the requisite conditions are highly special ones and they are seldom if ever fully satisfied in the real world. Moreover, market failures and imperfections are often serious, and compensating adjustments must be made by the allocation branch. Monopolistic restrictions, lack of information, external economies and diseconomies, and the like must be recognized and corrected. And the market fails altogether in the case of public goods. But these matters need not concern us here. These idealized arrangements are mentioned in order to clarify the related notion of pure procedural justice. The ideal conception may then be used to appraise existing arrangements and as a framework for identifying the changes that should be undertaken.

A further and more significant advantage of a market system is that, given the requisite background institutions, it is consistent with equal liberties and fair equality of opportunity. Citizens have a free choice of careers and occupations. There is no reason at all for the forced and central direction of labor. Indeed, in the absence of some differences in earnings as these arise in a competitive scheme, it is hard to see how, under ordinary circumstances anyway, certain aspects of a command society inconsistent with liberty can be avoided. Moreover, a system of markets decentralizes the exercise of economic power. Whatever the internal nature of firms, whether they are privately or state owned, or whether they are run by entrepreneurs or by managers elected by workers, they take the prices of outputs and inputs as given and draw up their plans accordingly. When markets are truly competitive, firms do not engage in price wars or other contests for market power. In conformity with political decisions reached democratically, the government regulates the economic climate by adjusting certain elements under its control, such as the overall amount of investment, the rate of interest, and the quantity of money, and so on. There is no necessity for comprehensive direct planning. Individual households and firms are free to make their decisions independently, subject to the general conditions of the economy.

In noting the consistency of market arrangements with socialist

institutions, it is essential to distinguish between the allocative and the distributive functions of prices. The former is connected with their use to achieve economic efficiency, the latter with their determining the income to be received by individuals in return for what they contribute. It is perfectly consistent for a socialist regime to establish an interest rate to allocate resources among investment projects and to compute rental charges for the use of capital and scarce natural assets such as land and forests. Indeed, this must be done if these means of production are to be employed in the best way. For even if these assets should fall out of the sky without human effort, they are nevertheless productive in the sense that when combined with other factors a greater output results. It does not follow, however, that there need be private persons who as owners of these assets receive the monetary equivalents of these evaluations. Rather these accounting prices are indicators for drawing up an efficient schedule of economic activities. Except in the case of work of all kinds, prices under socialism do not correspond to income paid over to private individuals. Instead, the income imputed to natural and collective assets accrues to the state, and therefore their prices have no distributive function.

It is necessary, then, to recognize that market institutions are common to both private-property and socialist regimes, and to distinguish between the allocative and the distributive function of prices. Since under socialism the means of production and natural resources are publicly owned, the distributive function is greatly restricted, whereas a private-property system uses prices in varying degrees for both purposes. Which of these systems and the many intermediate forms most fully answers to the requirements of justice cannot, I think, be determined in advance. There is presumably no general answer to this question, since it depends in large part upon the traditions, institutions, and social forces of each country, and its particular historical circumstances. The theory of justice does not include these matters. But what it can do is to set out in a schematic way the outlines of a just economic system that admits of several variations. The political judgment in any given case will then turn on which variation is most likely to work out best in practice. A conception of justice is a necessary part of any such political assessment, but it is not sufficient.

NOTES

1. As the text suggests, I shall regard Locke's *Second Treatise of Government*, Rousseau's *The Social Contract*, and Kant's ethical works beginning with *The Foundations of the Metaphysics of Morals* as definitive of the contract tradition. For all of its greatness, Hobbes's *Leviathan* raises special problems. A general historical survey is provided by J. W. Gough, *The Social Contract*, 2nd ed. (Oxford, The Clarendon Press, 1957), and Otto Gierke, *Natural Law and the Theory of Society*, trans. with an introduction by Ernest Barker (Cambridge, The University Press, 1934). A presentation of the contract view as primarily an ethical theory is to be found in G. R. Grice, *The Grounds of Moral Judgment* (Cambridge, The University Press, 1967). . . .
2. Kant is clear that the original agreement is hypothetical. See *The Metaphysics of*

Morals, pt. I (*Rechtslehre*), especially §§47, 52; and pt. II of the essay "Concerning the Common Saying: This May Be True in Theory but It Does Not Apply in Practice," in *Kant's Political Writings*, ed. Hans Reiss and trans. by H. B. Nisbet (Cambridge: The University Press, 1970), pp. 73–87. . . .

3. The process of mutual adjustment of principles and considered judgments is not peculiar to moral philosophy. See Nelson Goodman, *Fact, Fiction, and Forecast* (Cambridge, Mass.: Harvard University Press, 1955), pp. 65–68, for parallel remarks concerning the justification of the principles of deductive and inductive inference.
4. The veil of ignorance is so natural a condition that something like it must have occurred to many. The closest express statement of it known to me is found in J. C. Harsanyi, "Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking," *Journal of Political Economy*, vol. 61 (1953). Harsanyi uses it to develop a utilitarian theory. . . .
5. This fact is generally recognized in welfare economics, as when it is said that efficiency is to be balanced against equity. See for example Tibor Scitovsky, *Welfare and Competition* (London: George Allen and Unwin, 1952), pp. 60–69 and I. M. D. Little, *A Critique of Welfare Economics*, 2nd ed. (Oxford: The Clarendon Press, 1957), ch. VI. esp. pp. 112–116. See Sen's remarks on the limitations of the principle of efficiency, *Collective Choice and Social Welfare*, pp. 22, 24–26, 83–86.
6. This formulation of the aristocratic ideal is derived from Santayana's account of aristocracy in ch. IV of *Reason and Society* (New York: Charles Scribner, 1905), pp. 109f. He says, for example, "an aristocratic regimen can only be justified by radiating benefit and by proving that were less given to those above, less would be attained by those beneath them." I am indebted to Robert Rodes for pointing out to me that natural aristocracy is a possible interpretation of the two principles of justice and that an ideal feudal system might also try to fulfill the difference principle.
7. See Herbert Spiegelberg, "A Defense of Human Equality," *Philosophical Review*, vol. 53 (1944), pp. 101, 113–123; and D. D. Raphael, "Justice and Liberty," *Proceedings of the Aristotelian Society*, vol. 51 (1950–1951), pp. 187f.
8. An accessible discussion of this and other rules of choice under uncertainty can be found in W. J. Baumol, *Economic Theory and Operations Analysis*, 2nd ed. (Englewood Cliffs, N.J.: Prentice Hall, Inc., 1965), ch. 24. Baumol gives a geometric interpretation of these rules. . . . See pp. 558–562. See also R. D. Luce and Howard Raiffa, *Games and Decisions* (New York: John Wiley and Sons, Inc., 1957), ch. XIII, for a fuller account.
9. Here I borrow from William Fellner, *Probability and Profit* (Homewood, Ill.: R. D. Irwin, Inc., 1965), pp. 140–142, where these features are noted.

LIBERTARIANISM

John Rawls, as we have seen, presents an elegant and powerful case for his theory of justice. Adopting his principles would require extensive changes in our national priorities, even if we retained a basically capitalistic system of production. Nonetheless, he does provide a revamped theoretical foundation for the dominant liberalism of our time, which is committed to personal liberty and to reducing social and economic inequalities. Thus it should not be surprising that his strongest critics should come from thinkers outside this political mainstream. Although a challenge to Rawls has arisen from the left, one of his most trenchant opponents has been Robert Nozick, a libertarian.

As a libertarian, Nozick places individual liberty at center stage as the prime political value. Nozick challenges the assumption, common to liberal political thought, that justice demands extensive economic redistribution. He denies that the state may legitimately tax us—take our money by threat of coercion—to accomplish that redistribution. As a defender of laissez-faire capitalism and a critic of governmental authority, Nozick stands along with many contemporary American conservatives in the tradition of the seventeenth- and eighteenth-century liberalism of John Locke and Adam Smith.

Nozick assumes, in accordance with this tradition, a perspective of individual rights—rights that may not be transgressed by others, either as individuals or collectively as the state. Commonly called Lockean, or negative, these rights constitute "side constraints" on the actions of others, ensuring a person's freedom from interference in the pursuit of his or her