

tion of social cooperation from which it derives. But in doing this we should not lose sight of the special role of the principles of justice or of the primary subject to which they apply.

In these preliminary remarks I have distinguished the concept of justice as meaning a proper balance between competing claims from a conception of justice as a set of related principles for identifying the relevant considerations which determine this balance. I have also characterized justice as but one part of a social ideal, although the theory I shall propose no doubt extends its everyday sense. This theory is not offered as a description of ordinary meanings but as an account of certain distributive principles for the basic structure of society. I assume that any reasonably complete ethical theory must include principles for this fundamental problem and that these principles, whatever they are, constitute its doctrine of justice. The concept of justice I take to be defined, then, by the role of its principles in assigning rights and duties and in defining the appropriate division of social advantages. A conception of justice is an interpretation of this role.

Now this approach may not seem to tally with tradition. I believe, though, that it does. The more specific sense that Aristotle gives to justice, and from which the most familiar formulations derive, is that of refraining from *pleonexia*, that is, from gaining some advantage for oneself by seizing what belongs to another, his property, his reward, his office, and the like, or by denying a person that which is due to him, the fulfillment of a promise, the repayment of a debt, the showing of proper respect, and so on.³ It is evident that this definition is framed to apply to actions, and persons are thought to be just insofar as they have, as one of the permanent elements of their character, a steady and effective desire to act justly. Aristotle's definition clearly presupposes, however, an account of what properly belongs to a person and of what is due to him. Now such entitlements are, I believe, very often derived from social institutions and the legitimate expectations to which they give rise. There is no reason to

3. *Nicomachean Ethics*, 1129b–1130b5. I have followed the interpretation of Gregory Vlastos, "Justice and Happiness in *The Republic*," in *Plato: A Collection of Critical Essays*, edited by Vlastos (Garden City, N.Y., Doubleday and Company, 1971), vol. 2, pp. 70f. For a discussion of Aristotle on justice, see W. F. R. Hardie, *Aristotle's Ethical Theory* (Oxford, The Clarendon Press, 1968), ch. X.

think that Aristotle would disagree with this, and certainly he has a conception of social justice to account for these claims. The definition I adopt is designed to apply directly to the most important case, the justice of the basic structure. There is no conflict with the traditional notion.

3. 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.⁴ 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

4. 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). See also §19, note 30.

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.⁵ 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 con-

5. 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. See Georges Vlachos, *La Pensée politique de Kant* (Paris, Presses Universitaires de France, 1962), pp. 326–335; and J. G. Murphy, *Kant: The Philosophy of Right* (London, Macmillan, 1970), pp. 109–112, 133–136, for a further discussion.

cepts 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 (§ 25), 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.⁶ 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

6. For the formulation of this intuitive idea I am indebted to Allan Gibbard.

RAWLS, A THEORY OF JUSTICE

Justice as Fairness

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.

4. The Original Position

A final remark. Justice as fairness is not a complete contract theory. For it is clear that the contractarian idea can be extended to the choice of more or less an entire ethical system, that is, to a system including principles for all the virtues and not only for justice. Now for the most part I shall consider only principles of justice and others closely related to them; I make no attempt to discuss the virtues in a systematic way. Obviously if justice as fairness succeeds reasonably well, a next step would be to study the more general view suggested by the name "rightness as fairness." But even this wider theory fails to embrace all moral relationships, since it would seem to include only our relations with other persons and to leave out of account how we are to conduct ourselves toward animals and the rest of nature. I do not contend that the contract notion offers a way to approach these questions which are certainly of the first importance; and I shall have to put them aside. We must recognize the limited scope of justice as fairness and of the general type of view that it exemplifies. How far its conclusions must be revised once these other matters are understood cannot be decided in advance.

~~4. 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

and who deny with contempt the rights and liberties of others, are not likely, it is said, to let scruples concerning the rule of law interfere with their interests in particular cases. The inevitable vagueness of laws in general and the wide scope allowed for their interpretation encourages an arbitrariness in reaching decisions which only an allegiance to justice can allay. Thus it is maintained that where we find formal justice, the rule of law and the honoring of legitimate expectations, we are likely to find substantive justice as well. The desire to follow rules impartially and consistently, to treat similar cases similarly, and to accept the consequences of the application of public norms is intimately connected with the desire, or at least the willingness, to recognize the rights and liberties of others and to share fairly in the benefits and burdens of social cooperation. The one desire tends to be associated with the other. This contention is certainly plausible but I shall not examine it here. For it cannot be properly assessed until we know what are the most reasonable principles of substantive justice and under what conditions men come to affirm and to live by them. Once we understand the content of these principles and their basis in reason and human attitudes, we may be in a position to decide whether substantive and formal justice are tied together.

11. 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 "open to all." Determining their sense more exactly will lead to a second formulation of the principle in § 13. The final version of the two principles is given in § 46; § 39 considers the rendering of the first 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.

In developing justice as fairness I shall, for the most part, leave aside the general conception of justice and examine instead the special case of the two principles in serial order. The advantage of this procedure is that from the first the matter of priorities is recognized and an effort made to find principles to deal with it. One is led to attend throughout to the conditions under which the acknowledgment of the absolute weight of liberty with respect to social and economic advantages, as defined by the lexical order of the two principles, would be reasonable. Offhand, this ranking appears extreme and too special a case to be of much interest; but there is more justification for it than would appear at first sight. Or at any rate, so I shall maintain (§82). Furthermore, the distinction between fundamental rights and liberties and economic and social benefits marks a difference among primary social goods that one should try to exploit. It suggests an important division in the social system. Of course, the distinctions drawn and the ordering proposed are bound to be at best only approximations. There are surely circumstances in which they fail. But it is essential to depict clearly the main lines of a reasonable conception of justice; and under many conditions anyway, the two principles in serial order may serve well enough. When necessary we can fall back on the more general conception.

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. Our common sense intuitions for the former may be a poor guide to the latter.

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 out-

weighed 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.

12. 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 below.

"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

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.

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. This principle is simply that of Pareto optimality (as economists refer to it) formulated so as to apply to the basic structure.⁷ I shall always use the term "efficiency" instead because this is literally correct and the term "optimality" suggests

7. There are expositions of this principle in most any work on price theory or social choice. A perspicuous account is found in T. C. Koopmans, *Three Essays on the State of Economic Science* (New York, McGraw-Hill, 1957), pp. 41-66. See also A. K. Sen, *Collective Choice and Social Welfare* (San Francisco, Holden-Day Inc., 1970), pp. 21f. These works contain everything (and more) that is required for our purposes in this book; and the latter takes up the relevant philosophical questions. The principle of efficiency was introduced by Vilfredo Pareto in his *Manuel d'économie politique* (Paris, 1909), ch. VI, §53, and the appendix, §89. A translation of the relevant passages can be found in A. N. Page, *Utility Theory: A Book of Readings* (New York, John Wiley, 1968), pp. 38f. The related concept of indifference curves goes back to F. Y. Edgeworth, *Mathematical Psychics* (London, 1888), pp. 20-29; also in Page, pp. 160-167.

that the concept is much broader than it is in fact.⁸ To be sure, this principle was not originally intended to apply to institutions but to particular configurations of the economic system, for example, to distributions of goods among consumers or to modes of production. 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. (See the accompanying discussion of the principle of efficiency.)

THE PRINCIPLE OF EFFICIENCY

Assume that there is a fixed stock of commodities to be distributed between two persons, x_1 and x_2 . Let the line AB represent the points such that given x_1 's gain at the corresponding level, there is no way to distribute the commodities so as to make x_2 better off than the point indicated by the curve. Consider the point $D = (a, b)$. Then holding x_1 at the level a, the best that can be done for x_2 is the level b. In figure 3 the point O, the origin, represents the position before any commodities are distributed. The points on the line AB are the efficient points. Each point on AB can be seen to satisfy Pareto's criterion: there is no redistribution that makes either person better off without making the other worse

8. On this point see Koopmans, *Three Essays on the State of Economic Science*, p. 49. Koopmans remarks that a term like "allocative efficiency" would have been a more accurate name.

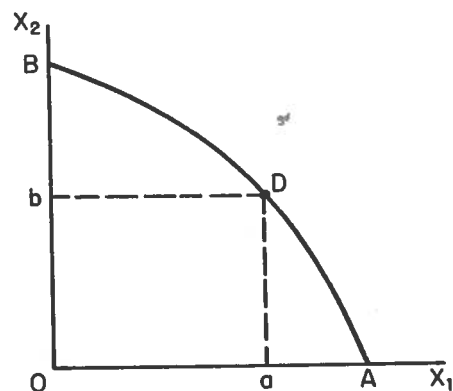


FIGURE 3

off. This is conveyed by the fact that the line AB slopes downward to the right. Since there is but a fixed stock of items, it is supposed that as one person gains the other loses. (Of course, this assumption is dropped in the case of the basic structure which is a system of co-operation producing a sum of positive advantages.) Normally the region OAB is taken to be a convex set. This means that given any pair of points in the set, the points on the straight line joining these two points are also in the set. Circles, ellipses, squares, triangles, and so on are convex sets.

It is clear that there are many efficient points, in fact, all the points on the line AB. The principle of efficiency does not by itself select one particular distribution of commodities as the efficient one. To select among the efficient distributions some other principle, a principle of justice, say, is necessary.

Of two points, if one is northeast of the other, this point is superior by the principle of efficiency. Points to the northwest or southeast cannot be compared. The ordering defined by the principle of efficiency is but a partial one. Thus in figure 4 while C is superior to E, and D is superior to F, none of the points on the line AB are either superior or inferior to one another. The class of efficient points cannot be ranked. Even the extreme points A and B at which one of the parties has everything are efficient, just as other points on AB.

Observe that we cannot say that any point on the line AB is superior to all points in the interior of OAB. Each point on AB is superior only

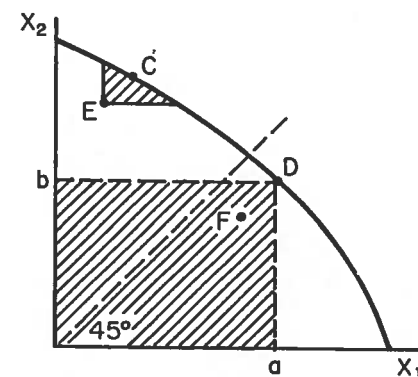


FIGURE 4

to those points in the interior southwest of it. Thus the point D is superior to all points inside the rectangle indicated by the dotted lines joining D to the points a and b. The point D is not superior to the point E. These points cannot be ordered. The point C, however, is superior to E and so are all the points on the line AB belonging to the small shaded triangular region that has the point E as a corner.

On the other hand, if one takes the 45° line as indicating the locus of equal distribution (this assumes an interpersonal cardinal interpretation of the axes, something not supposed in the preceding remarks), and if one counts this as an additional basis of decision, then all things considered, the point D may be preferable to both C and E. It is much closer to this line. One may even decide that an interior point such as F is to be preferred to C which is an efficient point. Actually, in justice as fairness the principles of justice are prior to considerations of efficiency and therefore, roughly speaking, the interior points that represent just distributions will generally be preferred to efficient points which represent unjust distributions. Of course, figure 4 depicts a very simple situation and cannot be applied to the basic structure.

There are, however, many configurations which 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. The person who holds the whole stock must lose out. But of course not every dis-

tribution is efficient, as might be suggested by the efficiency of such disparities. As long as a distribution leaves some persons willing to swap goods with others, it cannot be efficient; for the willingness to trade shows that there is a rearrangement which improves the situation of some without hurting that of anyone else. Indeed, an efficient distribution is one in which it is not possible to find further profitable exchanges. In that sense, the allocation of goods in which one man has everything is efficient because the others have nothing to give him in return. The principle of efficiency allows then that there are many efficient configurations. Each efficient arrangement is better than some other arrangements, but none of the efficient arrangements is better than another.

Now the principle of efficiency can be applied to the basic structure by reference to the expectations of representative men.⁹ Thus we can say that an arrangement of right and duties in the basic structure is efficient if and only if it is impossible to change the rules, to redefine the scheme of rights and duties, so as to raise the expectations of any representative man (at least one) without at the same time lowering the expectations of some (at least one) other representative man. Of course, these alterations must be consistent with the other principles. That is, in changing the basic structure we are not permitted to violate the principle of equal liberty or the requirement of open positions. What can be altered is the distribution of income and wealth and the way in which organizational powers, and various other forms of authority, regulate cooperative activities. Consistent with the constraints of liberty and accessibility, the allocation of these primary goods may be adjusted to modify the expectations of representative individuals. An arrangement of the basic structure is efficient when there is no way to change this distribution so as to raise the prospects of some without lowering the prospects of others.

There are, I shall assume, many efficient arrangements of the basic

9. For the application of the Pareto criterion to systems of public rules, see J. M. Buchanan, "The Relevance of Pareto Optimality," *Journal of Conflict Resolution*, vol. 6 (1962), as well as his book with Gordon Tullock, *The Calculus of Consent* (Ann Arbor, The University of Michigan Press, 1962). In applying this and other principles to institutions I follow one of the points of "Two Concepts of Rules," *Philosophical Review*, vol. 64 (1955). Doing this has the advantage, among other things, of constraining the employment of principles by publicity effects. See §23, note. 8.

structure. Each of these specifies a particular division of advantages from social cooperation. The problem is to choose between them, to find a conception of justice that singles out one of these efficient distributions as also just. If we succeed in this, we shall have gone beyond mere efficiency yet in a way compatible with it. Now it is natural to try out the idea that as long as the social system is efficient there is no reason to be concerned with distribution. All efficient arrangements are in this case declared equally just. Of course, this suggestion would be outlandish for the allocation of particular goods to known individuals. No one would suppose that it is a matter of indifference from the standpoint of justice whether any one of a number of men happens to have everything. But the suggestion seems equally unreasonable for the basic structure. Thus it may be that under certain conditions serfdom cannot be significantly reformed without lowering the expectations of some representative man, say that of landowners, in which case serfdom is efficient. Yet it may also happen under the same conditions that a system of free labor cannot be changed without lowering the expectations of some representative man, say that of free laborers, so this arrangement is likewise efficient. More generally, whenever a society is relevantly divided into a number of classes, it is possible, let us suppose, to maximize with respect to each one of its representative men at a time. These maxima give at least this many efficient positions, for none of them can be departed from to raise the expectations of any one representative man without lowering those of another, namely, the representative man with respect to whom the maximum is defined. Thus each of these extremes is efficient but they surely cannot be all just, and equally so. These remarks simply parallel for social systems the situation in distributing particular goods to given individuals where the distributions in which a single person has everything is efficient.

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.¹⁰ Therefore it must be supplemented in some way. Now in

10. 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

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.

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.

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 expectations of those with the same abilities and aspirations should not be affected by their social class.¹¹

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 excessive 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

11. This definition follows Sidgwick's suggestion in *The Methods of Ethics*, p. 285n. See also R. H. Tawney, *Equality* (London, George Allen and Unwin, 1931), ch. II, sec. ii; and B. A. O. Williams, "The Idea of Equality," in *Philosophy, Politics, and Society*, ed. Peter Laslett and W. G. Runciman (Oxford, Basil Blackwell, 1962), pp. 125f.

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.¹² 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

12. 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.

social contingencies 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.

13. 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. (See the discussion of the difference principle that follows.)

THE DIFFERENCE PRINCIPLE

Assume that indifference curves now represent distributions that are judged equally just. Then the difference principle is a strongly egalitarian conception in the sense that unless there is a distribution that makes both persons better off (limiting ourselves to the two-person case for simplicity), an equal distribution is to be preferred. The indifference curves take the form depicted in figure 5. These curves are actually made up of vertical and straight lines that intersect at right angles at the 45° line (again supposing an interpersonal and cardinal interpretation of the axes). No matter how much either person's situation is improved, there is no gain from the standpoint of the difference principle unless the other gains also.

Suppose that x_1 is the most favored representative man in the basic structure. As his expectations are increased so are the prospects of x_2 , the least advantaged man. In figure 6 let the curve OP represent the

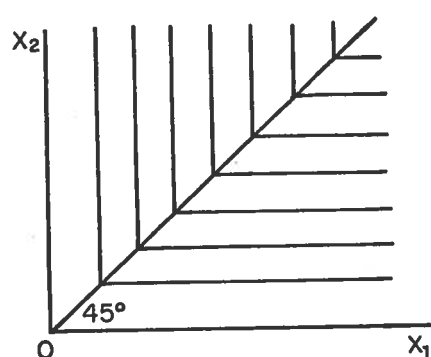


FIGURE 5

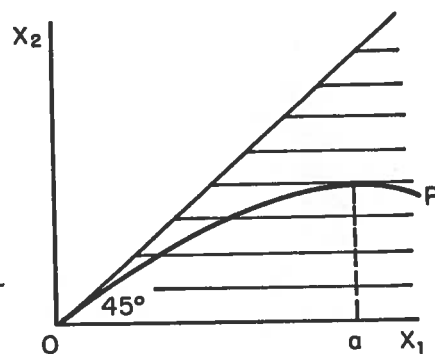


FIGURE 6

contribution to x_2 's expectations made by the greater expectations of x_1 . The point O, the origin, represents the hypothetical state in which all social primary goods are distributed equally. Now the OP curve is always below the 45° line, since x_1 is always better off. Thus the only relevant parts of the indifference curves are those below this line, and for this reason the upper left-hand part of figure 6 is not drawn in. Clearly the difference principle is perfectly satisfied only when the OP curve is just tangent to the highest indifference curve that it touches. In figure 6 this is at the point a.

Note that the contribution curve, the curve OP, supposes that the

social cooperation defined by the basic structure is mutually advantageous. It is no longer a matter of shuffling about a fixed stock of goods. Also, nothing is lost if an accurate interpersonal comparison of benefits is impossible. It suffices that the least favored person can be identified and his rational preference determined.

A view less egalitarian than the difference principle, and perhaps more plausible at first sight, is one in which the indifference lines for just distributions (or for all things considered) are smooth curves convex to the origin, as in figure 7. The indifference curves for social welfare functions are often depicted in this fashion. This shape of the curves expresses the fact that as either person gains relative to the other, further benefits to him become less valuable from a social point of view.

A classical utilitarian, on the other hand, is indifferent as to how a constant sum of benefits is distributed. He appeals to equality only to break ties. If there are but two persons, then assuming an interpersonal cardinal interpretation of the axes, the utilitarian's indifference lines for distributions are straight lines perpendicular to the 45° line. Since, however, x_1 and x_2 are representative men, the gains to them have to be weighted by the number of persons they each represent. Since presumably x_2 represents rather more persons than x_1 , the indifference lines become more horizontal, as seen in figure 8. The ratio of the num-

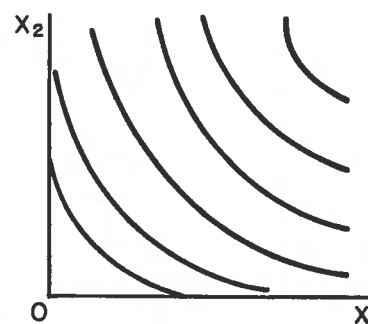


FIGURE 7

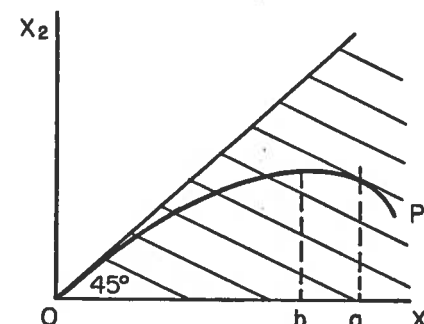


FIGURE 8

ber of advantaged to the number of disadvantaged defines the slope of these straight lines. Drawing the same contribution curve OP as before, we see that the best distribution from a utilitarian point of view is reached at the point which is beyond the point b where the OP curve reaches its maximum. Since the difference principle selects the point

b and b is always to the left of a, utilitarianism allows, other things equal, larger inequalities.

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 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 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.

I shall now make a few remarks about this principle. First of all, in applying it, one should distinguish between two cases. The first case is that in which the expectations of the least advantaged are indeed maximized (subject, of course, to the mentioned constraints). No changes in the expectations of those better off can improve the situation of those worst off. The best arrangement obtains, what I shall call a perfectly just scheme. The second case is that in which the expectations of all those better off at least contribute to the welfare of the more unfortunate. That is, if their expectations were decreased, the prospects of the least advantaged would likewise fall. Yet the maximum is not yet achieved. Even higher expectations for

the more advantaged would raise the expectations of those in the lowest position. Such a scheme is, I shall say, just throughout, but not the best just arrangement. A scheme is unjust when the higher expectations, one or more of them, are excessive. If these expectations were decreased, the situation of the least favored would be improved. How unjust an arrangement is depends on how excessive the higher expectations are and to what extent they depend upon the violation of the other principles of justice, for example, fair equality of opportunity; but I shall not attempt to measure in any exact way the degrees of injustice. The point to note here is that while the difference principle is, strictly speaking, a maximizing principle, there is a significant distinction between the cases that fall short of the best arrangement. A society should try to avoid the region where the marginal contributions of those better off are negative, since, other things equal, this seems a greater fault than falling short of the best scheme when these contributions are positive. The even larger difference between rich and poor makes the latter even worse off, and this violates the principle of mutual advantage as well as democratic equality (§ 17).

A further point is this. We saw that the system of natural liberty and the liberal conception attempt to go beyond the principle of efficiency by moderating its scope of operation, by constraining it by certain background institutions and leaving the rest to pure procedural justice. The democratic conception holds that while pure procedural justice may be invoked to some extent at least, the way previous interpretations do this still leaves too much to social and natural contingency. But it should be noted that the difference principle is compatible with the principle of efficiency. For when the former is fully satisfied, it is indeed impossible to make any one representative man better off without making another worse off, namely, the least advantaged representative man whose expectations we are to maximize. Thus justice is defined so that it is consistent with efficiency, at least when the two principles are perfectly fulfilled. Of course, if the basic structure is unjust, these principles will authorize changes that may lower the expectations of some of those better off; and therefore the democratic conception is not consistent with the principle of efficiency if this principle is taken to mean that only changes which improve everyone's prospects are allowed. Justice is

prior to efficiency and requires some changes that are not efficient in this sense. Consistency obtains only in the sense that a perfectly just scheme is also efficient.

Next, we may consider a certain complication regarding the meaning of the difference principle. It has been taken for granted that if the principle is satisfied, everyone is benefited. One obvious sense in which this is so is that each man's position is improved with respect to the initial arrangement of equality. But it is clear that nothing depends upon being able to identify this initial arrangement; indeed, how well off men are in this situation plays no essential role in applying the difference principle. We simply maximize the expectations of the least favored position subject to the required constraints. As long as doing this is an improvement for everyone, as we assume it is, the estimated gains from the situation of hypothetical equality are irrelevant, if not largely impossible to ascertain anyway. There may be, however, a further sense in which everyone is advantaged when the difference principle is satisfied, at least if we make certain natural assumptions. Let us suppose that inequalities in expectations are chain-connected: that is, if an advantage has the effect of raising the expectations of the lowest position, it raises the expectations of all positions in between. For example, if the greater expectations for entrepreneurs benefit the unskilled worker, they also benefit the semiskilled. Notice that chain connection says nothing about the case where the least advantaged do not gain, so that it does not mean that all effects move together. Assume further that expectations are close-knit: that is, it is impossible to raise or lower the expectation of any representative man without raising or lowering the expectation of every other representative man, especially that of the least advantaged. There is no loose-jointedness, so to speak, in the way expectations hang together. Now with these assumptions there is a sense in which everyone benefits when the difference principle is satisfied. For the representative man who is better off in any two-way comparison gains by the advantages offered him, and the man who is worse off gains from the contributions which these inequalities make. Of course, these conditions may not hold. But in this case those who are better off should not have a veto over the benefits available for the least favored. We are still to maximize the expectations of those most disadvantaged. (See the accompanying discussion of chain connection.)

CHAIN CONNECTION

For simplicity assume that there are three representative men. Let x_1 be the most favored and x_3 the least favored with x_2 in between. Let the expectations of x_1 be marked off along the horizontal axis, the expectations of x_2 and x_3 along the vertical axis. The curves showing the contribution of the most favored to the other groups begin at the origin as the hypothetical position of equality. Moreover, there is a maximum gain permitted to the most favored on the assumption that, even if the difference principle would allow it, there would be unjust effects on the political system and the like excluded by the priority of liberty.

The difference principle selects the point where the curve for x_3 reaches its maximum, for example, the point a in figure 9.

Chain connection means that at any point where the x_3 curve is rising to the right, the x_2 curve is also rising, as in the intervals left of the points a and b in figures 9 and 10. Chain connection says nothing about the case where the x_3 curve is falling to the right, as in the interval to the right of the point a in figure 9. The x_2 curve may be either rising or falling (as indicated by the dashed line x'_2). Chain connection does not hold to the right of b in fig 10.

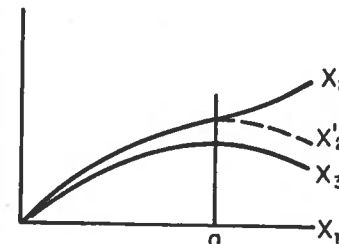


FIGURE 9

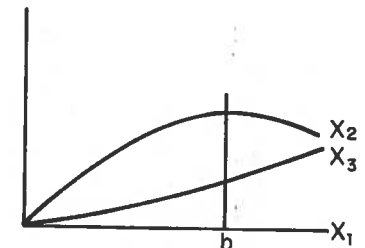


FIGURE 10

Intervals in which both the x_2 and the x_3 curves are rising define the intervals of position contributions. Any more to the right increases the average expectation (average utility if utility is measured by expectations) and also satisfies the principle of efficiency as a criterion of change, that is, points to the right improve everyone's situation.

In figure 9 the average expectations may be rising beyond the point a, although the expectations of the least favored are falling. (This depends on the weights of the several groups.) The difference principle excludes this and selects the point a.

Close-knitness means that there are no flat stretches on the curves for

x_2 and x_3 . At each point both curves are either rising or falling. All the curves illustrated are close-knit.

I shall not examine how likely it is that chain connection and close-knitness hold. The difference principle is not contingent on these relations being satisfied. However, one may note that when the contributions of the more favored positions spread generally throughout society and are not confined to particular sectors, it seems plausible that if the least advantaged benefit so do others in between. Moreover, a wide diffusion of benefits is favored by two features of institutions both exemplified by the basic structure: first, they are set up to advance certain fundamental interests which everyone has in common, and second, offices and positions are open. Thus it seems probable that if the privileges and powers of legislators and judges, say, improve the situation of the less favored, they improve that of citizens generally. Chain connection may often be true, provided the other principles of justice are fulfilled. If this is so, then we may observe that within the region of positive contributions (the region where the advantages of all those in favored positions raise the prospects of the least fortunate), any movement toward the perfectly just arrangement both increases average well-being and improves everyone's expectation. Given these special assumptions, the difference principle has the same practical consequences as the principles of average utility and efficiency. Of course, if chain connection rarely holds and these cases are unimportant, this coincidence between principles is only a curiosity. But we often suppose that within just social arrangements something like a general diffusion of gains does take place, at least in the longer run. Should this be true, these remarks indicate how the difference principle can account for these more familiar notions as special cases. It remains to be shown, though, that this principle is the more fundamental one from a moral point of view.

There is a further complication. Close-knitness is assumed in order to simplify the statement of the difference principle. It is clearly conceivable, however likely or important in practice, that the least advantaged are not affected one way or the other by some changes in expectations of the best off although these changes benefit others. In this sort of case close-knitness fails, and to cover the situation we can

express a more general principle as follows: in a basic structure with n relevant representatives, first maximize the welfare of the worst off representative man; second, for equal welfare of the worst-off representative, maximize the welfare of the second worst-off representative man, and so on until the last case which is, for equal welfare of all the preceding $n-1$ representatives, maximize the welfare of the best-off representative man. We may think of this as the lexical difference principle.¹³ However, I shall always use the difference principle in the simpler form. 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 (§§ 39, 82). For the moment it suffices to remark that in one form or another the difference principle is basic throughout.

14. FAIR EQUALITY OF OPPORTUNITY AND PURE PROCEDURAL JUSTICE

I should now like to comment upon the second part of the second principle, henceforth to be understood as the liberal principle of fair equality of opportunity. It must not then be confused with the notion of careers open to talents; nor must one forget that since it is tied in with the difference principle its consequences are quite distinct from the liberal interpretation of the two principles taken to-

13. On this point, see Sen, *Collective Choice and Social Welfare*, p. 138n.

gether. In particular, I shall try to show further on (§ 17) that this principle is not subject to the objection that it leads to a meritocratic society. Here I wish to consider a few other points, especially its relation to the idea of pure procedural justice.

First, though, I should note that the reasons for requiring open positions are not solely, or even primarily, those of efficiency. I have not maintained that offices must be open if in fact everyone is to benefit from an arrangement. For it may be possible to improve everyone's situation by assigning certain powers and benefits to positions despite the fact that certain groups are excluded from them. Although access is restricted, perhaps these offices can still attract superior talent and encourage better performance. But the principle of open positions forbids this. It expresses the conviction that if some places were not open on a basis fair to all, those kept out would be right in feeling unjustly treated even though they benefited from the greater efforts of those who were allowed to hold them. They would be justified in their complaint not only because they were excluded from certain external rewards of office such as wealth and privilege, but because they were debarred from experiencing the realization of self which comes from a skillful and devoted exercise of social duties. They would be deprived of one of the main forms of human good.

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.¹⁴ 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. The trial procedure is framed to search for and to establish the truth in this regard. But it seems impossible to design the legal rules so that they always lead to the correct result. The theory of trials examines which procedures and rules of evidence, and the like, are best calculated to advance this purpose consistent with the other ends of the law. Different arrangements for hearing cases may reasonably be expected in different circumstances to yield the right results, not

14. For a general discussion of procedural justice, see Brian Barry, *Political Argument* (London, Routledge and Kegan Paul, 1965), ch. VI. On the problem of fair division, see R. D. Luce and Howard Raiffa, *Games and Decisions* (New York, John Wiley and Sons, Inc., 1957), pp. 363-368; and Hugo Steinhaus, "The Problem of Fair Division," *Econometrica*, vol. 16 (1948).

always but at least most of the time. A trial, then, is an instance of imperfect procedural justice. 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. I assume here that fair bets are those having a zero expectation of gain, that the bets are made voluntarily, that no one cheats, and so on. The betting procedure is fair and freely entered into under conditions that are fair. Thus the background circumstances define a fair procedure. Now any distribution of cash summing to the initial stock held by all individuals could result from a series of fair bets. In this sense all of these particular distributions are equally fair. A distinctive feature of pure procedural justice is that the procedure for determining the just result must actually be carried out; for in these cases there is no independent criterion by reference to which a definite outcome can be known to be just. Clearly we cannot say that a particular state of affairs is just because it could have been reached by following a fair procedure. This would permit far too much and would lead to absurdly unjust consequences. It would allow one to say that almost any distribution of goods is just, or fair, since it could have come about as a result of fair gambles. 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 im-

partially 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 opportunity. 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. One avoids the problem of defining principles to cope with the enormous complexities which would arise if such details were relevant. It is a mistake to focus attention on the varying relative positions of individuals and to require that every change, considered as a single transaction viewed in isolation, be in itself

just. It is the arrangement of the basic structure which is to be judged, and judged from a general point of view. Unless we are prepared to criticize it from the standpoint of a relevant representative man in some particular position, we have no complaint against it. Thus the acceptance of the two principles constitutes an understanding to discard as irrelevant as a matter of social justice much of the information and many of the complications of everyday life.

In pure procedural justice, then, distributions of advantages are not appraised in the first instance by confronting a stock of benefits available with given desires and needs of known individuals. The allotment of the items produced takes place in accordance with the public system of rules, and this system determines what is produced, how much is produced, and by what means. It also determines legitimate claims the honoring of which yields the resulting distribution. Thus in this kind of procedural justice the correctness of the distribution is founded on the justice of the scheme of cooperation from which it arises and on answering the claims of individuals engaged in it. A distribution cannot be judged in isolation from the system of which it is the outcome or from what individuals have done in good faith in the light of established expectations. If it is asked in the abstract whether one distribution of a given stock of things to definite individuals with known desires and preferences is better than another, then there is simply no answer to this question. The conception of the two principles does not interpret the primary problem of distributive justice as one of allocative justice.

By contrast the allocative conception of justice seems naturally to apply when a given collection of goods is to be divided among definite individuals with known desires and needs. The goods to be allotted are not produced by these individuals, nor do these individuals stand in any existing cooperative relations. Since there are no prior claims on the things to be distributed, it is natural to share them out according to desires and needs, or even to maximize the net balance of satisfaction. Justice becomes a kind of efficiency, unless equality is preferred. Suitably generalized, the allocative conception leads to the classical utilitarian view. For as we have seen, this doctrine assimilates justice to the benevolence of the impartial spectator and the latter in turn to the most efficient design of institutions

to promote the greatest balance of satisfaction. As I observed earlier, on this conception society is thought of as so many separate individuals each defining a separate line along which rights and duties are to be assigned and scarce means of satisfaction allocated in accordance with rules so as to give the most complete fulfillment of desire. I shall put aside consideration of the other aspects of this notion until later. The point to note here is that utilitarianism does not interpret the basic structure as a scheme of pure procedural justice. For the utilitarian has, in principle anyway, an independent standard for judging all distributions, namely, whether they produce the greatest net balance of satisfaction. In his theory, institutions are more or less imperfect arrangements for bringing about this end. ✓ Thus given existing desires and preferences, and the natural continuations into the future which they allow, the statesman's aim is to set up those social schemes that will best approximate an already specified goal. Since these arrangements are subject to the unavoidable constraints and hindrances of everyday life, the basic structure is a case of imperfect procedural justice.

For the time being I shall suppose that the two parts of the second principle are lexically ordered. Thus we have one lexical ordering within another. But when necessary, this ordering can be modified in the light of the general conception of justice. The advantage of the special conception is that it has a definite shape and suggests certain questions for investigation, for example, under what conditions if any would the lexical ordering be chosen? Our inquiry is given a particular direction and is no longer confined to generalities. Of course, this conception of distributive shares is obviously a great simplification. It is designed to characterize in a clear way a basic structure that makes use of the idea of pure procedural justice. But all the same we should attempt to find simple concepts that can be assembled to give a reasonable conception of justice. The notions of the basic structure, of the veil of ignorance, of a lexical order, of the least favored position, as well as of pure procedural justice are all examples of this. By themselves none of these could be expected to work, but properly put together they may serve well enough. It is too much to suppose that there exists for all or even most moral problems a reasonable solution. Perhaps only a few can be satisfac-

torily answered. In any case social wisdom consists in framing institutions so that intractable difficulties do not often arise and in accepting the need for clear and simple principles.

15. PRIMARY SOCIAL GOODS AS THE BASIS OF EXPECTATIONS

So much, then, for a brief statement and explanation of the two principles of justice and of the procedural conception which they express. In later chapters I shall present further details by describing an arrangement of institutions that realizes this conception. At the moment, however, there are several preliminary matters that must be faced. I begin with a discussion of expectations and how they are to be estimated.

The significance of this question can be brought out by a comparison with utilitarianism. When applied to the basic structure the principle of utility requires us to maximize the algebraic sum of expectations taken over all relevant positions. (The classical principle weights these expectations by the number of persons in these positions, the average principle by the fraction of persons.) Leaving aside for the next section the question as to what defines a relevant position, it is clear that utilitarianism assumes some fairly accurate measure of these expectations. Not only is it necessary to have a cardinal measure for each representative individual but these measures must make sense in interpersonal comparisons. Some method of correlating the scales of different persons is presupposed if we are to say that the gains of some are to outweigh the losses of others. It is unreasonable to demand great precision, yet these estimates cannot be left to our unguided intuition. For judgments of a greater balance of interests leave too much room for conflicting claims. Moreover, these judgments may be based on ethical and other notions, not to mention bias and self-interest, which puts their validity in question. Simply because we do in fact make what we call interpersonal comparisons of well-being does not mean that we understand the basis of these comparisons or that we should accept them as sound. To settle these matters we need to give an account of these judgments, to set out the criteria that underlie them (§ 49). For questions of

social justice we should try to find some objective grounds for these comparisons, ones that men can recognize and agree to. At the present time, there appears to be no satisfactory answer to these difficulties from a utilitarian point of view. Therefore it seems that, for the time being at least, the principle of utility makes such heavy demands on our ability to estimate the balance of advantages that it defines at best an ambiguous court of appeal for questions of justice.

I do not assume, though, that a satisfactory solution to these problems is impossible. While these difficulties are real, and the difference principle is framed to circumvent them, I do not wish to stress its relative merits on this score. For one thing, skepticism about interpersonal comparisons is often based on questionable views: for example, that the intensity of pleasure or of the enjoyment which indicates well-being is the intensity of pure sensation; and that while the intensity of such sensations can be experienced and known by the subject, it is impossible for others to know it or to infer it with reasonable certainty. Both these contentions seem wrong. Indeed, the second is simply part of a skepticism about the existence of other minds, unless it is shown why judgments of well-being present special problems which cannot be overcome.¹⁵ I believe that the real difficulties with utilitarianism lie elsewhere. The main point is that even if interpersonal comparisons of satisfaction can be made, these comparisons must reflect values which it makes sense to pursue. It is irrational to advance one end rather than another simply because it can be more accurately estimated. The controversy about interpersonal comparisons tends to obscure the real question, namely, whether the total (or average) happiness is to be maximized in the first place.

The difference principle meets some of the difficulties in making interpersonal comparisons. This it does in two ways. First of all, as long as we can identify the least advantaged representative man, only ordinal judgments of well-being are required from then on. We know from what position the social system is to be judged. It does not matter how much worse off this representative individual is than the others. If positions can be ranked as better or worse, the lowest can be found. The further difficulties of cardinal measurement do not arise since no other interpersonal comparisons are necessary. And,

15. See H. L. A. Hart, "Bentham," *Proceedings of the British Academy*, vol. 48 (London, 1962), pp. 340f, and Little, *Critique of Welfare Economics*, pp. 54f.