> may well be in the interest of all; or it may be felt to be a clear moral duty of all to assist, within the organised community, those who cannot help themselves. So long as such a uniform minimum income is provided outside the market to all those who, for any reason, are unable to earn in the market an adequate maintenance, this need not lead to a restriction of freedom, or a conflict with the Rule of Law. (1982, 2, 87)

Distributive justice is a more far reaching goal: namely, to reorder economic relations to achieve a just distribution of all benefits and burdens in society. It is the idea that society as a whole has a moral duty to bring about just distributions of the benefits and burdens of social life. Theorists who define justice as just distribution tend to treat rectificatory justice as an aspect of just distribution.

Theorists who consider justice as just distribution have the burden of demonstrating the criteria by which just distribution is determined. Most people agree on safety nets, but beyond that threshold distribution of burdens and benefits becomes contentious. How is this distribution determined and by whom? Karl Marx expressed the socialist principle of distribution in the maxim: 'From each according to his ability, to each according to his needs'. Marx was thinking of a stateless communist society of angelic citizens who embrace the maxim without compulsion. In the real world of self-interested individuals, such a scheme will have to be coercively implemented by omniscient, well-meaning and disinterested politicians – if such a breed can be found. Hence, social justice theorists have sought to develop other criteria that are more realistic. Two main concepts have emerged from their work: (1) justice as just desert, and (2) justice as fairness. The obvious questions are: what is 'just desert', and what is 'fair'? We must turn to these theorists for answers.

Justice as just desert

Just desert is what a person deserves. What does a person deserve? Some writers have embraced the notion that just desert is giving to each his own. This only postpones the answer. What is 'his own' other than his legal entitlements? Ulpian's statement that 'Justice is a constant and unfailing disposition to give everyone his legal due' is not helpful, since he was talking about legal right and not moral claims (*Digest* I.I.11; Justinian 1904 (529–534, 4).

A writer who attempted to give some definition to the idea of 'just desert' outside legal right was Joel Feinberg. Feinberg's concern was with personal desert. This is desert in the sense of how a person deserves to be treated by others. We may say that the reckless driver who hits a lamp post deserved the damage, but that is not personal desert. Feinberg identified two kinds of personal desert: polar desert and non-polar desert. Polar desert is where a person deserves either good or ill, as in retributive (criminal) justice or reparation of harm. The accused person is punished or set free. In an action for tort the defendant or plaintiff must bear the loss. Feinberg mentioned three kinds of polar desert: (1) rewards and punishments; (2) reparation, liability and other modes of compensation; and (3) praise, blame and other informal responses. The division in non-polar situations is not

between persons who deserve good and those who deserve ill, but between those who deserve good and those who do not. Feinberg mentioned two kinds of non-polar desert: (1) award of prizes; and (2) assignment of grades (1963, 75). The winner of the Wimbledon men's tennis final is richly rewarded. The loser may feel bitterly disappointed but he cannot complain of being punished or made to suffer ill. Feinberg said that 'non-polar desert is central to what philosophers have traditionally called the concept of distributive justice' (1963, 76).

Consider the case of the award of the gold medal for the high jump at the Olympic Games. According to the competition rules the gold medal is awarded to the athlete who jumps the highest. The winner, as Feinberg contended, is not necessarily the person who *deserved* the prize. The best jumper may have suffered an injury during the competition that prevented her clearing the winning height. University teachers are all too familiar with the case of very good students who fail to gain a good grade because of personal circumstances or mishap at the examination, such as anxiety or memory loss. In one sense they may be deserving of the highest grade, though according to the institutional rules they are not. Feinberg's key point was that there is an important difference between desert in the sense of deserving a reward and the entitlement to receive the award. The idea of desert in university grading is that students who show greatest proficiency in the subject deserve the highest grades. The grading system is designed with this desert in mind. However, once the rules are made, fairness demands that the grades be awarded according to the rules. The question is no longer who deserves the highest grade but who is entitled to the highest grade. Feinberg concluded that 'desert is a moral concept in the sense that it is logically prior to and independent of public institutions and their rules' (1963, 97).

Feinberg's discussion makes an important conceptual clarification about the moral or non-legal nature of just desert. It helps us to understand what just desert means in situations such as prizes, awards and competitions, but not in relation to the distribution of benefits and burdens across society. Hence, distributive justice theories usually turn to the idea of fairness.

Justice as fairness: Rawls' theory of justice

The most influential theory of distributive justice is that of the American philosopher John Rawls (1921–2002). Rawls held chairs in philosophy at Cornell University and the Massachusetts Institute of Technology before moving to Harvard University, where he worked for more than 40 years. Rawls' theory of justice as fairness was set out in his seminal work *A Theory of Justice*, first published in 1971, but its elements were already in place by 1963 (Rawls 1963, 100–5).

Rawls' theory of justice is a theory of just political institutions. It is not a theory of distributive justice based on the wants or needs of individuals or groups. He explained it this way:

> Put another way, the principles of justice do not select specific distributions of desired things as just, given the wants of particular persons. This task is abandoned as mistaken in principle, and it is in any case, not capable of a determinate answer. (1963, 102)

Rawls' theory, then, is about the justice of political arrangements. It is a theory of distributive justice only in a limited sense. It does not call for fair shares of the social pie, but rather seeks to maximise equal liberty of individuals without disadvantaging the least endowed groups in the community.

Why distribute at all?

Imagine a free society of individuals who are constrained only by the rules of legal justice, such as the laws of crime, tort and contract. Every person either produces their own material goods or obtains them by legal exchange with others. Some goods – such as security of person and property (police services) – may be difficult to secure, so individuals may band together to hire a protection agency that is able give everyone security. They may end up creating what Nozick called a minimal or night-watchman state, to which the members of society pay fees (called taxes) in return for protection (Nozick 1974, 26–8). The night-watchman state does not redistribute rights but simply protects them. Where is the injustice in such a community? Distribution achieved by voluntary transactions between two free persons can hardly be called unjust. The plumber needs money and I need my taps fixed. We satisfy each other's needs by contract. Agreement between people with similar bargaining strength represents the purest form of justice.

The need for distribution, according to Rawls, arises from the fact that people gain more by social cooperation than by living alone by their own efforts (Rawls 1999, 4). Let us say that a person living alone will be able through their own efforts to gain utilities worth X. They gain utilities worth Y by cooperating with each other. The net gain for all is Y − X, which, let us say, is S. The question, then, is how to distribute S. There are different kinds of social cooperation. Members of primitive societies survive by cooperative hunting, gathering and defence. Since I live in a market exchange society I cooperate with others (in fact, directly and indirectly, with millions of others), mainly through contract. I don't have to do my own plumbing, car repairs, medical treatment, gardening, and my tax returns because I get others to do these things at an agreed price. I also need not grow my own food or make my own wine because I can buy them at my local supermarket and wine store. This means that I can use my time for other things that I wish to do, like reading a book or watching cricket. The markets on which I rely work because of the rules of just conduct that most people voluntarily observe, as in performing contracts and respecting each other's person and property. Rawls' point that I am better off in society than by myself is valid, but so is everybody else. The case for distribution is still not clear. Rawls argued that people differ on how the gain from cooperation should be divided, and therefore it is necessary

to have an institutional structure that distributes the surplus fairly, according to a set of principles that all can agree on. He wrote: 'There is a conflict of interest since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed, for in order to pursue their ends they each prefer a larger to a lesser share' (1999, 4).

The problem of distributing the surplus is clearer in a primitive society. A caveman who hunts by himself with primitive weapons may only take small game with great effort. He will not share that meat with anyone but his own family. A hunting party of cavemen may bring down a large animal that will provide everyone with meat for a month or more. The cooperation has made everyone substantially better off. Traditional rules will determine who gets which share of the meat. The need for rules for distributing the surplus created by a market exchange society is less clear. People buy the benefits they receive. The persons who gain from the existence of a market exchange society may have already paid for their gains, raising the question: should they pay again? Rawls did not address this issue. Let us leave this question for later, and examine Rawls' theory on the assumption that there is a surplus that needs to be distributed.

The new social contract: two principles of justice

Many philosophers who have tried to work out the terms of a just social order have been attracted to the idea of the social contract. Rawls said that his aim was to present a conception of justice which 'generalises and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau and Kant' (1999, 10). Imagine a number of persons living in an original condition where each person fended for themselves through their individual efforts, with no cooperation among them. Imagine also that they each realised that they could do much better for themselves if they cooperated at some level on agreed terms. What kinds of rules of association would they agree on? This is not the way human societies actually grew. The evidence suggests that society is not the product of deliberate designing, but the result of habits and traditions that grew gradually and imperceptibly among people coming into daily contact with each other. Nevertheless, philosophers have found the idea of an original condition a useful device to speculate on the kinds of rules that people in their primordial state would find agreeable as the basis of social cooperation. This is the kind of condition that Hobbes and Locke called the state of nature. Hobbes described the state of nature as one in which every person was at war with every other person. Life in this state, he famously said, was 'solitary, poor, nasty, brutish and short' (Hobbes 1946 (1651), 82).

Hobbes thought that the persons who wished to escape the state of nature would agree to establish a sovereign government, to which each individual would concede their autonomy in exchange for the sovereign's commitment to protect their life, liberty and property. Locke's state of nature was not so harsh, but also

had the fatal flaw that each person was their own law maker, judge and law enforcer. The people under Locke's social contract create a government with limited power, which is:

> . . . bound to govern by establish'd standing Laws, promulgated and known to the People, and not by Extemporary Decrees; by indifferent and upright Judges, who are to decide Controversies by these Laws; And to employ the force of the Community at home only in the execution of such Laws, or abroad to prevent or redress Foreign Injuries, and secure the Community from Inroads and Invasion, And all this to be directed to no other end, but the Peace, Safety, and publick good of the People. (Locke 1960 (1690), 371)

Rawls also adopted the social contract device to construct his theory of justice. He did not take us back to the state of nature, but to an even more primordial state in which we are ignorant about ourselves. We do not know our stations in life, and what knowledge, abilities and skills we have. In fact, we have no knowledge that allows us to predict what the future holds for us. Rawls then speculated on what kind of political arrangement we will adopt, from among the many alternatives available in a situation where no one knows whether they will end up at the top or the bottom of the social heap. He concluded that people negotiating behind this veil of ignorance will agree to the following principles, which he called the principles of justice:

First Principle: Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

Second Principle: Social and economic inequalities are to be arranged so that they are both:

a) to the greatest benefit of the least advantaged, consistent with the *just savings principle*; and

b) attached to offices and positions open to all under conditions of fair equality of opportunity (1999, 266).

The First Principle is a straightforward endorsement of the classical liberal ideal that an individual should have the greatest degree of freedom that is compatible with the equal freedom of others. It is most famously expressed in John Stuart Mill's aphorism that 'the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others' (2002 (1869), 8). Absolute freedom is impossible when we live in society. My freedom to swing a baseball bat ends where your head begins. If I have total freedom to practise my baseball swing in a crowded bar, I will destroy the freedom of other patrons to drink their beer in peace. My freedom to drive on a suburban road at high speed will limit the freedom of others to use that road. Unrestrained freedom of speech can lead to incitement to violence against others, to the destruction of reputations and the subversion of fair trials. In a society that values freedom for all, there cannot be absolute freedom.

The Second Principle is not so straightforward. First, what is the *just savings principle*? It is the principle of justice between generations. Each generation must leave to the next not only its political institutions but also sufficient assets and resources:

> Each generation must not only preserve the gains of culture and civilisation, and maintain intact those just institutions that have been established, but it must also put aside in each period of time suitable amount of real capital accumulation. This saving may take various forms from net investment in machinery and other means of production to investment in learning and education. (Rawls 1999, 252)

In practice, this means that there is a limit to how much can be transferred (through taxes and subsidies) to the least advantaged people in the current generation.

It must be noted that inter-generational transfer of moral, cultural and economic capital happens anyway, in the normal course of social life. Most parents invest heavily in the upbringing and education of children. Some parents strive to leave some legacy to their children. In some traditional cultures, like the one in which this author was raised, parents make enormous personal sacrifices to ensure the education of their children. Consider the case of commerce and industry. Businesses are ongoing operations that can grow over many generations. A corporation has a life beyond the lifetimes of its directors and shareholders. A government cannot and does not build roads and bridges only to benefit the current generation. Again, what is the current generation? The reality is that generations are intermingled in a continuum. The next generation is already with us, shaping economic activities even as we progress to retirement. Its members are already partially in command.

The meaning of the Second Principle

Leaving this issue aside, what does the Second Principle mean? First, it assumes that social and economic inequalities are unavoidable in society. Second, it assumes that social and economic inequalities can be 'arranged' by political action. So, what are the conditions that justify inequality? According to Rawls, they must: (1) be of the greatest benefit to the least advantaged; and (2) provide a fair equality of opportunity to all to gain 'offices and positions'.

Fair equality of opportunity

What is a fair equality of opportunity? Rawls considered two possible interpretations. The first is an interpretation in terms of what Rawls called a system of natural liberty. This is a system that eliminates all legal barriers to the attainment of offices and positions but does nothing to assist persons in gaining them. There are no positions reserved for nobility and all careers are open to talent. It presupposes equal liberty for all and a free market that allocates goods according to supply and demand. Rawls rejected this system, as it does not help people

disfavoured by social circumstances and chance (1999, 62–3). Children of affluent and educated parents, for example, are more likely to be well educated than are children of poor working class families. Chance brings windfalls to some and adversity to others. According to Rawls, a system of natural liberty does not offset these factors. This is not entirely true. There is no reason to presume that human qualities such as friendship, charity and benevolence are lacking in the state of natural liberty.

The second option is what Rawls called a 'liberal interpretation'. The reader should be aware that Rawls used 'liberal' here not in the sense of classical liberalism or libertarianism (which is closer to what he calls natural liberty) but in the North American sense of social democratic liberalism. Liberals in the American sense think that formal equality is not enough and that some affirmative action is required to deliver actual equality. In Rawls' words, liberals recognise 'the importance of preventing excessive accumulations of property and wealth and of maintaining equal opportunities of education for all . . . and the schools system, whether public or private, should be designed to even out class barriers' (1999, 63). Rawls thought that the liberal interpretation was superior to the natural liberty interpretation but was still inadequate: 'For one thing, even if it works to perfection in eliminating the influence of social contingencies, it still permits the distribution of wealth and income to be determined by the natural distribution of abilities and talents . . . shares are determined by the outcome of the natural lottery, and this outcome is arbitrary from a moral perspective' (1999, 64). Even if every person is given the same opportunities for education, some persons will have advantages over others because of their inborn characteristics. Take a class of students having the same state provided benefits, such as free tuition and living allowances. Some will do better than others because of personal qualities such as superior intelligence, better work ethic, effort and motivation. In other words, some students will make more out of their equal opportunity than others. Inequalities will arise inevitably over time, and the offspring of the more industrious and successful students will have greater opportunities than those of the less successful.

Rawls believed that more should be done to promote equal opportunity by limiting wealth accumulation. Limits can be placed by devices such as inheritance and gift taxes and restrictions on rights of bequest (1999, 245). These are meant to prevent the concentration of wealth, which tends to enhance inequality of opportunities. The other way is through income tax, which allows the state to make transfers to the least advantaged and hence increase their opportunities (Rawls 1999, 246).

The difference principle

It should be remembered that Rawls was trying to explain the principles that people in the *original position* will accept, in the state of ignorance about their future condition. He argued that they will find the fair equal opportunity principle to be inadequate even when it is given the liberal interpretation as explained

above. The people behind the veil of ignorance will wish to make sure that if they find themselves at the bottom of the pile, they have an assurance that those at the top cannot get further ahead by making their position even worse. Hence, they will insist on what Rawls calls the difference principle.

According to the difference principle, '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' (Rawls 1999, 65). Let us say that A represents the better off people in society and B represents the worst off people. No change in the rules should be made that makes A better off unless it also makes B better off. A rule may be made that makes A worse off and B better off. What does the difference principle mean in practice, in the kind of market exchange society that many people live in?

Rawls thought that markets are efficient means of allocating resources, but that they leave some people worse off and do not meet their basic needs. Hence, the difference principle requires a suitable minimum income to be guaranteed for everyone (1999, 245). This is done by taxing the rich and transferring some of the income to the poor. Once the suitable minimum is determined, the market may allocate the rest of the income. In fact, Rawls took the classical economic view that it is more efficient to meet the needs of the least advantaged by minimum income guarantees than by devices such as wage regulation (1999, 245).

Priority of basic liberties

Rawls granted what he calls lexical priority to the First Principle over the Second Principle. Lexical (or serial) priority is explained as follows:

> This is an order which requires us to satisfy the first principle in the ordering before we can move on to the second, the second before we consider the third, and so on. A principle does not come into play until those previous to it are either fully met or do not apply. A serial ordering avoids, then, having to balance principles at all; those earlier in the ordering have an absolute weight, so to speak, with respect to later ones, and hold without exception. (Rawls 1999, 38)

Rawls believed that people in the original position will wish to ensure that their basic liberties are given priority over equal opportunity and the regulation of inequalities. He also believed that the people would rank the Second Principle over the principle of efficiency, and rank fair opportunity over the difference principle (1999, 266). The overall ranking, therefore, can be stated as follows:

1. equal basic liberties
2. fair equality of opportunity with respect to offices and positions
3. arrangement of inequalities so that they are to the greatest benefit of the least advantaged
4. principle of efficiency and the maximisation of the sum of advantages.

An important question then is: what are basic equal liberties that are given priority? Rawls proposed a non-exhaustive list:

- political liberty (the right to vote and to hold office)
- freedom of speech and assembly
- liberty of conscience and freedom of thought
- freedom or integrity of the person, including freedom from psychological oppression and physical assault and dismemberment
- the right to hold personal property
- freedom from arbitrary arrest and seizure as defined by the concept of the rule of law.

When the elements of the two principles, the priority rules and the basic liberties are considered as a system, it is apparent that the people in the original position, according to Rawls, would vote for a political system remarkably like the market oriented welfare state democracies of the Western world.

Entitlement theory of justice: Nozick's response to Rawls

Rawls' theory of justice is widely regarded as the most important contribution to political and moral philosophy since the 19th century. However, it is not without its critics, whether from the left, right or centre of the ideological spectrum. Critics on the left, for whom material equality is the primary value, regard Rawls' theory as too individualistic and liberal. Brian Barry, a liberal in the American sense, made a critical departure from Rawls' original position in his magisterial work *A Treatise on Social Justice* (1989).

Rawls' theory of justice is based on the hypothetical social contract reached by a group of self-interested individuals in a state of ignorance about their futures. They engage in a game of risk minimisation. Barry questioned whether this kind of game could yield truly moral principles of justice. Barry's model does not place the parties to the hypothetical social contract behind a veil of ignorance but only asks them to be impartial. Barry envisaged a process whereby the issues of justice are decided by persons who are aware of their positions in society and may defend it to a reasonable point. In Barry's original position, 'each person has a veto over proposed principles, which can be exercised unless it would be reasonable for that person to accept a principle' (Barry 1989, 372).

Rawls received his sternest examination from the classical liberal and libertarian thinkers, among whom the most prominent critic was the American political philosopher Robert Nozick (1938–2002). Nozick was Pellegrino University Professor at Harvard University until he succumbed to cancer at the early age of 63. Nozick wrote his book *Anarchy, State and Utopia* as a libertarian response to Rawls' *A Theory of Justice*. Nozick, like Rawls, belonged to the social contract tradition in political philosophy. Unlike Rawls' social contract, struck by persons

working behind the veil of ignorance, Nozick's social contract is the outcome of an evolutionary process involving free bargaining among individuals through the course of time.

The night-watchman state

The state, in John Locke's theory, is born out of the need to overcome the insecurity that results from every man being the judge and enforcer of his own natural rights (Locke 1960, 368). Individuals escape this state of nature by creating a supreme authority under a trust or social contract that obligates the authority to protect life, liberty and estate of individuals. Nozick showed that, even without a Lockean social contract, an ultra-minimal state can arise through free contracting for protection services without violating anyone's rights. Imagine a state of natural liberty where each individual has a right to their own livelihood and there is no government. Each person relies on their own resources to protect their rights. Some are stronger than others, so person and property are insecure. In such conditions, it is natural that persons will form associations that are capable of providing their members with protection that individually they cannot provide for themselves. These protective associations provide protection only to their members. They defend members against violence by outsiders and settle disputes that arise between members by determining and enforcing the rights of each member. Successful protective associations may then offer their services to outsiders, who may or may not have their own protective associations. The more effective protective associations will absorb the less effective ones over the course of time, and eventually a dominant protective association will emerge. This association is what Nozick called an ultra-minimal state. It has no power to alter the rights and duties of members but only to protect and enforce them. It also has no power over non-members (independents) unless they violate the rights of the members. By the same token, its power does not extend to the protection of independents. Hence, it has no distributive role. The members of the dominant association may recognise that they have a moral duty to offer protection to these non-members who happen to be within their territory. This leads to the emergence of the minimal state, which Nozick called the night-watchman state. The night-watchman state eventually assumes a *de facto* monopoly of coercive powers over all persons within a territory, whether they are members or not.

The ultra minimal state has no distributive function. Those who purchase its services gain its protection, but not others. There is no transfer of wealth. In contrast, the night-watchman state that offers protection to all, including independents, *appears* to perform a redistributive function. Members pay for the protection of non-members. Nozick argued that despite this appearance, the night-watchman state is not a redistributive state (1974, 27). How so? Remember that the night-watchman state arises without the violation of anyone's rights, purely through contract. It exists to protect rights and not to violate rights, even

of independents. The independents may use self-help to vindicate their rights against members. The night-watchman state may ask the independents to use fair procedures before they act against a member, because members have rights to fair procedure. In other words, it prohibits the use of what it deems to be unfair procedures. This may seriously affect the way the independents go about their lives. They may, for example, have to take extra expensive precautions because they cannot use self-help to redress their wrongs. The members of the night-watchman state must therefore compensate the independents for this disadvantage. Nozick said that it may be cheaper on the whole for the members of the night-watchman state to offer protective services to independents to cover disputes that they have with members (1974, 110). If this is the case there is no redistribution.

Nozick concluded that the minimal state is the most extensive state that can be justified and that any state more extensive violates people's rights (1974, 149).

Entitlement theory of justice

Nozick started his entitlement theory of justice by denying that anyone is entitled to engage in distribution of property. The philosophical foundation of his theory of justice in a free society is revealed in the following passage:

> There is no *central* distribution, no person or group entitled to control all the resources, jointly deciding how they are doled out. What each person gets, he gets from others who give to him in exchange for something, or as a gift. In a free society, diverse persons control different resources, and new holdings arise out of voluntary exchanges and actions of persons. There is no more a distributing or distribution of shares than there is a distributing of mates in a society in which persons choose whom they shall marry. (1974, 149–50)

Nozick understood distribution purely in the sense of entitlement: thus 'the complete principle of justice would say simply that a distribution is just if everyone is entitled to the holdings they possess under the distribution' (1974, 151). Justice in holdings is represented by the following three rules:

1. A person who acquires a holding in accordance with the principle of *justice in acquisition* is entitled to that holding.
2. A person who acquires a holding in accordance with the principle of *justice in transfer*, from someone else who is entitled to the holding, is entitled to the holding.
3. No one is entitled to a holding except by (repeated) applications of 1 and 2. (Nozick 1974, 151)

These rules look backwards to see how a person came to hold the property, and in that sense are historical principles. A person may come upon a thing by purchasing it, by producing it, by receiving it as a gift, by gambling, by finding it, and so on. In legal terms, the transferee gets good title to a thing if the transferor had the right to pass property in the thing. It is possible that at some point in

the past a person obtained the property by theft, fraud or some other unlawful means. The current owner may be an innocent receiver in a chain of transactions that was started by a person who stole the property. How far back the law will look is a matter for each legal system, but all legal systems provide some means of rectifying past injustices. The common law and equity, for example, allow the tracing of property by the owner. Nozick therefore added a fourth principle:

4. A person who acquires a holding according to the principle of *rectification of injustice* is entitled to the holding (1974, 153).

Nozick added what he called a version of the Lockean Proviso. Locke's theory of property postulates that a person acquires a previously unowned thing by mixing his labour with the thing. A person who cultivates an acre of land that does not belong to any other person acquires it. Locke, however, stated a proviso that those who acquire things from nature must leave 'enough and as good in common' for others. Thus, if there is only one source of water in the desert a person cannot acquire it to the exclusion of all others. Nozick stated that any adequate theory of justice in acquisition will contain a similar proviso:

> A process normally giving rise to a permanent bequeathable property right in a previously unowned thing will not do so if the position of others no longer at liberty to use the thing is thereby worsened. (1974, 178)

Nozick contrasted historical principles with end-state principles. The aim of end-state principles is not merely to see that persons came to hold things in a lawful manner but also to determine a pattern of distribution of things across society according to some distributive principle. These principles can take many forms, such as: to each according to merit; or according to usefulness to society; or need; or marginal product; or the weighted sum of these qualities. The principles of historical entitlements do not ensure patterns of distribution, but on the contrary have a tendency to upset established patterns.

Nozick's criticism of Rawls' theory of justice

Rawls' case for distributive justice in its simplest form is that a system of social cooperation makes everyone better off than a system of non-cooperation in which each person fends for themselves by their own effort. Principles of justice are required to distribute the surplus that results from social cooperation. People in the original position will decide on the two principles that Rawls stated. Nozick challenged this theory on several grounds, and the most important among them are explained in what follows.

The principles that people settle on in the original position are not necessarily fair

This is an argument that Barry made, but it was previously identified by Nozick. People who have no knowledge of where they stand in society or what abilities

they possess will naturally seek to minimise their risk in case they happen to be the least endowed. Nozick's argument was: what has this to do with fairness and justice? Unanimity is not justice. Once the veil of ignorance is drawn they may find the system very unjust. Nozick employed the following illustration to make the point. I have simplified it for easy reading.

In the first scenario, a class of 10 students complete an examination and are given scores between 0 and 10. Let us say that the sum of all the scores given is 60. They are not told what scores each of them has received and are asked to determine unanimously what score each student should receive. The only condition is that the total of all the scores awarded must not exceed 60, which is the total of marks gained by the group as a whole. The students do not know how clever they are in relation to each other or how well each has prepared for the exam. In other words they are placed in a Rawlsian original position. The likely decision is to divide the total into equal shares so that each student gets 6. If the students are asked not to determine individual scores but a principle for distributing the scores, they would opt for the equality principle, namely dividing the whole by the number who sat the exam. The second scenario is the same as the first, except that the students are told the score each of them was actually awarded by the examiner. They are nevertheless given the right to overrule the examiner and award themselves the final scores. If self-interest is the sole criterion, the students will still not agree to anything but equality (Nozick 1974, 200).

The point Nozick made is the same one that Barry noticed. The conditions that Rawls created in the original position make self-interest the criterion for determining the principles of justice. Nozick's further point was that these conditions do not allow historical or entitlement principles to be considered. (The people do not even know their own histories.)

> The nature of the decision problem facing persons deciding on principles in an original position behind a veil of ignorance limits them to end-state principles of distribution. The self-interested person evaluates any non end-state principle on the basis of how it works out for him; his calculations about any principle focus on how he ends up under the principle. (Nozick 1974, 201)

The problem of procedural principles in Rawls

A procedural principle is a principle that governs a decision-making process. Whatever emerges from following the procedure is considered to be just. The procedural principle Rawls used is that of a contract concluded by persons in the original position. He wrote: 'The idea of the original position is to set up a fair procedure so that any principle agreed to will be just. The aim is to use the notion of pure procedural justice as a basis for theory' (1999, 118).

Nozick noticed a heavy irony in Rawls' use of the contract process to generate his principles of justice. The contract process yields a principle that is anti-contract. Rawls' principles of justice do not deny the freedom of contract. However, the difference principle takes precedence over contract and thus limits

contractual freedom. Freedom of contract is permitted only if it improves the conditions of the least advantaged persons in the community. Nozick's essential point is this. If the contract is a fair process to determine the principles of justice, contract should also be capable of being one of the principles of justice so determined. 'If processes are good enough to found a theory upon, they are good enough to be the possible result of the theory. One can't have it both ways' (Nozick 1974, 208–9).

Immorality of taking natural assets into account

Nozick reserved his harshest criticism for Rawls' position that the distribution of natural assets is arbitrary from a moral point of view. Natural assets are the inborn or self-developed qualities of a person, such as intelligence, psychological motivation, strength of character, single-mindedness and endurance. Rawls' view of these assets is revealed by the following passage:

> 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 effects of social contingencies, it still permits the distribution of wealth and income to be determined by the natural distribution of abilities and talents. Within the limits allowed by the background arrangements, distributive shares are decided by the outcome of the natural lottery; and this outcome is arbitrary from the 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. (Rawls 1999, 63–4)

Rawls refused to recognise even conscientious effort as a basis of distribution. He said: 'It seems clear that the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him' (1999, 274). This led Rawls to the conclusion: 'The difference principle represents, in effect, an agreement to regard the distribution of natural talents as in some respects a common asset . . . Those who have been favoured by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out' (1999, 87).

As Nozick pointed out, this approach amounts to attributing everything noteworthy about a person to 'external' factors (1974, 214). He doubted that any coherent conception of a person would remain after the person is stripped of talents, assets, abilities and special traits (1974, 228). An individual's talents benefit society anyway. A talented person is likely, all being equal, to be more productive than a talentless person. A talented person may be of greater service to others. A physician may have a higher income than a law professor. Part of the difference may be attributable to the difference in talents. It is more likely, though, that the difference correlates to the greater usefulness of the physician to the community. In other words, the difference in the incomes is based on a difference that is not arbitrary from the moral point of view (Nozick 1974, 218).

Nozick and social security

One of the frequent criticisms of Nozick's entitlement theory of justice is that it has no place for any form of socially provided safety net. The question, then, is whether the society can retain the loyalty of the poor who for one reason or another (such as old age and disability) cannot look after themselves. According to Nozick's theory, 'the state may not use its coercive apparatus for the purpose of getting some citizens to aid others' (1974, ix). The theory only excludes coercive means. In a minimal state social security will be a voluntary exercise. This presumably may take various forms, such as charities and privately funded social insurance. Nozick was aware that the apparent callousness towards the needs and suffering of others would turn many away from his theory. What he sought was a consistent theory of the state that did not violate the rights of citizens as defined by the rules concerning justice in holdings.

Another frequently heard criticism concerns Nozick's supposed failure to show why his entitlement theory is right. This is not true, as his entitlement theory is based on the Lockean moral theory of natural rights. Nozick rejected utilitarian arguments for entitlements because they lead to end-state justice, which is inconsistent with his Lockean view of natural rights. His reasoning commenced in the state of nature before the birth of government. Individuals had natural rights to their lives, liberty and property. (Imagine trying to live without liberty and property.) Property is acquired in the first instance by persons taking possession of things that are not already owned. This is his principle of justice in acquisition. Property thereafter changes hands according to the principle of justice in transfer and the principle of rectification. Nozick theorised how a minimal state may arise that does not violate these rights through free contracting. One may disagree with the Lockean theory of natural rights. However, anyone who adopts the Lockean view will find in Nozick's *Anarchy, State and Utopia* one of the most systematic, logical and coherent expositions of the principles of justice that flow from this view.

Evolutionary theory of justice

I discussed in the previous two sections the two main contending theories of justice that emerged in the late 20th century. They are both located within the social contract tradition in political philosophy. The subject of justice must not be concluded without considering an alternative approach, based not on contract but on the evolutionary view of human society and institutions. The evolutionary tradition was discussed in Chapter 10, but its specific contribution to the question of justice remains to be examined.

The evolutionary point of view on justice was first presented by the Scottish philosopher David Hume in his monumental work *A Treatise of Human Nature*,

which was published in 1739 when Hume was just 28 years old. Hume, like Locke, was one of the great British empiricists. However, unlike Locke, Hume regarded the fundamental laws of social life and principles of justice not as natural but as fashioned by accumulated experience.

Hume and the conventional (artificial) nature of justice

Hume developed his theory of justice through a number of stages, and we will do well to distinguish them.

Virtue is determined by motive

Hume commenced his treatment of justice with the observation that the justice of an act does not consist of the act itself but the motive behind it: 'The external performance has no merit. We must look within to find the moral quality' (Hume 1978 (1739–40), 477). Since we cannot read minds, we deduce motives from our observation of actions. Our attention is usually fixed on the signs to the neglect of motive, but on occasion we revise our judgment of an act when the motive comes to light. We may think that a person who walks away with a gold coin belonging to another person has acted unjustly, until we realise that the person was genuinely mistaken because she owns an identical-looking gold coin.

Hume argued that the virtue of an act cannot be in the act itself, but in an antecedent motive. 'We blame a father for neglecting his child. Why? Because it shews a want of natural affection, which is the duty of every parent. Were not natural affection a duty the care of children cou'd not be a duty . . . ' (Hume 1978, 478). Humanitarian acts of a philanthropist are regarded as virtuous because of the antecedent principle of humanity. Hume concluded:

> In short, it may be establish'd as an undoubted maxim, *that no action can be virtuous, or morally good, unless there be in human nature some motive to produce it, distinct from the sense of its morality* (1978, 479).

Hume took the view that certain virtuous motives are common in human nature. In other words, certain virtues are hard wired in us. Hume called these virtuous motives 'impelling passions' (1978, 483). Particular individuals may not have a particular virtuous motive or impelling passion, such as gratitude, but may practise it in order to acquire it or to hide the lack of it. (Some, like robbers and swindlers, do not care to hide their lack of virtue.) Nature, though, hardwires us in certain ways. Hume explained:

> A man naturally loves his children better than his nephews, his nephews better than his cousins, his cousins better than strangers, where everything else is equal. Hence arise our common measures of duty, in preferring one to the other. Our sense of duty always follows the common and natural course of our passions. (1978, 483–4)

The conventional (artificial) nature of justice

It follows from the previous observations that actions are just or unjust according to motivation. It is circular reasoning to say that an act is just because of the justice

of the act. So what motivates just conduct in a society? Hume, along with most political philosophers, agreed that persons can achieve more in society than in a state of individual existence. Rules of justice are born out of the necessity of society. People possess three kinds of goods: (1) internal satisfaction of the mind; (2) external advantages of the body; and (3) possessions acquired by labour or good fortune (Hume 1978, 487). A person may control the first two, but the protection of possessions requires mutual respect. I do not take your possessions so long as you do not take mine. Thus, there is an overwhelming motivation to settle on certain rules of justice. The rules of justice are therefore not natural, but founded on convention. How is this settlement reached? Locke and Hobbes and Rawls constructed a hypothetical scenario of a social contract. Hume rejected this approach in favour of an evolutionary explanation.

Evolutionary nature of the rules of justice

Hume realised that human beings have always lived in society, however far back we go in the history of the species. They could not have lived in a state of nature, as envisaged by Hobbes and Locke. Conventions are as old as society. The state of nature can only be a convenient fiction for philosophers (Hume 1978, 493). Paleoanthropology confirms this view.

Hume maintained that the convention is not in the nature of a promise or contract, because promises themselves are founded on conventions. What is the nature of a contract? It is that the parties must fulfil their duties under its terms. However, the duty to perform contractual obligations cannot be founded in the contract itself, for that would lead to hopeless circularity. (A contract must be observed because the contract requires that it be observed!) Hence it has to be based on some other reason, such as mutual convenience.

According to Hume, conventions arise not through the deliberations of an assembly but by the gradual and insensible realisation among interacting individuals of the advantage of observing certain rules. Hume compared the growth of rules of justice to the emergence of language and the institution of money as substitute for goods:

> Two men, who pull the oars of a boat, do it by an agreement or convention, tho' they have never given promises to each other. Nor is the rule concerning the stability of possession the less deriv'd from human convention, that it arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it. On the contrary, this experience assures us still more, that the sense of interest has become common to all our fellows, and gives us a confidence of the future regularity of their conduct: And 'tis only on the expectation of this, that our moderation and abstinence is founded. (1978, 490)

For Hume, then, conventions are practices formed over time through the regularities of behaviour that lead persons to rely on those practices in going about their lives. I leave my house to go to work in the knowledge that it will not be plundered by others. Likewise, others expect me not to harm their possessions. The stability of possessions thus established gives rise to the idea of justice and

injustice as well as property, right and obligation (Hume 1978, 490–1). 'A man's property is some object related to him. This relation is not natural but moral and founded on justice' (Hume 1978, 491).

Hume drew three major conclusions from this idea of justice:

1. Regard to the public interest or a strong sense of benevolence is not the origin of justice, but selfishness and the scarcities of things provided by nature. People are compelled to accept the rule concerning the stability of possessions in order to survive. If things are in abundance and people are naturally generous, justice has no use (1978, 495–6).
2. Justice is not founded on reason or the discovery of universal, eternal and immutable obligations. The sense of justice is not founded on ideas but on impressions (1978, 496).
3. The impressions that give rise to the sense of justice are not natural, but arise from 'artifice and convention' (1978, 496).

Adam Smith on justice

Adam Smith (1723–90) is best known for his book *An Inquiry into the Nature and Causes of the Wealth of Nations*, published in 1776. It set out the philosophy and the principles of markets and free trade, and stands as the most influential book in the history of economic thought. Smith's other great work, *The Theory of Moral Sentiments*, published in 1759, is less well known outside philosophical circles. Yet it is one of the most important treatises in moral philosophy written in the English language. In Parts II and III of the book we find Smith's most important contribution to moral philosophy. They deal with the two main 'outward' moralities: justice and beneficence.

Original passions and the role of sympathy

Like his friend David Hume, Adam Smith took an evolutionary view of human morality. The starting point of moral discourse for both Hume and Smith was the instincts or 'original passions' of man. These are qualities that are hardwired in human beings. Current evolutionary psychology offers explanations of how these instincts may have become ingrained in the human psyche. Smith, Hume and other evolutionist thinkers in the 18th century did not have the benefit of discoveries in biological and psychological evolution or in post-Mendelian genetics (Tooby & Cosmides 1992; Jones 1999, 288; Dennett 1996, 79–80). Yet these discoveries have reinforced Smith's initial premise: that human beings are psychologically endowed with certain instincts or original passions. Smith began his *Treatise* by asserting that one of the original passions of a human being is sympathy or fellow feeling. This was a sharp departure from Hume's position that every benevolent feeling arises, in the ultimate analysis, out of self-love. Smith argued that though man is selfish by nature, 'there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it except the

pleasure of seeing it' (Smith 1976 (1759), 9). Smith's 'sympathy' is a broad concept that includes the capacity to empathise with both the misfortunes and the fortunes of others.

Smith initially distinguished between two types of moral judgment. The first is the judgment of the *propriety or impropriety* of a person's passions in responding to events. Assume that A steals B's wallet containing a small sum of money. B is properly upset and resentful. However, if B reacts with excessive grief, as if he has lost his entire fortune, his behaviour may be judged by others to be improper. Or else, if B is boastful of some achievement or good fortune, his reaction will be judged by others to be improper. The second type of moral judgment relates to the *merits and demerits* of actions. This is judgment about the proper reward or punishment for an act (Smith 1976, 93).

The impartial spectator

How should judgments about propriety or just deserts be made? Smith argued that moral judgments are those made from the point of view of the impartial spectator. Why the impartial spectator? Smith's argument proceeds as follows. Sympathy or fellow feeling is a universal instinct. A person can have sympathy for another only if the person can imagine the feelings of the other. We cannot get into the mind of another. So we imagine their feelings by the way we ourselves would feel in their situation. 'To approve or disapprove, therefore, of the opinions of others is acknowledged, by every body, to mean no more than to observe the agreement or disagreement with our own' (Smith 1976, 117). Assume that W sees A stealing B's wallet and observes B's unhappiness. W has sympathy for B because W knows that she would feel the same way if she was the victim. However, a person can never fully associate with the feelings of another. W's resentment of A's act is likely to be somewhat weaker than B's own resentment of it. Hence, overreaction will not meet with W's approval. The aggrieved person, therefore, is advised to attune his passion to the level of an impartial spectator if he is to gain their sympathy. 'He can only hope to obtain this [sympathy] by lowering his passion to that pitch, in which the spectators are capable of going along with him' (Smith 1976, 22). Thus, moral judgment about propriety and impropriety of an action is that of the impartial spectator, who has no particular positive or negative relation to the parties directly involved. Likewise, proper judgment about reward or punishment for the act of theft is that of the impartial spectator. B may feel that A deserves life imprisonment, but he will not find much sympathy for this from the impartial spectator.

In Part I of the book, Smith discussed at great length the degrees of different passions that are consistent with propriety. Smith identified passions that arise from the appetites of the body or sensory factors (hunger, sexual urge, pain), from imagination (romantic love), unsocial passions (hatred and resentment), social passions (generosity, kindness) and selfish passions (self-centred grief and joy). The impartial spectator will draw the line of propriety at different points in relation to different passions. Two categories of passions are particularly

significant in Smith's moral system. First, a person who controls the passions that arise from bodily appetite displays the virtue of *temperance*, for which they gain public approbation. Second, a person who is kind, generous and helpful engages in the virtue of *beneficence*. Whereas temperance is mainly about self-control and does not directly concern others, the effects of *beneficence* – like those of *justice* – extend to others.

Emergence of the rules of justice

Sympathy is the origin of the ideas of beneficence and of justice. The absence of beneficence or of the sense of justice in a person evokes disapprobation. However, it is only unjust conduct that inspires the stronger feeling of resentment and leads to the demand for retribution. This is a critical distinction. Beneficence involves positive action, whereas justice is concerned with the breach of negatively expressed prohibitions. That one should show charity to a victim of misfortune is a principle of beneficence. That one should not steal another's property is a rule of justice. Smith rejected the notion of social justice. He wrote: 'Beneficence is always free, it cannot be extorted by force, the mere want of it exposes to no punishment; because the mere want of beneficence tends to do no real positive evil' (1976, 78). A person could be just without being beneficent. 'We may often fulfil all the rules of justice by sitting still and doing nothing' (Smith 1976, 82).

According to Smith, the sense of justice also is rooted in sympathy. The impartial spectator identifies with the pain of the victim of violence and approves of their desire for punishment, though not to the same extent as the victim desires. How does the sense of justice, which is hardwired in us, give rise to rules of justice? The answer is found in another aspect of human nature – the tendency to self-deceit. As previously mentioned, Smith had an evolutionary view of the emergence of social order. Rules arise because our sense of justice fails us when we most need it. This is when we have to judge our own actions. We cannot stop and make reasoned judgments before every action, not only because we often act on the spur of the moment but also because our judgments are coloured by our own passions. If we reflect on our actions afterwards, we are prone to forgive ourselves. This flaw in our nature is overcome by other instincts that allow us to identify the proper rules of conduct. 'Our continual observations upon the conduct of others, insensibly lead us to form to ourselves certain general rules concerning what is fit and proper either to be done or to be avoided' (Smith 1976, 159). The coincidence of these individual perceptions leads to the crystallisation of moral rules of just conduct. Rules were not originally established by a designer with prescience, but through the accumulation of experience. Smith wrote:

> We do not originally approve or condemn particular actions because, upon examination, they appear to be agreeable or inconsistent with a certain general rule. The general rule, on the contrary, is formed, by finding from experience, that all actions of a certain kind, or circumstanced in a certain manner, are approved or disapproved of. (1976, 159)

This is the quintessential evolutionary argument. However, the persistence of general rules involves another element. Rules of justice exist because most people observe them voluntarily most of the time. The element of observance is supplied by the virtue of self-command – the virtue that Smith considered to be the fountain of all other virtues (1976, 241). Knowledge of the rules of conduct alone will not secure their observance. Self-interest seduces people to violate the rules that they know and approve. It is self-command that suppresses our immediate temptations and directs us to the observance of the rules of justice.

Smith's account of the emergence of rules is consistent with modern game theory, which attributes the evolution of cooperation to the dominance of the 'tit for tat' strategy (Axelrod 1990). According to Smith, it is the anticipation of disapproval, or 'tit for tat', that leads us to form the rules of proper conduct. The rules that are so formed have a customary character. In Part V of the book, Smith discussed another kind of custom or fashion – particular local usages. These usages, when they coincide with the natural principles of right and wrong 'heighten the delicacy of our sentiments, and increase our abhorrence of everything which approaches to evil' (Smith 1976, 200). Smith, however, was of the view that particular usages are often destructive of good morals, for they are 'capable of establishing, as lawful and blameless, particular actions, which shock the plainest principles of right and wrong' (1976, 209). He gave, as a particularly barbaric example, the custom of infanticide in Greek cities, which even Plato and Aristotle failed to condemn.

The central implications of the evolutionary view of justice

There are three major implications of the evolutionary view of the rules of justice. The first is that they are general and impersonal. The second is that they concern the conduct of persons. The third is that they impose negative obligations.

Distillation through experience is a process of generalisation or abstraction. The fruits of experience are preserved 'not as a recollection of particular events, or explicit knowledge of the kind of situation likely to occur, but as a sense of the importance of observing certain rules' (Hayek 1982, 2, 4). A rule of conduct can be universalised only in the negative form, unless the rule relates to a very narrow type of circumstance. It is impossible to express the rules against murder, rape, theft, trespass, and non-performance of contracts in positive terms if they are to protect all persons currently living and yet to be born. Universality can be achieved only by the 'Thou shall not . . . ' formula. Even when it appears that a rule requires positive action, it will be seen on closer examination to be capable of negative formulation. The rule that requires contracts to be performed is a rule that prohibits actions contrary to the contract. The rule that requires a surgeon to provide post-surgical care to a patient is actually an application of the rule against negligence, measured by the standard of care expected of a surgeon. Even in the rare cases where the common law imposes positive duties, such as the seafarer's duty of rescue at sea, there is a special relationship at play where

the duty bearer is in a unique, hence quasi-fiduciary, position in relation to the beneficiary. The law can be generalised into the injunction: 'Do not abandon a person whose life uniquely depends on you, if you can save that person without endangering your own life'.

Only norms that can be universalised can become recognised as rules of justice, but not all such norms are so recognised. As Hayek noted, Kant's categorical imperative – to act only by rules that you will apply to all – is a necessary but not sufficient condition of justice (1982, 2, 43). The difference between justice and beneficence is rooted in the very structure of the evolved complex order that is society. The rules of justice are the coordinating principles of social life without which the social structure collapses. They are determined by the nature of the spontaneous order of society. The difference between rules of justice and norms of beneficence may be seen from another angle. Rules of justice forming the same system are generally accommodated to each other, and hence may be enforced without violence to one another. Rules of justice also can be enforced without violence to beneficence, but beneficence cannot be enforced without violence to justice.

Rules of just conduct concern a person's relations with others. A rule that is concerned with a thing will be a rule of justice insofar as it also concerns some other person. Thus, the rules against pollution are rules of justice where they prevent harm to others. However, the state has a history of legislating rules that prohibit conduct where the harm to others is not clear. Examples include prohibitions of pornography that involves no harm to others, alcohol consumption and, in some societies, homosexual acts. These are attempts to enforce temperance or religious norms rather than justice.

Successful and harmonious societies display justice, beneficence and temperance. A society in which those less fortunate receive no sympathy or assistance is unlikely to be stable. Nor would one in which licentiousness and intemperance reign, as the fate of the Roman Empire showed. This message was not lost on evolutionist thinkers. Beneficence carries rewards in the form of psychological fulfilment, reciprocal beneficence and enhanced reputation that fosters trust in future dealings. Society also benefits from beneficence to the extent that it promotes trust and eases dependence on the state. Smith's argument was that although the absence of beneficence excites disapprobation, attempts to extort it would be even more improper (Smith 1976, 79). He wrote: 'To neglect it altogether exposes the commonwealth to many gross disorders and shocking enormities, and to push it too far is destructive of all liberty, security, and justice' (1976, 81). Smith realised that while beneficence is highly desirable, it cannot be exacted without jeopardising the more fundamental morality that is justice. Beneficence is the 'ornament which embellishes' the building, whereas justice 'is the main pillar that upholds the whole edifice' (Smith 1976, 86). While both justice and beneficence form the moral capital of society, the state is effective only in the promotion of justice. Beneficence can only be promoted by 'advice and persuasion' (Smith 1976, 81).

We need to keep in mind that justice means different ideas to different persons. The evolutionists understood justice as the observance of the fundamental rules of conduct established by the accumulated experience of humankind. Care for the victims of misfortune was left to beneficence. The modern welfare states have chosen to exact beneficence from citizens by the coercive transfer of wealth among persons, in the form of benefits paid out of tax revenue and regulations that favour particular groups at the expense of others. This has been done in the name of justice – not in the sense understood by the evolutionist thinkers or by natural rights theorists such as Locke and Nozick, but in the sense of fair distributions of the wealth of society that theorists such as Rawls and Barry proposed.

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