9/15

A THEORY OF JUSTICE

JOHN RAWLS

THE BELKNAP PRESS OF
HARVARD UNIVERSITY PRESS
CAMBRIDGE, MASSACHUSETTS

20 19
Library of Congress Catalog Card Number 73-168432
ISBN 0-674-88014-5
Printed in the United States of America

For Mard

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 concepts of justice and fairness are the same, any more than the phrase "poetry as metaphor" means that the concepts of poetry and metaphor are the same.

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.

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.

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.

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

the beliefs and interests of the parties, their relations with respect to one another, the alternatives between which they are to choose, the procedure whereby they make up their minds, and so on. As the circumstances are presented in different ways, correspondingly different principles are accepted. The concept of the original position, as I shall refer to it, is that of the most philosophically favored interpretation of this initial choice situation for the purposes of a theory of justice.

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

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

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

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

There is, however, another side to justifying a particular description of the original position. This is to see if the principles which would be chosen match our considered convictions of justice or extend them in an acceptable way. We can note whether applying these principles would lead us to make the same judgments about the basic structure of society which we now make intuitively and in which we have the greatest confidence; or whether, in cases where our present judgments are in doubt and given with hesitation, these principles offer a resolution which we can affirm on reflection. There are questions which we feel sure must be answered in a certain way. For example, we are confident that religious intolerance and racial discrimination are unjust. We think that we have examined these

things with care and have reached what we believe is an impartial judgment not likely to be distorted by an excessive attention to our own interests. These convictions are provisional fixed points which we presume any conception of justice must fit. But we have much less assurance as to what is the correct distribution of wealth and authority. Here we may be looking for a way to remove our doubts. We can check an interpretation of the initial situation, then, by the capacity of its principles to accommodate our firmest convictions and to provide guidance where guidance is needed.

In searching for the most favored description of this situation we work from both ends. We begin by describing it so that it represents generally shared and preferably weak conditions. We then see if these conditions are strong enough to yield a significant set of principles. If not, we look for further premises equally reasonable. But if so, and these principles match our considered convictions of justice, then so far well and good. But presumably there will be discrepancies. In this case we have a choice. We can either modify the account of the initial situation or we can revise our existing judgments, for even the judgments we take provisionally as fixed points are liable to revision. By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgments and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgments duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium.[7] It is an equilibrium because at last our principles and judgments coincide; and it is reflective since we know to what principles our judgments conform and the premises of their derivation. At the moment everything is in order. But this equilibrium is not necessarily stable. It is liable to be upset by further examination of the conditions which should be imposed on the contractual situation and by particular

7. The process of mutual adjustment of principles and considered judgments is not peculiar to moral philosophy. See Nelson Goodman, *Fact, Fiction, and Forecast* (Cambridge, Mass., Harvard University Press, 1955), pp. 65–68, for parallel remarks concerning the justification of the principles of deductive and inductive inference.

cases which may lead us to revise our judgments. Yet for the time being we have done what we can to render coherent and to justify our convictions of social justice. We have reached a conception of the original position.

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

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

from which we can best interpret moral relationships. We need a conception that enables us to envision our objective from afar: the intuitive notion of the original position is to do this for us.[8]

5. CLASSICAL UTILITARIANISM

There are many forms of utilitarianism, and the development of the theory has continued in recent years. I shall not survey these forms here, nor take account of the numerous refinements found in contemporary discussions. My aim is to work out a theory of justice that represents an alternative to utilitarian thought generally and so to all of these different versions of it. I believe that the contrast between the contract view and utilitarianism remains essentially the same in all these cases. Therefore I shall compare justice as fairness with familiar variants of intuitionism, perfectionism, and utilitarianism in order to bring out the underlying differences in the simplest way. With this end in mind, the kind of utilitarianism I shall describe here is the strict classical doctrine which receives perhaps its clearest and most accessible formulation in Sidgwick. The main idea is that society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it.[9]

8. Henri Poincaré remarks: "Il nous faut une faculté qui nous fasse voir le but de loin, et, cette faculté, c'est l'intuition." *La Valeur de la science* (Paris, Flammarion, 1909), p. 27.

9. I shall take Henry Sidgwick's *The Methods of Ethics*, 7th ed. (London, 1907), as summarizing the development of utilitarian moral theory. Book III of his *Principles of Political Economy* (London, 1883) applies this doctrine to questions of economic and social justice, and is a precursor of A. C. Pigou, *The Economics of Welfare* (London, Macmillan, 1920). Sidgwick's *Outlines of the History of Ethics*, 5th ed. (London, 1902), contains a brief history of the utilitarian tradition. We may follow him in assuming, somewhat arbitrarily, that it begins with Shaftesbury's *An Inquiry Concerning Virtue and Merit* (1711) and Hutcheson's *An Inquiry Concerning Moral Good and Evil* (1725). Hutcheson seems to have been the first to state clearly the principle of utility. He says in *Inquiry*, sec. III, §8, that "that action is best, which procures the greatest happiness for the greatest numbers; and that, worst, which, in like manner, occasions misery." Other major eighteenth century works are Hume's *A Treatise of Human Nature* (1739), and *An Enquiry Concerning the Principles of Morals* (1751); Adam Smith's *A Theory of the Moral Sentiments* (1759); and Bentham's *The Principles of Morals and Legislation* (1789). To these we must add the writings of J. S. Mill represented by *Utilitarianism* (1863) and F. Y. Edgeworth's *Mathematical Psychics* (London, 1888).

The discussion of utilitarianism has taken a different turn in recent years by focusing on what we may call the coordination problem and related questions of publicity. This development stems from the essays of R. F. Harrod, "Utilitarianism Revised," *Mind*, vol. 45 (1936); J. D. Mabbott, "Punishment," *Mind*, vol. 48 (1939); Jonathan Harrison, "Utilitarianism, Universalisation, and Our Duty to Be Just," *Proceedings of the Aristotelian Society*, vol. 53 (1952–53); and J. O. Urmson, "The Interpretation of the Philosophy of J. S. Mill," *Philosophical Quarterly*, vol. 3 (1953). See also J. J. C. Smart, "Extreme and Restricted Utilitarianism," *Philosophical Quarterly*, vol. 6 (1956), and his *An Outline of a System of Utilitarian Ethics* (Cambridge, The University Press, 1961). For an account of these matters, see David Lyons, *Forms and Limits of Utilitarianism* (Oxford, The Clarendon Press, 1965); and Allan Gibbard, "Utilitarianisms and Coordination" (dissertation, Harvard University, 1971). The problems raised by these works, as important as they are, I shall leave aside as not bearing directly on the more elementary question of distribution which I wish to discuss.

Finally, we should note here the essays of J. C. Harsanyi, in particular, "Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking," *Journal of Political Economy*, 1953, and "Cardinal Welfare, Individualistic Ethics, and Interpersonal Comparisons of Utility," *Journal of Political Economy*, 1955; and R. B. Brandt, "Some Merits of One Form of Rule-Utilitarianism," *University of Colorado Studies* (Boulder, Colorado, 1967). See below §§27–28.

We may note first that there is, indeed, a way of thinking of society which makes it easy to suppose that the most rational conception of justice is utilitarian. For consider: each man in realizing his own interests is certainly free to balance his own losses against his own gains. We may impose a sacrifice on ourselves now for the sake of a greater advantage later. A person quite properly acts, at least when others are not affected, to achieve his own greatest good, to advance his rational ends as far as possible. Now why should not a society act on precisely the same principle applied to the group and therefore regard that which is rational for one man as right for an association of men? Just as the well-being of a person is constructed from the series of satisfactions that are experienced at different moments in the course of his life, so in very much the same way the well-being of society is to be constructed from the fulfillment of the systems of desires of the many individuals who belong to it. Since the principle for an individual is to advance as far as possible his own welfare, his own system of desires, the principle for society is to advance as far as possible the welfare of the group, to realize to the

9. SOME REMARKS ABOUT MORAL THEORY

It seems desirable at this point, in order to prevent misunderstanding, to discuss briefly the nature of moral theory. I shall do this by explaining in more detail the concept of a considered judgment in reflective equilibrium and the reasons for introducing it.[24]

Let us assume that each person beyond a certain age and possessed of the requisite intellectual capacity develops a sense of justice under normal social circumstances. We acquire a skill in judging things to be just and unjust, and in supporting these judgments by reasons. Moreover, we ordinarily have some desire to act in accord with these pronouncements and expect a similar desire on the part of others. Clearly this moral capacity is extraordinarily complex. To see this it suffices to note the potentially infinite number and variety of judgments that we are prepared to make. The fact that we often do not know what to say, and sometimes find our minds unsettled, does not detract from the complexity of the capacity we have.

Now one may think of moral philosophy at first (and I stress the provisional nature of this view) as the attempt to describe our moral capacity; or, in the present case, one may regard a theory of justice as describing our sense of justice. This enterprise is very difficult. For by such a description is not meant simply a list of the judgments on institutions and actions that we are prepared to render, accompanied with supporting reasons when these are offered. Rather, what is required is a formulation of a set of principles which, when conjoined to our beliefs and knowledge of the circumstances, would lead us to make these judgments with their supporting reasons were we to apply these principles conscientiously and intelligently. A conception of justice characterizes our moral sensibility when the everyday judgments we do make are in accordance with its principles. These principles can serve as part of the premises of an argument which arrives at the matching judgments. We do not understand our sense of justice until we know in some systematic way covering a wide range of cases what these principles are. Only a deceptive familiarity with our everyday judgments and our natural readiness to make them

24. In this section I follow the general point of view of "Outline of a Procedure for Ethics," *Philosophical Review*, vol. 60 (1951). The comparison with linguistics is of course new.

could conceal the fact that characterizing our moral capacities is an intricate task. The principles which describe them must be presumed to have a complex structure, and the concepts involved will require serious study.

A useful comparison here is with the problem of describing the sense of grammaticalness that we have for the sentences of our native language.[25] In this case the aim is to characterize the ability to recognize well-formed sentences by formulating clearly expressed principles which make the same discriminations as the native speaker. This is a difficult undertaking which, although still unfinished, is known to require theoretical constructions that far outrun the ad hoc precepts of our explicit grammatical knowledge. A similar situation presumably holds in moral philosophy. There is no reason to assume that our sense of justice can be adequately characterized by familiar common sense precepts, or derived from the more obvious learning principles. A correct account of moral capacities will certainly involve principles and theoretical constructions which go much beyond the norms and standards cited in everyday life; it may eventually require fairly sophisticated mathematics as well. This is to be expected, since on the contract view the theory of justice is part of the theory of rational choice. Thus the idea of the original position and of an agreement on principles there does not seem too complicated or unnecessary. Indeed, these notions are rather simple and can serve only as a beginning.

So far, though, I have not said anything about considered judgments. Now, as already suggested, they enter as those judgments in which our moral capacities are most likely to be displayed without distortion. Thus in deciding which of our judgments to take into account we may reasonably select some and exclude others. For example, we can discard those judgments made with hesitation, or in which we have little confidence. Similarly, those given when we are upset or frightened, or when we stand to gain one way or the other can be left aside. All these judgments are likely to be erroneous or to be influenced by an excessive attention to our own interests. Considered judgments are simply those rendered under conditions favorable to the exercise of the sense of justice, and therefore in circum-

25. See Noam Chomsky, *Aspects of the Theory of Syntax* (Cambridge, Mass., The M.I.T. Press, 1965), pp. 3–9.

stances where the more common excuses and explanations for making a mistake do not obtain. The person making the judgment is presumed, then, to have the ability, the opportunity, and the desire to reach a correct decision (or at least, not the desire not to). Moreover, the criteria that identify these judgments are not arbitrary. They are, in fact, similar to those that single out considered judgments of any kind. And once we regard the sense of justice as a mental capacity, as involving the exercise of thought, the relevant judgments are those given under conditions favorable for deliberation and judgment in general.

I now turn to the notion of reflective equilibrium. The need for this idea arises as follows. According to the provisional aim of moral philosophy, one might say that justice as fairness is the hypothesis that the principles which would be chosen in the original position are identical with those that match our considered judgments and so these principles describe our sense of justice. But this interpretation is clearly oversimplified. In describing our sense of justice an allowance must be made for the likelihood that considered judgments are no doubt subject to certain irregularities and distortions despite the fact that they are rendered under favorable circumstances. When a person is presented with an intuitively appealing account of his sense of justice (one, say, which embodies various reasonable and natural presumptions), he may well revise his judgments to conform to its principles even though the theory does not fit his existing judgments exactly. He is especially likely to do this if he can find an explanation for the deviations which undermines his confidence in his original judgments and if the conception presented yields a judgment which he finds he can now accept. From the standpoint of moral philosophy, the best account of a person's sense of justice is not the one which fits his judgments prior to his examining any conception of justice, but rather the one which matches his judgments in reflective equilibrium. As we have seen, this state is one reached after a person has weighed various proposed conceptions and he has either revised his judgments to accord with one of them or held fast to his initial convictions (and the corresponding conception).

The notion of reflective equilibrium introduces some complications that call for comment. For one thing, it is a notion characteristic of the study of principles which govern actions shaped by self-

examination. Moral philosophy is Socratic: we may want to change our present considered judgments once their regulative principles are brought to light. And we may want to do this even though these principles are a perfect fit. A knowledge of these principles may suggest further reflections that lead us to revise our judgments. This feature is not peculiar though to moral philosophy, or to the study of other philosophical principles such as those of induction and scientific method. For example, while we may not expect a substantial revision of our sense of correct grammar in view of a linguistic theory the principles of which seem especially natural to us, such a change is not inconceivable, and no doubt our sense of grammaticalness may be affected to some degree anyway by this knowledge. But there is a contrast, say, with physics. To take an extreme case, if we have an accurate account of the motions of the heavenly bodies that we do not find appealing, we cannot alter these motions to conform to a more attractive theory. It is simply good fortune that the principles of celestial mechanics have their intellectual beauty.

There are, however, several interpretations of reflective equilibrium. For the notion varies depending upon whether one is to be presented with only those descriptions which more or less match one's existing judgments except for minor discrepancies, or whether one is to be presented with all possible descriptions to which one might plausibly conform one's judgments together with all relevant philosophical arguments for them. In the first case we would be describing a person's sense of justice more or less as it is although allowing for the smoothing out of certain irregularities; in the second case a person's sense of justice may or may not undergo a radical shift. Clearly it is the second kind of reflective equilibrium that one is concerned with in moral philosophy. To be sure, it is doubtful whether one can ever reach this state. For even if the idea of all possible descriptions and of all philosophically relevant arguments is well-defined (which is questionable), we cannot examine each of them. The most we can do is to study the conceptions of justice known to us through the tradition of moral philosophy and any further ones that occur to us, and then to consider these. This is pretty much what I shall do, since in presenting justice as fairness I shall compare its principles and arguments with a few other familiar views. In light of these remarks, justice as fairness can be understood

as saying that the two principles previously mentioned would be chosen in the original position in preference to other traditional conceptions of justice, for example, those of utility and perfection; and that these principles give a better match with our considered judgments on reflection than these recognized alternatives. Thus justice as fairness moves us closer to the philosophical ideal; it does not, of course, achieve it.

This explanation of reflective equilibrium suggests straightway a number of further questions. For example, does a reflective equilibrium (in the sense of the philosophical ideal) exist? If so, is it unique? Even if it is unique, can it be reached? Perhaps the judgments from which we begin, or the course of reflection itself (or both), affect the resting point, if any, that we eventually achieve. It would be useless, however, to speculate about these matters here. They are far beyond our reach. I shall not even ask whether the principles that characterize one person's considered judgments are the same as those that characterize another's. I shall take for granted that these principles are either approximately the same for persons whose judgments are in reflective equilibrium, or if not, that their judgments divide along a few main lines represented by the family of traditional doctrines that I shall discuss. (Indeed, one person may find himself torn between opposing conceptions at the same time.) If men's conceptions of justice finally turn out to differ, the ways in which they do so is a matter of first importance. Of course we cannot know how these conceptions vary, or even whether they do, until we have a better account of their structure. And this we now lack, even in the case of one man, or homogeneous group of men. Here too there is likely to be a similarity with linguistics: if we can describe one person's sense of grammar we shall surely know many things about the general structure of language. Similarly, if we should be able to characterize one (educated) person's sense of justice, we would have a good beginning toward a theory of justice. We may suppose that everyone has in himself the whole form of a moral conception. So for the purposes of this book, the views of the reader and the author are the only ones that count. The opinions of others are used only to clear our own heads.

I wish to stress that a theory of justice is precisely that, namely, a

theory. It is a theory of the moral sentiments (to recall an eighteenth century title) setting out the principles governing our moral powers, or, more specifically, our sense of justice. There is a definite if limited class of facts against which conjectured principles can be checked, namely, our considered judgments in reflective equilibrium. A theory of justice is subject to the same rules of method as other theories. Definitions and analyses of meaning do not have a special place: definition is but one device used in setting up the general structure of theory. Once the whole framework is worked out, definitions have no distinct status and stand or fall with the theory itself. In any case, it is obviously impossible to develop a substantive theory of justice founded solely on truths of logic and definition. The analysis of moral concepts and the a priori, however traditionally understood, is too slender a basis. Moral philosophy must be free to use contingent assumptions and general facts as it pleases. There is no other way to give an account of our considered judgments in reflective equilibrium. This is the conception of the subject adopted by most classical British writers through Sidgwick. I see no reason to depart from it.[26]

Moreover, if we can find an accurate account of our moral conceptions, then questions of meaning and justification may prove much easier to answer. Indeed some of them may no longer be real questions at all. Note, for example, the extraordinary deepening of our understanding of the meaning and justification of statements in logic and mathematics made possible by developments since Frege and Cantor. A knowledge of the fundamental structures of logic and set theory and their relation to mathematics has transformed the

26. I believe that this view goes back in its essentials to Aristotle's procedure in the *Nicomachean Ethics*. See W. F. R. Hardie, *Aristotle's Ethical Theory*, ch. III, esp. pp. 37–45. And Sidgwick thought of the history of moral philosophy as a series of attempts to state "in full breadth and clearness those primary intuitions of Reason, by the scientific application of which the common moral thought of mankind may be at once systematized and corrected." *The Methods of Ethics*, pp. 373f. He takes for granted that philosophical reflection will lead to revisions in our considered judgments, and although there are elements of epistemological intuitionism in his doctrine, these are not given much weight when unsupported by systematic considerations. For an account of Sidgwick's methodology, see J. B. Schneewind, "First Principles and Common Sense Morality in Sidgwick's Ethics," *Archiv für Geschichte der Philosophie*, Bd. 45 (1963).

philosophy of these subjects in a way that conceptual analysis and linguistic investigations never could. One has only to observe the effect of the division of theories into those which are decidable and complete, undecidable yet complete, and neither complete nor decidable. The problem of meaning and truth in logic and mathematics is profoundly altered by the discovery of logical systems illustrating these concepts. Once the substantive content of moral conceptions is better understood, a similar transformation may occur. It is possible that convincing answers to questions of the meaning and justification of moral judgments can be found in no other way.

I wish, then, to stress the central place of the study of our substantive moral conceptions. But the corollary to recognizing their complexity is accepting the fact that our present theories are primitive and have grave defects. We need to be tolerant of simplifications if they reveal and approximate the general outlines of our judgments. Objections by way of counterexamples are to be made with care, since these may tell us only what we know already, namely that our theory is wrong somewhere. The important thing is to find out how often and how far it is wrong. All theories are presumably mistaken in places. The real question at any given time is which of the views already proposed is the best approximation overall. To ascertain this some grasp of the structure of rival theories is surely necessary. It is for this reason that I have tried to classify and to discuss conceptions of justice by reference to their basic intuitive ideas, since these disclose the main differences between them.

In presenting justice as fairness I shall contrast it with utilitarianism. I do this for various reasons, partly as an expository device, partly because the several variants of the utilitarian view have long dominated our philosophical tradition and continue to do so. And this dominance has been maintained despite the persistent misgivings that utilitarianism so easily arouses. The explanation for this peculiar state of affairs lies, I believe, in the fact that no constructive alternative theory has been advanced which has the comparable virtues of clarity and system and which at the same time allays these doubts. Intuitionism is not constructive, perfectionism is unacceptable. My conjecture is that the contract doctrine properly worked out can fill this gap. I think justice as fairness an endeavor in this direction.

Of course the contract theory as I shall present it is subject to the strictures that we have just noted. It is no exception to the primitiveness that marks existing moral theories. It is disheartening, for example, how little can now be said about priority rules; and while a lexical ordering may serve fairly well for some important cases, I assume that it will not be completely satisfactory. Nevertheless, we are free to use simplifying devices, and this I have often done. We should view a theory of justice as a guiding framework designed to focus our moral sensibilities and to put before our intuitive capacities more limited and manageable questions for judgment. The principles of justice identify certain considerations as morally relevant and the priority rules indicate the appropriate precedence when these conflict, while the conception of the original position defines the underlying idea which is to inform our deliberations. If the scheme as a whole seems on reflection to clarify and to order our thoughts, and if it tends to reduce disagreements and to bring divergent convictions more in line, then it has done all that one may reasonably ask. Understood as parts of a framework that does indeed seem to help, the numerous simplifications may be regarded as provisionally justified.