

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

The ideal scheme sketched in the next several sections makes considerable use of market arrangements. It is only in this way, I believe, that the problem of distribution can be handled as a case of pure procedural justice. Further, we also gain the advantages of efficiency and protect the important liberty of free choice of occupation. At the start I assume that the regime is a property-owning democracy since this case is likely to be better known.<sup>13</sup> But, as I have noted, this is not intended to prejudice the choice of regime in particular cases. Nor, of course, does it imply that actual societies which have private ownership of the means of production are not afflicted with grave injustices. Because there exists an ideal property-owning system that would be just does not imply that historical forms are just, or even tolerable. And, of course, the same is true of socialism.

#### 43. BACKGROUND INSTITUTIONS FOR DISTRIBUTIVE JUSTICE

The main problem of distributive justice is the choice of a social system. The principles of justice apply to the basic structure and regulate how its major institutions are combined into one scheme. Now, as we have seen,

the idea of justice as fairness is to use the notion of pure procedural justice to handle the contingencies of particular situations. The social system is to be designed so that the resulting distribution is just however things turn out. To achieve this end it is necessary to set the social and economic process within the surroundings of suitable political and legal institutions. Without an appropriate scheme of these background institutions the outcome of the distributive process will not be just. Background fairness is lacking. I shall give a brief description of these supporting institutions as they might exist in a properly organized democratic state that allows private ownership of capital and natural resources. These arrangements are familiar, but it may be useful to see how they fit the two principles of justice. Modifications for the case of a socialist regime will be considered briefly later.

First of all, I assume that the basic structure is regulated by a just constitution that secures the liberties of equal citizenship (as described in the preceding chapter). Liberty of conscience and freedom of thought are taken for granted, and the fair value of political liberty is maintained. The political process is conducted, as far as circumstances permit, as a just procedure for choosing between governments and for enacting just legislation. I assume also that there is fair (as opposed to formal) equality of opportunity. This means that in addition to maintaining the usual kinds of social overhead capital, the government tries to insure equal chances of education and culture for persons similarly endowed and motivated either by subsidizing private schools or by establishing a public school system. It also enforces and underwrites equality of opportunity in economic activities and in the free choice of occupation. This is achieved by policing the conduct of firms and private associations and by preventing the establishment of monopolistic restrictions and barriers to the more desirable positions. Finally, the government guarantees a social minimum either by family allowances and special payments for sickness and employment, or more systematically by such devices as a graded income supplement (a so-called negative income tax).

In establishing these background institutions the government may be thought of as divided into four branches.<sup>14</sup> Each branch consists of various agencies, or activities thereof, charged with preserving certain social and economic conditions. These divisions do not overlap with the usual organization of government but are to be understood as different func-

Meade, *Efficiency, Equality and the Ownership of Property* (London, George Allen and Unwin, 1964), pp. 11-26.

13. The term "property-owning democracy" is from Meade, *ibid.*, the title of ch. V.

14. For the idea of branches of government, see R. A. Musgrave, *The Theory of Public Finance* (New York, McGraw-Hill, 1959), ch. I.

tions. The allocation branch, for example, is to keep the price system workably competitive and to prevent the formation of unreasonable market power. Such power does not exist as long as markets cannot be made more competitive consistent with the requirements of efficiency and the facts of geography and the preferences of households. The allocation branch is also charged with identifying and correcting, say by suitable taxes and subsidies and by changes in the definition of property rights, the more obvious departures from efficiency caused by the failure of prices to measure accurately social benefits and costs. To this end suitable taxes and subsidies may be used, or the scope and definition of property rights may be revised. The stabilization branch, on the other hand, strives to bring about reasonably full employment in the sense that those who want work can find it and the free choice of occupation and the deployment of finance are supported by strong effective demand. These two branches together are to maintain the efficiency of the market economy generally.

The social minimum is the responsibility of the transfer branch. Later on I shall consider at what level the minimum should be set; but for the moment a few general remarks will suffice. The essential idea is that the workings of this branch take needs into account and assign them an appropriate weight with respect to other claims. A competitive price system gives no consideration to needs and therefore it cannot be the sole device of distribution. There must be a division of labor between the parts of the social system in answering to the common sense precepts of justice. Different institutions meet different claims. Competitive markets properly regulated secure free choice of occupation and lead to an efficient use of resources and allocation of commodities to households. They set a weight on the conventional precepts associated with wages and earnings, whereas the transfer branch guarantees a certain level of well-being and honors the claims of need. Eventually I will discuss these common sense precepts and how they arise within the context of various institutions. The relevant point here is that certain precepts tend to be associated with specific institutions. It is left to the background system as a whole to determine how these precepts are balanced. Since the principles of justice regulate the whole structure, they also regulate the balance of precepts. In general, then, this balance will vary in accordance with the underlying political conception.

It is clear that the justice of distributive shares depends on the background institutions and how they allocate total income, wages and other income plus transfers. There is with reason strong objection to the competitive determination of total income, since this ignores the claims of

need and an appropriate standard of life. From the standpoint of the legislative stage it is rational to insure oneself and one's descendants against these contingencies of the market. Indeed, the difference principle presumably requires this. But once a suitable minimum is provided by transfers, it may be perfectly fair that the rest of total income be settled by the price system, assuming that it is moderately efficient and free from monopolistic restrictions, and unreasonable externalities have been eliminated. Moreover, this way of dealing with the claims of need would appear to be more effective than trying to regulate income by minimum wage standards, and the like. It is better to assign to each branch only such tasks as are compatible with one another. Since the market is not suited to answer the claims of need, these should be met by a separate arrangement. Whether the principles of justice are satisfied, then, turns on whether the total income of the least advantaged (wages plus transfers) is such as to maximize their long-run expectations (consistent with the constraints of equal liberty and fair equality of opportunity).

Finally, there is a distribution branch. Its task is to preserve an approximate justice in distributive shares by means of taxation and the necessary adjustments in the rights of property. Two aspects of this branch may be distinguished. First of all, it imposes a number of inheritance and gift taxes, and sets restrictions on the rights of bequest. The purpose of these levies and regulations is not to raise revenue (release resources to government) but gradually and continually to correct the distribution of wealth and to prevent concentrations of power detrimental to the fair value of political liberty and fair equality of opportunity. For example, the progressive principle might be applied at the beneficiary's end.<sup>15</sup> Doing this would encourage the wide dispersal of property which is a necessary condition, it seems, if the fair value of the equal liberties is to be maintained. The unequal inheritance of wealth is no more inherently unjust than the unequal inheritance of intelligence. It is true that the former is presumably more easily subject to social control; but the essential thing is that as far as possible inequalities founded on either should satisfy the difference principle. Thus inheritance is permissible provided that the resulting inequalities are to the advantage of the least fortunate and compatible with liberty and fair equality of opportunity. As earlier defined, fair equality of opportunity means a certain set of institutions that assures similar chances of education and culture for persons similarly motivated and keeps positions and offices open to all on the basis of qualities and

15. See Meade, *Efficiency, Equality and the Ownership of Property*, pp. 56f.

efforts reasonably related to the relevant duties and tasks. It is these institutions that are put in jeopardy when inequalities of wealth exceed a certain limit; and political liberty likewise tends to lose its value, and representative government to become such in appearance only. The taxes and enactments of the distribution branch are to prevent this limit from being exceeded. Naturally, where this limit lies is a matter of political judgment guided by theory; good sense, and plain hunch, at least within a wide range. On this sort of question the theory of justice has nothing specific to say. Its aim is to formulate the principles that are to regulate the background institutions.

The second part of the distribution branch is a scheme of taxation to raise the revenues that justice requires. Social resources must be released to the government so that it can provide for the public goods and make the transfer payments necessary to satisfy the difference principle. This problem belongs to the distribution branch since the burden of taxation is to be justly shared and it aims at establishing just arrangements. Leaving aside many complications, it is worth noting that a proportional expenditure tax may be part of the best tax scheme.<sup>16</sup> For one thing, it is preferable to an income tax (of any kind) at the level of common sense precepts of justice, since it imposes a levy according to how much a person takes out of the common store of goods and not according to how much he contributes (assuming here that income is fairly earned). Again, a proportional tax on total consumption (for each year say) can contain the usual exemptions for dependents, and so on; and it treats everyone in a uniform way (still assuming that income is fairly earned). It may be better, therefore, to use progressive rates only when they are necessary to preserve the justice of the basic structure with respect to the first principle of justice and fair equality of opportunity, and so to forestall accumulations of property and power likely to undermine the corresponding institutions. Following this rule might help to signal an important distinction in questions of policy. And if proportional taxes should also prove more efficient, say because they interfere less with incentives, this might make the case for them decisive if a feasible scheme could be worked out. As before, these are questions of political judgment and not part of a theory of justice. And in any case we are here considering such a proportional tax as part of an ideal scheme for a well-ordered society in order to illustrate the content of the two principles. It does not follow that, given the injustice of existing institutions, even steeply progressive income taxes are not

justified when all things are considered. In practice we must usually choose between several unjust, or second best, arrangements; and then we look to nonideal theory to find the least unjust scheme. Sometimes this scheme will include measures and policies that a perfectly just system would reject. Two wrongs can make a right in the sense that the best available arrangement may contain a balance of imperfections, an adjustment of compensating injustices.

The two parts of the distribution branch derive from the two principles of justice. The taxation of inheritance and income at progressive rates (when necessary), and the legal definition of property rights, are to secure the institutions of equal liberty in a property-owning democracy and the fair value of the rights they establish. Proportional expenditure (or income) taxes are to provide revenue for public goods, the transfer branch and the establishment of fair equality of opportunity in education, and the like, so as to carry out the second principle. No mention has been made at any point of the traditional criteria of taxation such as that taxes are to be levied according to benefits received or the ability to pay.<sup>17</sup> The reference to common sense precepts in connection with expenditure taxes is a subordinate consideration. The scope of these criteria is regulated by the principles of justice. Once the problem of distributive shares is recognized as that of designing background institutions, the conventional maxims are seen to have no independent force; however appropriate they may be in certain delimited cases. To suppose otherwise is not to take a sufficiently comprehensive point of view (see §47 below). It is evident also that the design of the distribution branch does not presuppose the utilitarian's standard assumptions about individual utilities. Inheritance and progressive income taxes, for example, are not predicated on the idea that individuals have similar utility functions satisfying the diminishing marginal principle. The aim of the distribution branch is not, of course, to maximize the net balance of satisfaction but to establish just background institutions. Doubts about the shape of utility functions are irrelevant. This problem is one for the utilitarian, not for contract theory.

So far I have assumed that the aim of the branches of government is to establish a democratic regime in which land and capital are widely though not presumably equally held. Society is not so divided that one fairly small sector controls the preponderance of productive resources. When this is achieved and distributive shares satisfy the principles of

16. See Nicholas Kaldor, *An Expenditure Tax* (London, George Allen and Unwin, 1955).

17. For a discussion of these tax criteria, see Musgrave, *The Theory of Public Finance*, chs. IV and V.

justice, many socialist criticisms of the market economy are met. But it is clear that, in theory anyway, a liberal socialist regime can also answer to the two principles of justice. We have only to suppose that the means of production are publicly owned and that firms are managed by 'workers' councils say, or by agents appointed by them. Collective decisions made democratically under the constitution determine the general features of the economy, such as the rate of saving and the proportion of society's production devoted to essential public goods. Given the resulting economic environment, firms regulated by market forces conduct themselves much as before. Although the background institutions will take a different form, especially in the case of the distribution branch, there is no reason in principle why just distributive shares cannot be achieved. The theory of justice does not by itself favor either form of regime. As we have seen, the decision as to which system is best for a given people depends upon their circumstances, institutions, and historical traditions.

Some socialists have objected to all market institutions as inherently degrading, and they have hoped to set up an economy in which men are moved largely by social and altruistic concerns. In regard to the first, the market is not indeed an ideal arrangement, but certainly given the requisite background institutions, the worst aspects of so-called wage slavery are removed. The question then becomes one of the comparison of possible alternatives. It seems improbable that the control of economic activity by the bureaucracy that would be bound to develop in a socially regulated system (whether centrally directed or guided by the agreements reached by industrial associations) would be more just on balance than control exercised by means of prices (assuming as always the necessary framework). To be sure a competitive scheme is impersonal and automatic in the details of its operation; its particular results do not express the conscious decision of individuals. But in many respects this is a virtue of the arrangement; and the use of the market system does not imply a lack of reasonable human autonomy. A democratic society may choose to rely on prices in view of the advantages of doing so, and then to maintain the background institutions which justice requires. This political decision, as well as the regulation of these surrounding arrangements, can be perfectly reasoned and free.

Moreover the theory of justice assumes a definite limit on the strength of social and altruistic motivation. It supposes that individuals and groups put forward competing claims, and while they are willing to act justly, they are not prepared to abandon their interests. There is no need to elaborate further that this presumption does not imply that men are selfish

in the ordinary sense. Rather a society in which all can achieve their complete good, or in which there are no conflicting demands and the wants of all fit together without coercion into a harmonious plan of activity, is a society in a certain sense beyond justice. It has eliminated the occasions when the appeal to the principles of right and justice is necessary.<sup>18</sup> I am not concerned with this ideal case, however desirable it may be. We should note though that even here the theory of justice has an important theoretical role: it defines the conditions under which the spontaneous coherence of the aims and wants of individuals is neither coerced nor contrived but expresses a proper harmony consistent with the ideal good. I cannot pursue these questions further. The main point is that the principles of justice are compatible with quite different types of regime.

A final matter needs to be considered. Let us suppose that the above account of the background institutions is sufficient for our purposes, and that the two principles of justice lead to a definite system of government activities and legal definitions of property together with a schedule of taxes. In this case the total of public expenditures and the necessary sources of revenue is well defined, and the distribution of income and wealth that results is just whatever it is. (See further below §§44, 47.) It does not follow, however, that citizens should not decide to make further public expenditures. If a sufficiently large number of them find the marginal benefits of public goods greater than that of goods available through the market, it is appropriate that ways should be found for government to provide them. Since the distribution of income and wealth is assumed to be just, the guiding principle changes. Let us suppose, then, that there is a fifth branch of government, the exchange branch, which consists of a special representative body taking note of the various social interests and their preferences for public goods. It is authorized by the constitution to consider only such bills as provide for government activities independent from what justice requires, and these are to be enacted only when they satisfy Wickseil's unanimity criterion.<sup>19</sup> This means that no public expenditures are voted upon unless at the same time the means of covering their

18. Some have interpreted Marx's conception of a full communist society as a society beyond justice in this sense. See R. C. Tucker, *The Marxian Revolutionary Idea* (New York: W.W. Norton, 1969), chs. I and II.

19. This criterion was stated by Knut Wickseil in his *Finanztheoretische Untersuchungen* (Jena, 1896). The major part is translated as "A New Principle of Just Taxation" and included in *Classics in the Theory of Public Finance*, ed. R. A. Musgrave and A. T. Peacock (London, Macmillan, 1958), pp. 72-118, esp. pp. 91-93, where the principle is stated. For some difficulties with it, see Hirafumi Shibata, "A Bargaining Model of the Pure Theory of Public Expenditure," *Journal of Political Economy*, vol. 79 (1971), esp. pp. 27f.

costs are agreed upon, if not unanimously, then approximately so. A motion proposing a new public activity is required to contain one or more alternative arrangements for sharing the costs. Wicksell's idea is that if the public good is an efficient use of social resources, there must be some scheme for distributing the extra taxes among different kinds of taxpayers that will gain unanimous approval. If no such proposal exists, the suggested expenditure is wasteful and should not be undertaken. Thus the exchange branch works by the principle of efficiency and institutes, in effect, a special trading body that arranges for public goods and services where the market mechanism breaks down. It must be added, however, that very real difficulties stand in the way of carrying this idea through. Even leaving aside voting strategies and the concealment of preferences, discrepancies in bargaining power, income effects, and the like may prevent an efficient outcome from being reached. Perhaps only a rough and approximate solution is possible. I shall, however, leave aside these problems.

Several comments are called for to prevent misunderstandings. First of all, as Wicksell emphasized, the unanimity criterion assumes the justice of the existing distribution of income and wealth, and of the current definition of the rights of property. Without this important proviso, it would have all the faults of the efficiency principle, since it simply expresses this principle for the case of public expenditures. But when this condition is satisfied, then the unanimity principle is sound. There is no more justification for using the state apparatus to compel some citizens to pay for unwanted benefits that others desire than there is to force them to reimburse others for their private expenses. Thus the benefit criterion now applies whereas it did not before; and those who want further public expenditures of various kinds are to use the exchange branch to see whether the requisite taxes can be agreed to. The size of the exchange budget, as distinct from the national budget, is then determined by the expenditures that are eventually accepted. In theory members of the community can get together to purchase public goods up to the point where their marginal value equals that of private goods.

It should be noted that the exchange branch includes a separate representative body. The reason for this is to emphasize that the basis of this scheme is the benefit principle and not the principles of justice. Since the conception of background institutions is to help us organize our considered judgments of justice, the veil of ignorance applies to the legislative stage. The exchange branch is only a trading arrangement. There are no restrictions upon information (except those required to make the scheme

more efficient), since it depends upon citizens' knowing their relative valuations of public and private goods. We should also observe that in the exchange branch representatives (and citizens through their representatives) are quite properly guided by their interests. Whereas in describing the other branches, we assume the principles of justice to be applied to institutions solely on the basis of general information. We try to work out what rational legislators suitably constrained by the veil of ignorance, and in this sense impartial, would enact to realize the conception of justice. Ideal legislators do not vote their interests. Strictly speaking, then, the idea of the exchange branch is not part of the four-stage sequence. Nevertheless, there is likely to be confusion between government activities and public expenditures required to uphold just background institutions and those that follow from the benefit principle. With the distinction of branches in mind, the conception of justice as fairness becomes, I believe, more plausible. To be sure, it is often hard to distinguish between the two kinds of government activities, and some public goods may appear to fall into both categories. I leave these problems aside here, hoping that the theoretical distinction is clear enough for present purposes.

#### 44. THE PROBLEM OF JUSTICE BETWEEN GENERATIONS

We must now consider the question of justice between generations. There is no need to stress the difficulties that this problem raises. It subjects any ethical theory to severe if not impossible tests. Nevertheless, the account of justice as fairness would be incomplete without some discussion of this important matter. The problem arises in the present context because the question is still open whether the social system as a whole, the competitive economy surrounded by the appropriate family of background institutions, can be made to satisfy the two principles of justice. The answer is bound to depend, to some degree anyway, on the level at which the social minimum is to be set. But this in turn connects up with how far the present generation is bound to respect the claims of its successors.

So far I have said nothing about how generous the social minimum should be. Common sense might be content to say that the right level depends upon the average wealth of the country and that, other things equal, the minimum should be higher when the average increases. Or one might say that the proper level is determined by customary expectations. But these suggestions are unsatisfactory. The first is not precise enough since it does not say how the minimum depends on average wealth and it

overlooks other relevant aspects such as distribution; while the second provides no criterion for telling when customary expectations are themselves reasonable. Once the difference principle is accepted, however, it follows that the minimum is to be set at that point which, taking wages into account, maximizes the expectations of the least advantaged group. By adjusting the amount of transfers (for example, the size of supplementary income payments), it is possible to increase or decrease the prospects of the more disadvantaged, their index of primary goods (as measured by wages plus transfers), so as to achieve the desired result.

Now offhand it might seem that the difference principle requires a very high minimum. One naturally imagines that the greater wealth of those better off is to be scaled down until eventually everyone has nearly the same income. But this is a misconception, although it might hold in special circumstances. The appropriate expectation in applying the difference principle is that of the long-term prospects of the least favored extending over future generations. Each generation must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a 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. Assuming for the moment that a just savings principle is available which tells us how great investment should be, the level of the social minimum is determined. Suppose for simplicity that the minimum is adjusted by transfers paid for by proportional expenditure (or income) taxes. In this case raising the minimum entails increasing the proportion by which consumption (or income) is taxed. Presumably as this fraction becomes larger there comes a point beyond which one of two things happens. Either the appropriate savings cannot be made or the greater taxes interfere so much with economic efficiency that the prospects of the least advantaged in the present generation are no longer improved but begin to decline. In either event the correct minimum has been reached. The difference principle is satisfied and no further increase is called for.

These comments about how to specify the social minimum have led us to the problem of justice between generations. Finding a just savings principle is one aspect of this question.<sup>20</sup> Now I believe that it is not

20. This problem is often discussed by economists in the context of the theory of economic growth. For an exposition see A. K. Sen, "On Optimizing the Rate of Saving," *Economic Journal*, vol. 71 (1961); James Tobin, *National Economic Policy* (New Haven, Yale University Press, 1966), ch. IX; and R. M. Solow, *Growth Theory* (New York, Oxford University Press, 1970), ch. V. In an extensive

possible, at present anyway, to define precise limits on what the rate of savings should be. How the burden of capital accumulation and of raising the standard of civilization and culture is to be shared between generations seems to admit of no definite answer. It does not follow, however, that certain significant ethical constraints cannot be formulated. As I have said, a moral theory characterizes a point of view from which policies are to be assessed; and it may often be clear that a suggested answer is mistaken even if an alternative doctrine is not ready to hand. Thus it seems evident, for example, that the classical principle of utility leads in the wrong direction for questions of justice between generations. For if one takes the size of the population as variable, and postulates a high marginal productivity of capital and a very distant time horizon, maximizing total utility may lead to an excessive rate of accumulation (at least in the near future). Since from a moral point of view there are no grounds for discounting future well-being on the basis of pure time preference, the conclusion is all the more likely that the greater advantages of future generations will be sufficiently large to outweigh most any present sacrifices. This may prove true if only because with more capital and better technology it will be possible to support a sufficiently large population. Thus the utilitarian doctrine may direct us to demand heavy sacrifices of the poorer generations for the sake of greater advantages for later ones that are far better off. But this calculus of advantages, which balances the losses of some against benefits to others, appears even less justified in the case of generations than among contemporaries. Even if we cannot define a precise just savings principle, we should be able to avoid this sort of extreme.

Now the contract doctrine looks at the problem from the standpoint of the original position and requires the parties to adopt an appropriate savings principle. It seems clear that as they stand the two principles of justice must be adjusted to this question. For when the difference principle is applied to the question of saving over generations, it entails either

literature, see F. P. Ramsey, "A Mathematical Theory of Saving," *Economic Journal*, vol. 38 (1928), reprinted in Arrow and Sen, *Readings in Welfare Economics*; T. C. Koopmans, "On the Concept of Optimal Economic Growth" (1965) in *Scientific Papers of T. C. Koopmans* (Berlin, Springer Verlag, 1970); Sukamoy Chakravarty, *Capital and Development Planning* (Cambridge, M.I.T. Press, 1969), is a theoretical survey which touches upon the normative questions. If for theoretical purposes one thinks of the ideal society as one whose economy is in a steady state of growth (possibly zero), and which is at the same time just, then the savings problem is to choose a principle for sharing the burdens of getting to that growth path (or to such a path if there is more than one), and of maintaining the justice of the necessary arrangements once this is achieved. In the text, however, I do not pursue this suggestion; my discussion is at a more primitive level.

no saving at all or not enough saving to improve social circumstances sufficiently so that all the equal liberties can be effectively exercised. In following a just savings principle, each generation makes a contribution to those coming later and receives from its predecessors. There is no way for later generations to help the situation of the least fortunate earlier generation. Thus the difference principle does not hold for the question of justice between generations and the problem of saving must be treated in some other manner.

Some have thought the different fortunes of generations to be unjust. Herzen remarks that human development is a kind of chronological unfairness, since those who live later profit from the labor of their predecessors without paying the same price. And Kant thought it disconcerting that earlier generations should carry their burdens only for the sake of the later ones and that only the last should have the good fortune to dwell in the completed building.<sup>21</sup> These feelings while entirely natural are misplaced. For although the relation between generations is a special one, it gives rise to no insuperable difficulty.

It is a natural fact that generations are spread out in time and actual economic benefits flow only in one direction. This situation is unalterable, and so the question of justice does not arise. What is just or unjust is how institutions deal with natural limitations and the way they are set up to take advantage of historical possibilities. Obviously if all generations are to gain (except perhaps the earlier ones), the parties must agree to a savings principle that insures that each generation receives its due from its predecessors and does its fair share for those to come. The only economic exchanges between generations are, so to speak, virtual ones, that is, compensating adjustments that can be made in the original position when a just savings principle is adopted.

Now when the parties consider this problem they do not know to which generation they belong or, what comes to the same thing, the stage of civilization of their society. They have no way of telling whether it is poor or relatively wealthy, largely agricultural or already industrialized, and so on. The veil of ignorance is complete in these respects. But since we take the present time of entry interpretation of the original position (§24), the parties know that they are contemporaries; and so unless we modify our initial assumptions, there is no reason for them to agree to any saving

21. The remark of Alexander Herzen is from Isaiah Berlin's introduction to Franco Venturi, *Roots of Revolution* (New York, Alfred Knopf, 1960), p. xx. For Kant, see "Idea for a Universal History with a Cosmopolitan Purpose," in *Political Writings*, ed. Hans Reiss and trans. H. B. Nisbet (Cambridge: The University Press, 1970), p. 44.

whatever. Earlier generations will have either saved or not; there is nothing the parties can do to affect that. So to achieve a reasonable result, we assume first, that the parties represent family lines, say, who care at least about their more immediate descendants; and second, that the principle adopted must be such that they wish all earlier generations to have followed it (§22). These constraints, together with the veil of ignorance, are to insure that any one generation looks out for all.

In arriving at a just saving principle (or better, limits on such principles), the parties are to ask themselves how much they would be willing to save at each stage of advance on the assumption that all other generations have saved, or will save, in accordance with the same criterion. They are to consider their willingness to save at any given phase of civilization with the understanding that the rates they propose are to regulate the whole span of accumulation. It is essential to note that a savings principle is a rule that assigns an appropriate rate (or range of rates) to each level of advance, that is, a rule that determines a schedule of rates. Presumably different rates are assigned to different stages. When people are poor and saving is difficult, a lower rate of saving should be required; whereas in a wealthier society greater savings may reasonably be expected since the real burden of saving is less. Eventually, once just institutions are firmly established and all the basic liberties effectively realized, the net accumulation asked for falls to zero. At this point a society meets its duty of justice by maintaining just institutions and preserving their material base. The just savings principle applies to what a society is to save as a matter of justice. If its members wish to save for other purposes, that is another matter.

It is impossible to be very specific about the schedule of rates (or the range of rates) that would be acknowledged; the most that we can hope from these intuitive considerations is that certain extremes will be excluded. Thus we may assume that the parties avoid imposing very high rates at the earlier stages of accumulation, for even though they would benefit from this if they come later, they must be able to accept these rates in good faith should their society turn out to be poor. The strains of commitment apply here just as before (§29). On the other hand, they will want all generations to provide some saving (excluding special circumstances), since it is to our advantage if our predecessors have done their share. These observations establish wide limits for the savings rule. To narrow the range somewhat further, we suppose the parties to ask what is reasonable for members of adjacent generations to expect of one another at each level of advance. They try to piece together a just savings sched-

ule by balancing how much they would be willing to save for their more immediate descendants against what they would feel entitled to claim of their more immediate predecessors. Thus imagining themselves to be fathers, say, they are to ascertain how much they should set aside for their sons and grandsons by noting what they would believe themselves entitled to claim of their fathers and grandfathers. When they arrive at the estimate that seems fair from both sides, with due allowance made for the improvement in circumstances, then the fair rate (or range of rates) for that stage is specified. Once this is done for all stages, the just savings principle is defined. Of course, the parties must throughout keep in mind the objective of the accumulation process, namely, a state of society with a material base sufficient to establish effective just institutions within which the basic liberties can all be realized. Assuming that the savings principle answers to these conditions, no generation can find fault with any other when it is followed, no matter how far removed they are in time.

The question of time preference and matters of priority I shall leave aside until the next sections. For the present I wish to point out several features of the contract approach. First of all, while it is evident that a just savings principle cannot literally be adopted democratically, the conception of the original position achieves the same result. Since no one knows to which generation he belongs, the question is viewed from the standpoint of each and a fair accommodation is expressed by the principle adopted. All generations are virtually represented in the original position, since the same principle would always be chosen. An ideally democratic decision will result, one that is fairly adjusted to the claims of each generation and therefore satisfying the precept that what touches all concerns all. Moreover, it is immediately obvious that every generation, except possibly the first, gains when a reasonable rate of saving is maintained. The process of accumulation, once it is begun and carried through, is to the good of all subsequent generations. Each passes on to the next a fair equivalent in real capital as defined by a just savings principle. (It should be kept in mind here that capital is not only factories and machines, and so on, but also the knowledge and culture, as well as the techniques and skills, that make possible just institutions and the fair value of liberty.) This equivalent is in return for what is received from previous generations that enables the later ones to enjoy a better life in a more just society.

It is also characteristic of the contract doctrine to define a just society as the aim of the course of accumulation. This feature derives from the

fact that an ideal conception of a just basic structure is embedded in the principles chosen in the original position. In this respect, justice as fairness contrasts with utilitarian views (§41). The just savings principle can be regarded as an understanding between generations to carry their fair share of the burden of realizing and preserving a just society. The end of the savings process is set up in advance, although only the general outlines can be discerned. Particular circumstances as they arise will in time determine the more detailed aspects. But in any event we are not bound to go on maximizing indefinitely. Indeed, it is for this reason that the savings principle is agreed to after the principles of justice for institutions, even though this principle constrains the difference principle. These principles tell us what to strive for. The savings principle represents an interpretation, arrived at in the original position, of the previously accepted natural duty to uphold and to further just institutions. In this case the ethical problem is that of agreeing on a path over time which treats all generations justly during the whole course of a society's history. What seems fair to persons in the original position defines justice in this instance as in others.

The significance of the last stage of society should not, however, be misinterpreted. While all generations are to do their part in reaching the just state of things beyond which no further net saving is required, this state is not to be thought of as that alone which gives meaning and purpose to the whole process. To the contrary, all generations have their appropriate aims. They are not subordinate to one another any more than individuals are and no generation has stronger claims than any other. The life of a people is conceived as a scheme of cooperation spread out in historical time. It is to be governed by the same conception of justice that regulates the cooperation of contemporaries.

Finally, the last stage at which saving is called for is not one of great abundance. This consideration deserves perhaps some emphasis. Further wealth might not be superfluous for some purposes; and indeed average income may not, in absolute terms, be very high. Justice does not require that early generations save so that later ones are simply more wealthy. Saving is demanded as a condition of bringing about the full realization of just institutions and the equal liberties. If additional accumulation is to be undertaken, it is for other reasons. It is a mistake to believe that a just and good society must wait upon a high material standard of life. What men want is meaningful work in free association with others, these associations regulating their relations to one another within a framework of just basic institutions. To achieve this state of things great wealth is not



necessary. In fact, beyond some point it is more likely to be a positive hindrance, a meaningless distraction at best if not a temptation to indulgence and emptiness. (Of course, the definition of meaningful work is a problem in itself. Though it is not a problem of justice, a few remarks in §79 are addressed to it.)

We now have to combine the just savings principle with the two principles of justice. This is done by supposing that this principle is defined from the standpoint of the least advantaged in each generation. It is the representative men from this group as it extends over time who by virtual adjustments are to specify the rate of accumulation. They undertake in effect to constrain the application of the difference principle. In any generation their expectations are to be maximized subject to the condition of putting aside the savings that would be acknowledged. Thus the complete statement of the difference principle includes the savings principle as a constraint. Whereas the first principle of justice and the principle of fair opportunity are prior to the difference principle within generations, the savings principle limits its scope between them.

Of course, the saving of the less favored need not be done by their taking an active part in the investment process. Rather it normally consists of their approving of the economic and other arrangements necessary for the appropriate accumulation. Saving is achieved by accepting as a political judgment those policies designed to improve the standard of life of later generations of the least advantaged, thereby abstaining from the immediate gains which are available. By supporting these arrangements the required saving can be made, and no representative man in any generation of the most disadvantaged can complain of another for not doing his part.

So much, then, for a brief sketch of some of the main features of the just savings principle. We can now see that persons in different generations have duties and obligations to one another just as contemporaries do. The present generation cannot do as it pleases but is bound by the principles that would be chosen in the original position to define justice between persons at different moments of time. In addition, men have a natural duty to uphold and to further just institutions and for this the improvement of civilization up to a certain level is required. The derivation of these duties and obligations may seem at first a somewhat far-fetched application of the contract doctrine. Nevertheless these requirements would be acknowledged in the original position, and so the conception of justice as fairness covers these matters without any change in its basic idea.

#### 45. TIME PREFERENCE

I have assumed that in choosing a principle of savings the persons in the original position have no pure time preference. We need to consider the reasons for this presumption. In the case of an individual the avoidance of pure time preference is a feature of being rational. As Sidgwick maintains, rationality implies an impartial concern for all parts of our life. The mere difference of location in time, of something's being earlier or later, is not in itself a rational ground for having more or less regard for it. Of course, a present or near future advantage may be counted more heavily on account of its greater certainty or probability, and we should take into consideration how our situation and capacity for particular enjoyments will change. But none of these things justifies our preferring a lesser present to a greater future good simply because of its nearer temporal position<sup>22</sup> (§64).

Now Sidgwick thought that the notions of universal good and individual good are in essential respects similar. He held that just as the good of one person is constructed by comparison and integration of the different goods of each moment as they follow one another in time, so the universal good is constructed by the comparison and integration of the good of many different individuals. The relations of the parts to the whole and to each other are analogous in each case, being founded on the aggregative principle of utility.<sup>23</sup> The just savings principle for society must not, then, be affected by pure time preference, since as before the different temporal position of persons and generations does not in itself justify treating them differently.

Since in justice as fairness the principles of justice are not extensions of the principles of rational choice for one person, the argument against time preference must be of another kind. The question is settled by reference to the original position; but once it is seen from this perspective, we reach the same conclusion. There is no reason for the parties to give any weight to mere position in time. They have to choose a rate of saving for each level of civilization. If they make a distinction between earlier and more remote periods because, say, future states of affairs seem less important now, the present state of affairs will seem less important in the future. Although any decision has to be made now, there is no ground for their using today's discount of the future rather than the future's

22. See *The Methods of Ethics*, 7th ed. (London, Macmillan, 1907), p. 381. Time preference is also rejected by Ramsey, "A Mathematical Theory of Saving."

23. *Methods of Ethics*, p. 382. See also §30, note 37.

discount of today. The situation is symmetrical and one choice is as arbitrary as the other.<sup>24</sup> Since the persons in the original position take up the standpoint of each period, being subject to the veil of ignorance, this symmetry is clear to them and they will not consent to a principle that weighs nearer periods more or less heavily. Only in this way can they arrive at a consistent agreement from all points of view, for to acknowledge a principle of time preference is to authorize persons differently situated temporally to assess one another's claims by different weights based solely on this contingency.

As with rational prudence, the rejection of pure time preference is not incompatible with taking uncertainties and changing circumstances into account; nor does it rule out using an interest rate (in either a socialist or a private-property economy) to ration limited funds for investment. The restriction is rather that in first principles of justice we are not allowed to treat generations differently solely on the grounds that they are earlier or later in time. The original position is so defined that it leads to the correct principle in this respect. In the case of the individual, pure time preference is irrational: it means that he is not viewing all moments as equally parts of one life. In the case of society, pure time preference is unjust: it means (in the more common instance when the future is discounted) that the living take advantage of their position in time to favor their own interests.

The contract view agrees, then, with Sidgwick in rejecting time preference as a grounds of social choice. The living may, if they allow themselves to be moved by such considerations, wrong their predecessors and descendants. Now this contention may seem contrary to democratic principles, for it is sometimes said that these require that the wishes of the present generation should determine social policy. Of course, it is assumed that these preferences need to be clarified and ascertained under the appropriate conditions. Collective saving for the future has many aspects of a public good, and the isolation and assurance problems arise in this case.<sup>25</sup> But supposing that these difficulties are overcome and that the informed collective judgment of the present generation is known under the requisite conditions, it may be thought that a democratic view of the state does not countenance the government's intervening for the sake of future generations even when the public judgment is manifestly mistaken.

24. See Sen, "On Optimizing the Rate of Savings," p. 482.

25. See Sen, *ibid.*, p. 479; and S. A. Mangin, "The Social Rate of Discount and the Optimal Rate of Investment," *Quarterly Journal of Economics*, vol. 77 (1963), pp. 100-109.

Whether this contention is correct depends upon how it is interpreted. There can be no objection to it as a description of a democratic constitution. Once the public will is clearly expressed in legislation and social policies, the government cannot override it without ceasing to be democratic. It is not authorized to nullify the views of the electorate as to how much saving is to be undertaken. If a democratic regime is justified, then the government's having this power would normally lead to a greater injustice on balance. We are to decide between constitutional arrangements according to how likely it is that they will yield just and effective legislation. A democrat is one who believes that a democratic constitution best meets this criterion. But his conception of justice includes a provision for the just claims of future generations. Even if as a practical matter in the choice of regimes the electorate should have the final say, this is only because it is more likely to be correct than a government empowered to override its wishes. Since, however, a just constitution even under favorable conditions is a case of imperfect procedural justice, the people may still decide wrongly. By causing irreversible damages say, they may perpetuate grave offenses against other generations which under another form of government might have been prevented. Moreover, the injustice may be perfectly evident and demonstrable as such by the same conception of justice that underlies the democratic regime itself. Several of the principles of this conception may actually be more or less explicit in the constitution and frequently cited by the judiciary and informed opinion in interpreting it.

In these cases, then, there is no reason why a democrat may not oppose the public will by suitable forms of noncompliance, or even as a government official try to circumvent it. Although one believes in the soundness of a democratic constitution and accepts the duty to support it, the duty to comply with particular laws may be overridden in situations where the collective judgment is sufficiently unjust. There is nothing sacrosanct about the public decision concerning the level of savings; and its bias with respect to time preference deserves no special respect. In fact the absence of the injured parties, the future generations, makes it all the more open to question. One does not cease to be a democrat unless one thinks that some other form of government would be better and one's efforts are directed to this end. As long as one does not believe this, but thinks instead that appropriate forms of noncompliance, for example, acts of civil disobedience or conscientious refusal, are both necessary and reasonable ways to correct democratically enacted policies, then one's conduct is consistent with accepting a democratic constitution. In the next

chapter I shall discuss this matter in more detail. For the moment the essential point is that the collective will concerning the provision for the future is subject, as all other social decisions are, to the principles of justice. The peculiar features of this case do not make it an exception.

We should observe that to reject pure time preference as a first principle is compatible with recognizing that a certain discounting of the future may improve otherwise defective criteria. For example, I have already remarked that the utilitarian principle may lead to an extremely high rate of saving which imposes excessive hardships on earlier generations. This consequence can be to some degree corrected by discounting the welfare of those living in the future. Since the well-being of later generations is made to count for less, not so much need be saved as before. It is also possible to vary the accumulation required by adjusting the parameters in the postulated utility function. I cannot discuss these questions here.<sup>26</sup> Unhappily I can only express the opinion that these devices simply mitigate the consequences of mistaken principles. The situation is in some respects similar to that found with the intuitionistic conception which combines the standard of utility with a principle of equality (see §7). There the criterion of equality suitably weighted serves to correct the utility criterion when neither principle taken alone would prove acceptable. Thus in an analogous way, having started with the idea that the appropriate rate of saving is the one which maximizes social utility over time (maximizes some integral), we may obtain a more plausible result if the welfare of future generations is weighted less heavily; and the most suitable discount may depend upon how swiftly population is growing, upon the productivity of capital, and so on. What we are doing is adjusting certain parameters so as to reach a conclusion more in line with our intuitive judgments. We may find that to achieve justice between generations, these modifications in the principle of utility are required. Certainly introducing time preference may be an improvement in such cases; but I believe that its being invoked in this way is an indication that we have started from an incorrect conception. There is a difference between the situation here and the previously mentioned intuitionistic view. Unlike the principle of equality, time preference has no intrinsic ethical appeal. It is introduced in a purely ad hoc way to moderate the consequences of the utility criterion.

26. See Chakravarty, *Capital and Development Planning*, pp. 39f, 47, 63-65, 249f. Solow, *Growth Theory*, pp. 79-87, gives an account of the mathematical problem.

#### 46. FURTHER CASES OF PRIORITY

The problem of just savings may be used to illustrate further cases of the priority of justice. One feature of the contract doctrine is that it places an upper bound on how much a generation can be asked to save for the welfare of later generations. The just savings principle acts as a constraint on the rate of accumulation. Each age is to do its fair share in achieving the conditions necessary for just institutions and the fair value of liberty; but beyond this more cannot be required. Now it may be objected that particularly when the sum of advantages is very great and represents long-term developments, higher rates of saving may be demanded. Some may go further and maintain that inequalities in wealth and authority violating the second principle of justice may be justified if the subsequent economic and social benefits are large enough. To support their view they may point to instances in which we seem to accept such inequalities and rates of accumulation for the sake of the welfare of later generations. Keynes remarks, for example, that the immense accumulations of capital built up before the First World War could never have come about in a society in which wealth was equally divided.<sup>27</sup> Society in the nineteenth century, he says, was arranged so as to place the increased income in the hands of those least likely to consume it. The new rich were not brought up to large expenditures and preferred to the enjoyments of immediate consumption the power which investment gave. It was precisely the inequality of the distribution of wealth which made possible the rapid build-up of capital and the more or less steady improvement in the general standard of living of everyone. It is this fact, in Keynes's opinion, that provided the main justification of the capitalist system. If the rich had spent their new wealth on themselves, such a regime would have been rejected as intolerable. Certainly there are more efficient and just ways of raising the level of well-being and culture than that Keynes describes. It is only in special circumstances, including the frugality of the capitalist class as opposed to the self-indulgence of the aristocracy, that a society should obtain investment funds by endowing the rich with more than they feel they can decently spend on themselves. But the essential point here is that Keynes's justification, whether or not its premises are sound, can be made to turn solely on improving the situation of the working class. Although their circumstances appear harsh, Keynes presumably main-

27. See J. M. Keynes, *The Economic Consequences of the Peace* (London, Macmillan, 1919), pp. 18-22.