The Entitlement Theory

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The term "distributive justice" is not a neutral one. Hearing the term "distribution," most people presume that some thing or mechanism uses some principle or criterion to give out a supply of things. Into this process of distributing shares some error may have crept. So it is an open question, at least, whether redistribution should take place; whether we should do again what has already been done once, though poorly. However, we are not in the position of children who have been given portions of pie by someone who now makes last minute adjustments to rectify careless cutting. There is no central distribution, no person or group entitled to control all the resources, jointly deciding how they are to be doled out. What each person gets, he gets from others who give to him in exchange for something, or as a gift. In a free society, diverse persons control different resources, and new holdings arise out of the voluntary exchanges and actions of persons....

The subject of justice in holdings consists of three major topics. The first is the original acquisition of holdings, the appropriation of unheld things. This includes the issues of how unheld things may come to be held, the process, or processes, by which unheld things may come to be held, the things that may come to be held by these processes, the extent of what comes to be held by a particular person, and so on. We shall refer to the complicated truth about this topic, which we shall not formulate here, as the principle of justice in acquisition. The second topic concerns the transfer of holdings from one person to another. By what processes may a person transfer holdings to another? How may a person acquire a holding from another who holds it? Under this topic come general descriptions of voluntary exchange, and gift and (on the other hand) fraud, as well as reference to particular conventional details fixed upon in a given society. The complicated truth about this subject (with place-holders for conventional details) we shall call the principle of justice in transfer. (And we shall suppose it also includes principles governing how a person may divest himself of a holding, passing it into an unheld state.)

If the world were wholly just, the following inductive definition would exhaustively cover the subject of justice in holdings.

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.

2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.

3. No one is entitled to a holding except by (repeated) applications of 1 and 2.

The complete principle of distributive justice would say simply that a distribution is just if everyone is entitled to the holdings they possess under the distribution....

Not all actual situations are generated in accordance with the two principles of justice in holdings: the principle of justice in acquisition and the principle of justice in transfer. Some people steal from others, or defraud them, or enslave them, seizing their product and preventing them from living as they choose, or forcibly exclude others from competing in exchanges. None of these are permissible modes of transition from one situation to another. And some persons acquire holdings by means not sanctioned by the principle of justice in acquisition. The existence of past injustice (previous violations of the first two principles of justice in holdings) raises the third major topic under justice in holdings: the rectification of injustice in holdings. If past injustice has shaped present holdings in various ways, some identifiable and some not, what now, if anything, ought to be done to rectify these injustices? ...

HISTORICAL PRINCIPLES AND END-RESULT PRINCIPLES

The general outlines of the entitlement theory illuminate the nature and defects of other conceptions of distributive justice. The entitlement theory of justice in distribution is 

historical; whether a distribution is just depends upon how it came about. In contrast, 

current time-slice principles of justice hold that the justice of a distribution is determined by how things are distributed (who has what) as judged by some structural principle(s) of just distribution. A utilitarian who judges between any two distributions by seeing which has the greater sum of utility and, if the sums tie, applies some fixed equality criterion to choose the more equal distribution, would hold a current time-slice principle of justice. As would someone who had a fixed schedule of trade-offs between the sum of happiness and equality. According to a current time-slice principle, all that needs to be looked at, in judging the justice of a distribution, is who ends up with what; in comparing any two distributions one need look only at the matrix presenting the distributions. No further information need be fed into a principle of justice. It is a consequence of such principles of justice that any two structurally identical distributions are equally just....

Most persons do not accept current time-slice principles as constituting the whole story about distributive shares. They think it relevant in assessing the justice of a situation to consider not only the distribution it embodies, but also how that distribution came about. If some persons are in prison for murder or war crimes, we do not say that to assess the justice of the distribution in the society we must look only at what this person has, and that person has, and that person has, ... at the current time. We think it relevant to ask whether someone did something so that he deserved to be punished, deserved to have a lower share....

PATTERNING

... Almost every suggested principle of distributive justice is patterned: to each according to his moral merit, or needs, or marginal product, or how hard he tries, or the weighted
sum of the foregoing, and so on. The principle of entitlement we have sketched is not
patterned. There is no one natural dimension or weighted sum or combination of a small
number of natural dimensions that yields the distributions generated in accordance with
the principle of entitlement. The set of holdings that results when some persons receive
their marginal products, others win at gambling, others receive a share of their mate’s
income, others receive gifts from foundations, others receive interest on loans, others
receive gifts from admirers, others receive returns on investment, others make for
themselves much of what they have, others find things, and so on, will not be patterned....

To think that the task of a theory of distributive justice is to fill in the blank in "to
each according to his ____" is to be predisposed to search for a pattern; and the separate
treatment of “from each according to his ____” treats production and distribution as two
separate and independent issues. On an entitlement view these are not two separate
questions. Whoever makes something, having bought or contracted for all other held
resources used in the process (transferring some of his holdings for these cooperating
factors), is entitled to it....

So entrenched are maxims of the usual form that perhaps we should present the en-
titlement conception as a competitor. Ignoring acquisition and rectification, we might say:

From each according to what he chooses to do, to each according to what
he makes for himself (perhaps with the contracted aid of others) and what
others choose to do for him and choose to give him of what they’ve been
given previously (under this maxim) and haven’t yet expended or
transferred.

This, the discerning reader will have noticed, has its defects as a slogan. So as a summary
and great simplification (and not as a maxim with any independent meaning) we have:

From each as they choose, to each as they are chosen.

HOW LIBERTY UPSETS PATTERNS

It is not clear how those holding alternative conceptions of distributive justice can reject
the entitlement conception of justice in holdings. For suppose a distribution favored by
one of these non-entitlement conceptions is realized. Let us suppose it is your favorite one
and let us call this distribution D1; perhaps everyone has an equal share, perhaps shares
vary in accordance with some dimension you treasure. Now suppose that Wilt
Chamberlain is greatly in demand by basketball teams, being a great gate attraction. (Also
suppose contracts run only for a year, with players being free agents.) He signs the
following sort of contract with a team: In each home game, twenty-five cents from the
price of each ticket of admission goes to him. (We ignore the question of whether he is
"gouging" the owners, letting them look out for themselves.) The season starts, and people
cheerfully attend his team's games; they buy their tickets, each time dropping a separate
twenty-five cents of their admission price into a special box with Chamberlain's name on
it. They are excited about seeing him play; it is worth the total admission price to them.
Let us suppose that in one season one million persons attend his home games, and Wilt Chamberlain winds up with $250,000, a much larger sum than the average income and larger even than anyone else has. Is he entitled to this income? Is this new distribution D2, unjust? If so, why? There is no question about whether each of the people was entitled to the control over the resources they held in D1; because that was the distribution (your favorite) that (for the purposes of argument) we assumed was acceptable. Each of these persons chose to give twenty-five cents of their money to Chamberlain. They could have spent it on going to the movies, or on candy bars, or on copies of Dissent magazine, or of Monthly Review. But they all, at least one million of them, converged on giving it to Wilt Chamberlain in exchange for watching him play basketball. If D1 was a just distribution, and people voluntarily moved from it to D2, transferring parts of their shares they were given under D1 (what was it for if not to do something with?), isn't D2 also just? If the people were entitled to dispose of the resources to which they were entitled (under D1), didn't this include their being entitled to give it to, or exchange it with, Wilt Chamberlain? Can anyone else complain on grounds of justice? Each other person already has his legitimate share under D1. Under D1, there is nothing that anyone has that anyone else has a claim of justice against. After someone transfers something to Wilt Chamberlain, third parties still have their legitimate shares; their shares are not changed. By what process could such a transfer among two persons give a rise to a legitimate claim of distributive justice on a portion of what was transferred, by a third party who had no claim of justice on any holding of the others before the transfer? To cut off objections irrelevant here, we might imagine the exchanges occurring in a socialist society, after hours. After playing whatever basketball he does in his daily work, or doing whatever other daily work he does, Wilt Chamberlain decides to put in overtime to earn additional money. (First his work quota is set; he works time over that.) Or imagine it is a skilled juggler people like to see, who puts on shows after hours....

The general point illustrated by the Wilt Chamberlin example is that no end-state principle or distributional patterned principle of justice can be continuously realized without continuous interference with people's lives. Any favored pattern would be transformed into one unfavored by the principle, by people choosing to act in various ways; for example, by people exchanging goods and services with other people, or giving things to other people, things the transferrers are entitled to under the favored distributational pattern. To maintain a pattern one must either continually interfere to stop people from transferring resources as they wish to, or continually (or periodically) interfere to take from some persons resources that others for some reason chose to transfer to them....

Patterned principles of distributive justice necessitate redistributive activities. The likelihood is small that any actual freely-arrived-at set of holdings fits a given pattern; and the likelihood is nil that it will continue to fit the pattern as people exchange and give. From the point of view of an entitlement theory, redistribution is a serious matter indeed, involving, as it does, the violation of people's rights. (An exception is those takings that fall under the principle of the rectification of injustices.) ...

LOCKE'S THEORY OF ACQUISITION
... [Let us] introduce an additional bit of complexity into the structure of the entitlement theory. This is best approached by considering Locke's attempt to specify a principle of justice in acquisition. Locke views property rights in an unowned object as originating through someone's mixing his labor with it. This gives rise to many questions. What are the boundaries of what labor is mixed with? If a private astronaut clears a place on Mars, has he mixed his labor with (so that he comes to own) the whole planet, the whole uninhabited universe, or just a particular plot? Which plot does an act bring under ownership? ...

Locke's proviso that there be "enough and as good left in common for others" is meant to ensure that the situation of others is not worsened... I assume that any adequate theory of justice in acquisition will contain a proviso similar to [Locke's]. ...

I believe that the free operation of a market system will not actually run afoul of the Lockean proviso.... If this is correct, the proviso will not ... provide a significant opportunity for future state action.