

Social And Political Philosophy

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**Liberty, Justice and the Contract: Rawls &
Nozick Block Five**

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That well known political philosopher J. S. Mill in his work *On Liberty*¹ argues, that 'individualism' is a precondition for the well-being and progress of society. Nevertheless, we can certainly imagine circumstances where, in the pursuit of this kind of individual freedom, an individual's 'self-interest' might tend to degenerate into selfishness, if this is in some way sanctified and legitimised, to the detriment of the welfare of others, and thus, might even explain the emergence of inequalities in society. Before we develop this point let us first explore briefly the nature of inequality and draw some distinctions.

Firstly, in a fairly obvious sense we are all unequal from birth in that we inherit different genetic characteristics, secondly, individuals may be said to be unequal in their upbringing. Such inequalities are clearly relevant to freedom. Finally, in a more abstract sense, it can be argued that 'political' inequalities exist within society, the implication being that all men were equal in the pre-social 'state of nature'. Despite their differences the several political thinkers referred to in the previous blocks and liberty concur in their acceptance of this view. According to Hobbes men are more or less equal in brutishness and cunning; Locke regards them as equally free under 'natural law'; while for Rousseau men are equal in their autonomy and perfectibility. It is only within society that this equality is lost: for Hobbes and Locke political inequality arises as a result of the partial surrender of their freedom by citizens to an individual sovereign or to a ruling class, but for Rousseau inequality is the necessary concomitant of social conventions which sanction property relationships. Much subsequent political philosophy has therefore been concerned with the problem of balancing 'natural equality' against the demands of society in the context of which, seemingly, individual self-realization has to be sought. This is in effect the problem of justice.

But 'justice' is itself an ambiguous term. We shall confine the discussion here to justice in the broadly Aristotelian sense of 'distributive' justice. Now 'distributive' justice can mean roughly 'fairness': that is 'to each according to one's need or needs', 'need' here being tied in some way to one's social positions or circumstance in certain relevant respects.² What are these 'relevant respects'? What criterion should be applied to ensure fair treatment? An arguably, some would say simplistic approach, would be to say that in so far as all people are citizens in a particular society then not only should they be subject to the same laws but they should have the same income, the same housing, the same education and so on. This approach has the merit of apparently eliminating the inequalities in

¹ Liberty for Mill involves, as he says, 'the nature and limits of the power which can be legitimately exercised by society over the individual'. We do not cover Mill here but if you are interested you should read J.S. Mill *On Liberty and other writings*, ed. Stefan Collini, (2003, CUP: Cambridge)

² You will notice, of course, that 'relevant respects' here is important in delineating both the structure of 'social' in which 'need' is defined. In other words, if we also added 'from each according to his ability' 'fairness' would be defined by what a particular 'abilities' were valued by the particular social structure.

the second sense mentioned above, and although political inequality between ruler and ruled still obtains, every citizen is, in this respect, unequal to the same extent. However, it can be objected that this criterion fails to take account of the fact that people who are physically or intellectually (genetically) unequal may have different needs. 'Fairness' might then necessitate that people unequal in such respects be treated preferentially - in compensation. The difficulty here is where the line should be drawn. People have different aspirations. Some are more ambitious, or work harder than others. Unless we subscribe to some kind of 'determinist' doctrine we should think of such people as selecting their priorities and choosing their courses of action rationally and freely. Should not they therefore be treated on the basis of merit? Should they not be rewarded for hard work and achievement? Moreover 'need' is also a relative term. Certainly a disabled person is 'in need' and in a central sense of justice should be given preferential assistance. But most people who are fortunate not to suffer from physical or mental disability may well have their own special needs; and how is one to decide whether one case is more deserving of 'unequal' treatment than another?

Decisions of this kind must, it would seem, be left to the 'social structure' and that which legislates and maintains this structure; the state. Some people might be expected to treat others fairly on an individual basis, perhaps in accordance with a set of moral principles. But protection of the rights and attention to the needs of all members of the community, consideration of priorities, and resolution of conflicts, are all matters of such complexity that general agreement can normally be effected only through legislation. How far the laws of a community should be grounded in or reflect a particular moral code is of course itself a controversial matter, particularly in a pluralist society. Reference to the state, however, raises two particular issues of concern, firstly, to decisions regarding the degree of state intervention, and secondly, the extent to which individual citizens are allowed to participate in the legislative process.

In modern Western liberal democracies there is a strong emphasis on individualism, on self-regarding action, however, as can be seen from the last few decades in a certain of these democracies, such an unrestrained emphasis can lead to a laissez-faire mentality with extreme inequalities that affect the most vulnerable in society unless their rights are recognized and protected by the state.³ As against this we have to weigh the cost of state intervention to individual liberty. How these extremes are to be avoided, how the claims of the individual to freedom are to be reconciled with the claim of the state to ensure justice for all is a central

³ Nevertheless, it would be prudent to remember here that much that has been said above concerning the state as some kind of arbiter of 'equality' overlooks a Marxian perspective of the state. As you will remember from the last block, for Marx the 'State' is an abstraction and, 'the form in which the individuals of a ruling class assert their common interests, and in which the whole of civil society of an epoch is epitomised' Thus, the state, Marx argues, can only act legitimately when it has been transformed by the collective will, thus producing a real community in which the individual will be able to become truly 'conscious'.

problem for political philosophy that remains unresolved to this day. The solution, if solution there be, may well be connected with the second of the two issues mentioned above, namely that concerned with participation of the governed in the governing process. The problem of participation brings us back again to the question of liberty; for it can be argued that if a society is to be genuinely democratic, in the literal sense of the word, then citizens must be sufficiently free (that is, from constraint or coercion) to take part in political activity which has a bearing on their own well-being in the community. Not all of us can at the same time be members of parliament or local councillors. But at the very least participation means that the channels of communication between the legislature and the governed must be kept as open as possible. The problem here is that even in 'free' societies', which is what Western liberal democracies claim to be, there are wide variances in the 'quality of life' enjoyed by their citizens. It is a well known and well worn grievance that there are individuals who earn disproportionately high incomes, often as a direct result of market forces or other economic 'imbalances' in the social structure rather than on the basis of merit alone, thereby gain access to better education and health facilities, which in turn may ensure that their participation in the political process is more effective than those who find themselves in less fortunate circumstances. Moreover, it is not surprising that such political power is often exercised to ensure the maintenance of the status quo.

In the last block we considered the Marxian position on this very issue, but we also noted there that for many the Marxian position is unsatisfactory. Therefore, to bring this module to an end we shall look briefly at two contemporary political philosophers, the first John Rawls whose famous book *A Theory of Justice*⁴ makes an attempt to reconcile liberty, equality and justice and Robert Nozick, whose book *Anarchy, The State and Utopia*⁵ spends much of its time attempting to refute the theories of John Rawls.

Rawls and Nozick

John Rawls' *A Theory of Justice* (1972)⁶ develops a theory which, as he says, 'seems to offer an alternative systematic account of justice that is superior, or so I argue, to the dominant utilitarianism of [much modern moral philosophy]'.

Rawls presents his approach as an alternative to either *utilitarian* or *intuitionist* accounts of justice.⁷ The utilitarian position generally

⁴ John Rawls, *Theory of Justice* (1972, Clarendon Press: Oxford)

⁵ Robert Nozick, *Anarchy, The State and Utopia*, (1974, Blackwell: Oxford)

⁶ I do not expect you to read the whole of *Theory of Justice* but you might be advised to read his paper "Justice as Fairness." *Philosophical Review* (April 1958), 67 (2): 164-194, which can be found here <http://www.jstor.org/stable/2182612?seq=1>

⁷ Intuitionism is the view that the propositions that define justice are simply (and unaccountably) known to us. This may be true but does not help us unless it can give some means of discriminating when intuitions happen to clash.

maintains that justice is an accommodation of two principles - one concerned with the maximization, the other with the distribution of the good. The classical formulation is 'the greatest good the greatest number'. One problem is the relation between the two propositions - the trade off between equality and the sum of welfare. Rawls however attacks utilitarianism on the grounds that 'it does not take seriously the difference between persons' (1972 p. 27). One man's meat is another man's poison - so how can we know when we're maximizing the good, and what is to count as equal distribution?

The object of *A Theory of Justice* is to submit and defend a particular definition of the term 'social justice'. Rawls avoids *intuitionism* by holding that principles are derived by thought-experiment through a process that sets them on a footing independent of subjective values. We are asked to imagine a hypothetical situation so designed that the principles that human beings would choose in it, cannot be anything but fair. Justice equals fairness.

Rawls claims (1972, p. 11):

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 ... 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 ... the foundation charter of their society.

It is on the account of this position that the compelling nature of the theory rests. His approach is founded firmly on an appeal to 'free and rational' choice seems to offer a purchase in the climb out of the mire of relativism. Social and moral thinking may be galvanized, he hopes, as a result of this constructive interaction with a persuasive theory. However, the outcome, we may find, is that Rawls is fully justified in imposing any conditions that his audience will accept in constructing his hypothetical thought-experiment in such a way as to achieve the desired conclusion. The recipe for the *original position*, for this is what he calls this thought-experiment, is carefully designed to produce the principles of justice.

The Account Of The Original Position

The theory asks us to imagine that individuals can be abstracted from their social roles and come together to agree a structure, both social and economical to the social order - the distribution of relative shares of social goods and inequalities between social positions - that they would regard as acceptable. These hypothetical negotiators are behind what Rawls terms the *veil of ignorance*, that is, they have no idea what position they will themselves come to occupy in the social structure they are

constructing. Rawls argues, then, that this would lead to imposed neutrality (compulsory), which in turn would mean that agreements freely negotiated under these imaginary circumstances would result in fair play and would thus necessarily fulfil the principles of what we mean by justice. An individual who is ignorant of who is occupy the social positions among which he distributes advantages can scarcely be accused of making choices biased in anyone's favour: and an unbiased judgment is surely fair. Thus principles of justice derive from rational agreement, and it must in principle be possible to predict the kind of rational agreement the unbiased negotiators would make.

The theory is a theory, as I hope you have recognised of social contract, yet it is also the ultimate basis of the contract we imagine people would arrive at in their universal human rationality. Notice that to reach this result the experiment, in order to be able to predict the principles of justice that would be decided on, has to take away from an individual all but her rationality. However, this begs the question how reasonable it is to expect individuals in such circumstance to trade in principles at all. Thus all is contingent what can be extorted from the concept of rationality. Many critics argue that this merely determines the outcome for one can only take out what one has put in. Thus they argue that Rawls' efforts to determine the nature of justice as fairness in this way lead to two specific difficulties Firstly, in the requirements he makes of the original position, and, secondly, they way he anticipates the kind of judgments rational individuals might reasonably be expected to make in it.

Problems with the original position

Problem A

First, it is persuasive idea suggesting that individuals denied access to knowledge of their own interests in society by the *veil of ignorance* should know absolutely nothing about the society under negotiation. Ignorance may be sufficient to necessitate impartiality, however, hypothetical agreements that are based on rationality alone can in no way guarantee a specific form of distribution of social goods, indeed individuals may happen on all forms of distribution of advantage and disadvantage. Does, then, anything go as social justice?

Rawls concludes a lengthy discussion of the problem (1972, p. 137):

It is taken for granted that [the primitive negotiators] know the general facts about human society. They understand political affairs and the principles of economic theory; they know the basis of social organisation and the laws of human psychology. Indeed, the parties are presumed to know whatever general facts affect the choice of principles of justice.

But in answering this criticism he opens himself up to a more serious problem. The reference to the negotiators knowing “the general facts about human society” and “the basis of social organisation and the laws of human psychology” is puzzling, for, as you will know if you have studied other modules in this MA programme⁸, the forms of social life and how individual function in society is no undisputed fact, and there are many contested views and incommensurate paradigms that attest to this dispute. For example, neo-Marxists, neo-functionalist, structuralists, post-structuralist, would wish to insert rather different formula for the social structure behind the veil of ignorance. Each paradigm, it may be argued, are incommensurate with each other, but that does not make one the more rational than another. Deciding, indeed, determining what knowledge should be made available the negotiators in the original position without assuming what we want to prove is far from being unproblematic.

Problem B

The second problem is connected with the supposition that the preferences at which the hypothetical negotiators ultimately arrive is free and unrestricted. Even given an undisputed social science, what is to stop the disputants as students of games theory (or rational gamblers), from constructing social orders in which some are benefited grossly at the expense of others? Rawls, audaciously, argues that the parties:

have no incentive to suggest pointless or arbitrary principles. For example, none would suggest that special privileges be given to “those exactly six feet tall, or born on a sunny day.... No-one can tell whether such principles would be to his advantage.” (1972,p. 149)

However, this does not rule out that it is highly rational to desire a social structure, in which a large *rentier* middle class is comparatively advantaged at the expense of a small economically exploited working class. Given that the ignorance of the negotiators is relative and the choices of such principles could not be ruled out, there is a good chance that the advantage of such a choice of social structure would appeal to any given individual. So much for rationality! The force of this argument extends beyond the illustration of rational societal choice. If ‘rational’ means self-interested’ the question of what is to be counted as in a person’s interest, and of how we can anticipate the judgments of interest of rational negotiators, must be answered. It is hard to see why it doesn’t make sense to construct any social order on a gambler’s throw, if you should choose to, since how you calculate the odds must depend on how you evaluate the desirability of occupying one social position as against another. The relative weighting of social position is not quantifiable by a

⁸ See for example *Knowledge and Culture* and *Self and Society*.

calculus of universal rules, but depends on preference. In this sense, there is nothing irrational about backing your fancy. Tastes differ - as Rawls himself points out in his critique of utilitarianism.

How can Rawls meet this kind of objection? One solution that Rawls offers, is to argue that rationality functions as a means to certain ends; the ends here being a notion of human wants:

primary goods ... are things which it is supposed a rational man wants, whatever else he wants' (1972, p. 92).

Rawls seems to be implying here that somehow we know 'rationally' and, I guess, necessarily what these 'primary goods' are. But it is not unfair, and certainly not self-contradictory, to enquire of him exactly are these primary social goods. Can such goods be satisfactorily specified? It seems to me that this presupposes an individual's life - her perspective on social advantage and disadvantage - to be in no way influenced (structured) by the social environment. There is nothing implausible in the story that Wittgenstein sometimes preferred sitting in the cinema eating a pork pie to philosophical speculation.

But perhaps we are being unfair to Rawls. Perhaps he has in mind in the above quote the notion of primary goods that he had outlined earlier in the work. This is the claim that individuals value highly a social structure that stresses values such as 'rights, liberties, opportunities and powers, income and wealth' (Rawls, 1972, p. 92). And also we should bear in mind a later reference to 'self-respect and a sure sense of one's own worth' (p.396). This seems to be trivially true of most advanced Western capitalist societies, though this is not to say that all individuals in such societies would agree, indeed, Marxists would argue, that substantial minorities within such societies are disadvantaged by such a social structure. This emphasises that what is at work here is merely a theory of the 'good' and thus it is preferences certain rights and liberties, a certain structure of opportunities, a certain range of powers, and income distribution. A community of poets or eco-warriors would presumably display rather different preferences between leisure and income, and thus the emphasis is here on 'different' which makes no one preference 'better' or more 'primary'. We see again that Rawls is gain here using a paradigm of social life and while it may be incommensurate with other paradigms he cannot, with this argument, claim it is more 'rational' than they.

Therefore, it is difficult to see how Rawls' theory of primary goods can provide a way of discriminating between such judgments - unless it simply expresses a particular set of values. Rawls derives two basic principles of justice (1972,pp. 150-1):

a principle establishing equal liberty for all, including equality of opportunity, as well as an equal distribution of income and wealth'

and:

inequalities are permissible when they maximise, or at least contribute to, the long-term expectations of the least fortunate group in society.

Agreement on the former is explained by the argument that 'it is not reasonable for [any individual] to expect more in a division of social goods, and it is not reasonable for him to accept less...', on the latter as rational insurance lest the worst befall. However, one could argue, as some do, that it is eminently reasonable to allow more social goods to some and less to others - and be allowed to insure oneself against the chance of being worst off, so long as the chances of being better off seem acceptably high. Acceptability is a matter of judgment. To make the theory work, as we have seen, we have assumed we know how individuals make preferences and, despite Rawls claims this is truly problematic.

Rawls' and social action.

I need to say a little of what Rawls is up to in the rest of *A Theory of Justice*. His, of course, aim is to identify and analyse the principles of justice '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' (see §. 3]. The principle of justice thus conceived is that of fairness.

As we have seen, what Rawls is asking us to do, then, as readers, is to divest ourselves of the preconceptions and expectations we associate with our present status in society, and to use our imagination to put ourselves in the position of the least favoured members of the community. We must distance ourselves - behind what he calls the *veil of ignorance* - from the advantages we possess in society as it actually is and from our own particular views about the good, so as to ascertain what primary goods are essential for a minimal, tolerable existence. What would we as free and rational persons then choose in this hypothetical situation? What would we regard as the basic requirement necessary if our well-being is to be advanced? The answer given is: a fair share of the social goods. But he makes it clear in his listing of principles and priority rules that the demand for liberty would be expected to take precedence over the quest for material prosperity. In this way, he argues, if the distribution of society's goods is to be made on the basis of a guarantee that the least favoured people in society will enjoy the maximum benefit consistent with the rules of priority, then the natural self-regarding tendencies of the rest of the community will be tempered by altruism.

What if the government fails to implement the contracted principles of justice? Rawls' answer is that resort to civil disobedience may be permissible.⁹ But Rawls is preaching reform not revolution. He sees civil

⁹ For what is summarised below see §§ 53-59

disobedience as falling between legal protest on the one side and conscientious refusal and various forms of resistance on the other. He defines it as 'a public, non-violent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government'. He is not therefore suggesting that it might be legitimate to overthrow a democratically elected government, but he is advocating the right of the individual to disobey the law if the government is perceived as failing to implement the principles of justice (that is, liberty and equality) 'which regulate the constitution and social institutions generally'. He further makes it clear that while the law is broken, yet fidelity to the law is expressed by the public and non-violent nature of the act, and by the willingness of the agent to accept the legal consequences of his disobedience. Moreover, in deciding whether civil disobedience is justified, the citizen must behave responsibly and look to the political principles that underlie the constitution and not to his own personal or party political interests. Note also that, for Rawls, civil disobedience is grounded solely in the shared conception of justice that underlies the political order. This is in contrast to conscientious refusal which, although in time of war may be based on political considerations, is more usually founded on appeals to moral or religious convictions.

Summing Up

Rawls' moral and political philosophy has had a considerable impact on 'liberal' social thinking in both the US and the UK, especially on 'liberal' social policy. His thesis, however, as we have pointed out above is not unproblematic and is open to a number of criticisms. For example, it has been objected that it is not possible to hide completely behind the 'veil of ignorance'; we cannot start from an 'empty' position. The concept is formalistic. It would seem to follow that we do not have a 'rational' choice in Rawls' sense; or, if we do, other procedures, for example, risk-taking, might be equally rational. We have seen how Rawls seems to subordinate liberty to justice, however, the consequence that individuals might be compelled to act in accordance with the principles, notwithstanding their acceptance of the social contract is far from clear.

The impact of these criticisms is to argue that the theory cannot be stated in such a way that it does the job that liberal social policymakers want done and that is the founding principles of justice on the peculiar ultimacy rationality. The tinkering necessary to produce a satisfactory theory of justice involves the assumption of undisputed social science and the circularity of basing justice on values concealed within an interpretation of rationality. How has the theory been used in the analysis of social policy to the net effect of attempting to reinforce a tradition of analysis that minimizes class conflict perspectives. This coincides with the development of political and economic systems that necessarily tend to emphasize consensus on social goals and on methods of attaining them. In short, reform not revolution!

Nozick and 'distributive justice'

I would be failing in my duty if we were to leave this block without a look, albeit a cursory look, at one of Rawls's fiercest critics, Robert Nozick. One of the criticism of Rawls' theory that we did not cover above is his need to regard property as grounding his theory of rights. Some critics, in particular Nozick, argue that the right to property is antecedent to a Rawlsian society by virtue of tacit agreements, contracts and the like; and redistribution would in fact constitute an injustice.

Rawls tells us in the preface to *A Theory of Justice* that his version of the social contract is 'highly Kantian in nature'. It is interesting, then, to see that Nozick, in *Anarchy, State and Utopia* (1974), uses Kant's second formulation of the *categorical imperative* in *The Groundwork of the Metaphysics of Morals* as his basic moral presupposition. The formulation is this:

Act in such a way that you always treat humanity, whether in your own person or in the person of another, never simply as a means, but always at the same time as an end.

Nozick understands the proposition as being a principle of human inviolability and that as such, it is a idea that each individual has rights that impose limits on how he may be treated and dealt with by others (1974.p. 30). He says, 'they may **not** be sacrificed or used for the achieving of other ends without their consent.' In other words the principle as gives rise to property rights. Inviolability is the idea that individuals have rights to what they earn, to what they have procured or in Locke's words, to what they have mixed their labour with. To have a property right requires that the person who has the property right to **X** shall determine what shall be done with **X** (1974, p. 171).

For Nozick a form of 'distributive justice' that redistributes goods to the worst-off members of society or the needy, may be carried out in the name of social justice inviolability or of 'rights'. But it cannot be done without infringing on the principle of inviolability; it cannot fail to violate this basic principle. He gives number of reasons for this. In the first place, any appeal to some conception of the social good in order to justify the violation of an individual's rights involved in the re-distribution of his property to others cannot be consistent. While we can choose to make sacrifices for another, we cannot generalise this into a collective precept, for as Nozick, says (1974,pp. 32-3), there are only individual people with their own individual lives. Using one of these people for the benefit of others uses him and benefits the others. Nothing more.... Talk of overall social good covers this up [intentionally?] Nozick, then, works with a intensely individualist position. It is his individualism that is used rejecting any appeal to the claims of society. There are only individuals

with their rights and their own pursuit of their self-interest; to interpret rights in any other way is both inexplicable and harmful.

A further criticism that Nozick makes of Rawls' formulation of distributive justice is this. To redistribute - or, as Nozick calls it to create a 'redistributive pattern' of transferring goods and services from the 'haves' to the 'have nots' - is to neglect to acknowledge the origin of the production and accumulation processes in present in society.¹⁰ Human effort and human labour produce goods, and thus they can be redistributed validly only with the permission of the individual whose possession they are in: to do otherwise is to infringe the rights of the individual whose property they are. In other words, to redistribute against the will of those whose possessions and property are to be redistributed is infringed the basic right of inviolability. This is because ultimately:

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. The situation is not one of something's getting made and then there being an open question of who is to get it. Things come into the world already attached to people having entitlements over them. (1974p 160)

For Nozick production and distribution are not separate issues, production creates property rights in that which is produced. Accordingly, if the product is redistributed, either as it is or by taxation, an individuals' property rights are being violated. This interpretation of the method of production is linked to direct individualism and the presupposition that that individual contributions to production could be separated out and equated with distinguishable property rights in the products. I think we can consider this claim highly questionable.

Finally, he argues that any patterned principle of distribution that claims authorisation for the redistribution of goods from those who have produced them and whose property they are 'whether this taxation or wages or on wages over a certain amount, or through seizure of profits, to those who have no such property or products, would be allowing the state, the agent of redistribution, a property right, or part property right, in the individuals whose assets had been redistributed: 'This process whereby they take this decision from you makes them a part owner of you. Just as having such partial control and power of decision by right, over an animal or an inanimate object would be to have a property right in it' (Nozick, 1974, p. 174) and this can not be just whether based upon social justice or upon social and economic rights. This is unavoidable in any redistribution from the 'haves' to the have he says that 'these principles involve a shift from the classical liberal's notion of self-ownership to a notion of (partial) property rights in other people (1974 p. 172). And this shift is of course incompatible with the Kantian principle of respect for persons. If such

¹⁰ I take it here that Nozick has in mind *libertarian* societies

distribution is institutionalized in state activities; positioning it as a right or in accordance with some principle of distributive justice, then there is going to be an entrenched clash of rights between what Nozick regards as the absolutely basic right of inviolability and welfare rights (1974, p. 173):

Summing Up Nozick

The historical entitlement conception of justice for which Nozick argues is the only conception compatible with the principle of inviolability. This implies that when property has been acquired justly (justice in acquisition) - that is to say when unowned natural resources have been acquired by mixing one's labour with them - they have been justly acquired if there is left enough and as good for others; or if compensation is paid when the appropriation of an unowned object worsens the position of others. If this condition is satisfied then an individual is entitled to his property and has property rights in them; those property rights are violated by any compulsory redistribution. However, there can be justice in transfer when an individual freely chooses to bestow some of his holdings on others, and this is in fact for Nozick the only way compatible with the theory of rights that distribution in the form of welfare may be provided in society by generosity, philanthropy, beneficence - by freely transferring resources on those who are in need. But this is supererogatory; it is not a strict obligation, and it is false to argue that the needy have a right to the receipt of such transfers (Nozick, 1974, p. 151):

A distribution is just if it arises from another just distribution by legitimate means. The legitimate means of arriving from one distribution to another are specified by the principle of distribution in transfer. The legitimate first 'moves' are specified by the principles of justice in acquisition.

If we wish to inquire whether a particular distribution is just we have to inquire how it came about - how the holdings were acquired and how they were transferred (if they were). Because transfers operate *inter alia* via bequests, it also follows that the justice of the distribution of holdings in a particular generation is dependent not just upon the transfers that have been affected within that generation but also upon how the holdings within that generation come about from requests from previous generations

The right of bequest for Nozick is a central part of justice in transfer. Consequently, children have to put up with the consequences of their parents' successes and failures and the character of their bequests to them. There can be no process of rectification at the start of each generation because this would infringe the right of bequest to them and thus of justice in transfer. The only role that rectificatory justice has is

when initial holdings have not been acquired according to the criteria of appropriative right or when transfers have not been freely made.

The importance of Nozick's theory here is that he denies that the idea of a right to welfare, or a duty to meet needs however analysed, can be compatible with what he would regard as a central and deeply entrenched moral principle treating people as ends in themselves

A conclusion

To sum up both these theories I would say that they are advocating a form of 'political equality' as described in the opening remarks of this block. One could argue that this concept is being 'filled in' by a appeal to action that is informed by static, primary values that assume consensus without question and proffer political and social conflict as change to be resolved and reformed in accordance with the primary value of self-interest in either a liberal or a libertarian sense and in doing so neglect to acknowledge (in any substantive way) the different interests and values of the different classes or groups that make up society. One could say that it is not surprising to find here the values held to be central to the existence of Western liberal democracies. However, what such theories do not make explicit, is that they are clearly taking a particular political stance and thus 'political equality' in such theories means merely rights ascription in accordance with certain dominant political ideals. Moreover, the political philosophy that informs the ideas of reform via some form of 'distributive justice', whether of the Rawlsian or Nozickian kind, at the very least help to support those that have an established power base. Hence, one of the main criticisms of these perspectives, is that they are blatantly 'ideological'. The main reason for these philosophical positions being categorized as 'ideological' is that they fails to or neglect to take into account, or even ignore the connection between economics and other aspects of social life such as legal, political and judicial institutions, and have a tendency to accept the economic and social order as purely objective and unchanging.