

SPHERES OF JUSTICE

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Complex Equality

Pluralism

Distributive justice is a large idea. It draws the entire world of goods within the reach of philosophical reflection. Nothing can be omitted; no feature of our common life can escape scrutiny. Human society is a distributive community. That's not all it is, but it is importantly that: we come together to share, divide, and exchange. We also come together to make the things that are shared, divided, and exchanged; but that very making--work itself--is distributed among us in a division of labor. My place in the economy, my standing in the political order, my reputation among my fellows, my material holdings: all these come to me from other men and women. It can be said that I have what I have rightly or wrongly, justly or unjustly; but given the range of distributions and the number of participants, such judgments are never easy.

The idea of distributive justice has as much to do with being and doing as with having, as much to do with production as with consumption, as much to do with identity and status as with land, capital, or personal possessions. Different political arrangements enforce, and different ideologies justify, different distributions of membership, power, honor, ritual eminence, divine grace, kinship and love, knowledge, wealth, physical security, work and leisure, rewards and punishments, and a host of goods more narrowly and materially conceived--food, shelter, clothing, transportation, medical care, commodities of every sort, and all the odd things (paintings, rare books, postage stamps) that human beings collect. And this multiplicity of goods is matched by a multiplicity of distributive procedures, agents, and criteria. There are

such things as simple distributive systems--slave galleys, monasteries, insane asylums, kindergartens (though each of these, looked at closely, might show unexpected complexities); but no full-fledged human society has ever avoided the multiplicity. We must study it all, the goods and the distributions, in many different times and places.

There is, however, no single point of access to this world of distributive arrangements and ideologies. There has never been a universal medium of exchange. Since the decline of the barter economy, money has been the most common medium. But the old maxim according to which there are some things that money can't buy is not only normative but also factually true. What should and should not be up for sale is something men and women always have to decide and have decided in many different ways. Throughout history, the market has been one of the most important mechanisms for the distribution of social goods; but it has never been, it nowhere is today, a complete distributive system.

Similarly, there has never been either a single decision point from which all distributions are controlled or a single set of agents making decisions. No state power has ever been so pervasive as to regulate all the patterns of sharing, dividing, and exchanging out of which a society takes shape. Things slip away from the state's grasp; new patterns are worked out--familial networks, black markets, bureaucratic alliances, clandestine political and religious organizations. State officials can tax, conscript, allocate, regulate, appoint, reward, punish, but they cannot capture the full range of goods or substitute themselves for every other agent of distribution. Nor can anyone else do that: there are market coups and cornerings, but there has never been a fully successful distributive conspiracy.

And finally, there has never been a single criterion, or a single set of interconnected criteria, for all distributions. Desert, qualification, birth and blood, friendship, need, free exchange, political loyalty, democratic decision: each has had its place, along with many others, uneasily coexisting, invoked by competing groups, confused with one another.

In the matter of distributive justice, history displays a great variety of arrangements and ideologies. But the first impulse of the philosopher is to resist the displays of history, the world of appearances, and to search for some underlying unity: a short list of basic goods, quickly abstracted to a single good; a single distributive criterion or an interconnected set; and the philosopher himself standing, symbolically at least, at a single decision point. I shall argue that to search for unity is to misunderstand the subject matter of distributive justice. Nevertheless,

choose pluralism, as I shall do, that choice still requires a coherent defense. There must be principles that justify the choice and set limits to it, for pluralism does not require us to endorse every proposed distributive criteria or to accept every would-be agent. Conceivably, there is a single principle and a single legitimate kind of pluralism. But this would still be a pluralism that encompassed a wide range of distributions. By contrast, the deepest assumption of most of the philosophers who have written about justice, from Plato onward, is that there is one, and only one, distributive system that philosophy can rightly encompass.

Today this system is commonly described as the one that ideally rational men and women would choose if they were forced to choose impartially, knowing nothing of their own situation, barred from making particularist claims, confronting an abstract set of goods. ¹ If these constraints on knowing and claiming are suitably shaped, and if the goods are suitably defined, it is probably true that a singular conclusion can be produced. Rational men and women, constrained this way or that, will choose one, and only one, distributive system. But the force of that singular conclusion is not easy to measure. It is surely doubtful that those same men and women, if they were transformed into ordinary people, with a firm sense of their own identity, with their own goods in their hands, caught up in everyday troubles, would reiterate their hypothetical choice or even recognize it as their own. The problem is not, most importantly, with the particularism of interest, which philosophers have always assumed they could safely--that is, uncontroversially--set aside. Ordinary people can do that too, for the sake, say, of the public interest. The greater problem is with the particularism of history, culture, and membership. Even if they are committed to impartiality, the question most likely to arise in the minds of the members of a political community is not, What would rational individuals choose under universalizing conditions of such-and-such a sort? But rather, What would individuals like us choose, who are situated as we are, who share a culture and are determined to go on sharing it? And this is a question that is readily transformed into, What choices have we already made in the course of our common life? What understandings do we (really) share?

Justice is a human construction, and it is doubtful that it can be made in only one way. At any rate, I shall begin by doubting, and more than doubting, this standard philosophical assumption. The questions posed by the theory of distributive justice admit of a range of answers, and there is room within the range for cultural diversity and political

choice. It's not only a matter of implementing some singular principle or set of principles in different historical settings. No one would deny that there is a range of morally permissible implementations. I want

to argue for more than this: that the principles of justice are themselves pluralistic in form; that different social goods ought to be distributed for different reasons, in accordance with different procedures, by different agents; and that all these differences derive from different understandings of the social goods themselves--the inevitable product of historical and cultural particularism.

A Theory of Goods

Theories of distributive justice focus on a social process commonly described as if it had this form:

People distribute goods to (other) people.

Here, "distribute" means give, allocate, exchange, and so on, and the focus is on the individuals who stand at either end of these actions: not on producers and consumers, but on distributive agents and recipients of goods. We are as always interested in ourselves, but, in this case, in a special and limited version of ourselves, as people who give and take. What is our nature? What are our rights? What do we need, want, deserve? What are we entitled to? What would we accept under ideal conditions? Answers to these questions are turned into distributive principles, which are supposed to control the movement of goods. The goods, defined by abstraction, are taken to be movable in any direction.

But this is too simple an understanding of what actually happens, and it forces us too quickly to make large assertions about human nature and moral agency--assertions unlikely, ever, to command general agreement. I want to propose a more precise and complex description of the central process:

People conceive and create goods, which they then distribute among themselves.

Here, the conception and creation precede and control the distribution. Goods don't just appear in the hands of distributive agents who

do with them as they like or give them out in accordance with some general principle. ² Rather, goods with their meanings--because of their meanings--are the crucial medium of social relations; they come into people's minds before they come into their hands; distributions are patterned in accordance with shared conceptions of what the goods are and what they are for. Distributive agents are constrained by the goods they hold; one might almost say that goods distribute themselves among people.

Things are in the saddle
And ride mankind. ³

But these are always particular things and particular groups of men and women. And, of course, we make the things--even the saddle. I don't want to deny the importance of human agency, only to shift our attention from distribution itself to conception and creation: the naming of the goods, and the giving of meaning, and the collective making. What we need to explain and limit the pluralism of distributive possibilities is a theory of goods. For our immediate purposes, that theory can be summed up in six propositions.

All the goods with which distributive justice is concerned are social goods. They are not and they cannot be idiosyncratically valued. I am not sure that there are any other kinds of goods; I mean to leave the question open. Some domestic objects are cherished for private and sentimental reasons, but only in cultures where sentiment regularly attaches to such objects. A beautiful sunset, the smell of new-mown hay, the excitement of an urban vista: these perhaps are privately valued goods, though they are also, and more obviously, the objects of cultural assessment. Even new inventions are not valued in accordance with the ideas of their inventors; they are subject to a wider process of conception and creation. God's goods, to be sure, are exempt from this rule--as in the first chapter of Genesis: "and God saw every thing that He had made, and, behold, it was very good" (1:31). That evaluation doesn't require the agreement of mankind (who might be doubtful), or of a majority of men and women, or of any group of men and women meeting under ideal conditions (though Adam and Eve in Eden would probably endorse it). But I can't think of any other exemptions. Goods in the world have shared meanings because conception and creation are social processes. For the same reason, goods have different meanings in different societies. The same "thing" is valued for different reasons, or it is valued here and disvalued there. John Stuart Mill once complained that "people like in crowds," but I know of no other way to like or to dislike social goods. ⁴ A solitary person could hardly understand the meaning of the

goods or figure out the reasons for taking them as likable or dislikable. Once people like in crowds, it becomes possible for individuals to break away, pointing to latent or subversive meanings, aiming at alternative values--including the values, for example, of notoriety and eccentricity. An easy eccentricity has sometimes been one of the privileges of the aristocracy: it is a social good like any other.

Men and women take on concrete identities because of the way they conceive and create, and then possess and employ social goods. "The line between what is me and mine," wrote William James, "is very hard to draw."⁵ Distributions can not be understood as the acts of men and women who do not yet have particular goods in their minds or in their hands. In fact, people already stand in a relation to a set of goods; they have a history of transactions, not only with one another but also with the moral and material world in which they live. Without such a history, which begins at birth, they wouldn't be men and women in any recognizable sense, and they wouldn't have the first notion of how to go about the business of giving, allocating, and exchanging goods.

There is no single set of primary or basic goods conceivable across all moral and material worlds--or, any such set would have to be conceived in terms so abstract that they would be of little use in thinking about particular distributions. Even the range of necessities, if we take into account moral as well as physical necessities, is very wide, and the rank orderings are very different. A single necessary good, and one that is always necessary--food, for example--carries different meanings in different places. Bread is the staff of life, the body of Christ, the symbol of the Sabbath, the means of hospitality, and so on. Conceivably, there is a limited sense in which the first of these is primary, so that if there were twenty people in the world and just enough bread to feed the twenty, the primacy of bread-as-staff-of-life would yield a sufficient distributive principle. But that is the only circumstance in which it would do so; and even there, we can't be sure. If the religious uses of bread were to conflict with its nutritional uses--if the gods demanded that bread be baked and burned rather than eaten--it is by no means clear which use would be primary. How, then, is bread to be incorporated into the universal list? The question is even harder to answer, the conventional answers less plausible, as we pass from necessities to opportunities, powers, reputations, and so on. These can be incorporated only if they are abstracted from every particular meaning--hence, for all practical purposes, rendered meaningless.

But it is the meaning of goods that determines their movement. Distributive criteria and arrangements are intrinsic not to the

good-in-itself but to the social good. If we understand what it is, what

it means to those for whom it is a good, we understand how, by whom, and for what reasons it ought to be distributed. All distributions are just or unjust relative to the social meanings of the goods at stake. This is in obvious ways a principle of legitimation, but it is also a critical principle. ⁶When medieval Christians, for example, condemned the sin of simony, they were claiming that the meaning of a particular social good, ecclesiastical office, excluded its sale and purchase. Given the Christian understanding of office, it followed--I am inclined to say, it necessarily followed--that office holders should be chosen for their knowledge and piety and not for their wealth. There are presumably things that money can buy, but not this thing. Similarly, the words *prostitution* and *bribery*, like *simony*, describe the sale and purchase of goods that, given certain understandings of their meaning, ought never to be sold or purchased.

Social meanings are historical in character; and so distributions, and just and unjust distributions, change over time. To be sure, certain key goods have what we might think of as characteristic normative structures, reiterated across the lines (but not all the lines) of time and space. It is because of this reiteration that the British philosopher Bernard Williams is able to argue that goods should always be distributed for "relevant reasons"--where relevance seems to connect to essential rather than to social meanings. ⁷The idea that offices, for example, should go to qualified candidates--though not the only idea that has been held about offices--is plainly visible in very different societies where simony and nepotism, under different names, have similarly been thought sinful or unjust. (But there has been a wide divergence of views about what sorts of position and place are properly called "offices.") Again, punishment has been widely understood as a negative good that ought to go to people who are judged to deserve it on the basis of a verdict, not of a political decision. (But what constitutes a verdict? Who is to deliver it? How, in short, is justice to be done to accused men and women? About these questions there has been significant disagreement.) These examples invite empirical investigation.

*Aren't social meanings, as Marx said, nothing other than "the ideas of the ruling class," "the dominant material relationships grasped as ideas"? ⁶I don't think that they are ever only that or simply that, though the members of the ruling class and the intellectuals they patronize may well be in a position to exploit and distort social meanings in their own interests. When they do that, however, they are likely to encounter resistance, rooted (intellectually) in those same meanings. A people's culture is always a joint, even if it isn't an entirely cooperative, production; and it is always a complex production. The common understanding of particular goods incorporates principles, procedures, conceptions of agency, that the rulers would not choose if they were choosing right now--and so provides the terms of social criticism. The appeal to what I shall call "internal" principles against the usurpations of powerful men and women is the ordinary form of critical discourse.

There is no merely intuitive or speculative procedure for seizing upon relevant reasons.

When meanings are distinct, distributions must be autonomous.

Every social good or set of goods constitutes, as it were, a distributive sphere within which only certain criteria and arrangements are appropriate. Money is inappropriate in the sphere of ecclesiastical office; it is an intrusion from another sphere. And piety should make for no advantage in the marketplace, as the marketplace has commonly been understood. Whatever can rightly be sold ought to be sold to pious men and women and also to profane, heretical, and sinful men and women (else no one would do much business). The market is open to all comers; the church is not. In no society, of course, are social meanings entirely distinct. What happens in one distributive sphere affects what happens in the others; we can look, at most, for relative autonomy. But relative autonomy, like social meaning, is a critical principle--indeed, as I shall be arguing throughout this book, a radical principle. It is radical even though it doesn't point to a single standard against which all distributions are to be measured. There is no single standard. But there are standards (roughly knowable even when they are also controversial) for every social good and every distributive sphere in every particular society; and these standards are often violated, the goods usurped, the spheres invaded, by powerful men and women.

Dominance and Monopoly

In fact, the violations are systematic. Autonomy is a matter of social meaning and shared values, but it is more likely to make for occasional reformation and rebellion than for everyday enforcement. For all the complexity of their distributive arrangements, most societies are organized on what we might think of as a social version of the gold standard: one good or one set of goods is dominant and determinative of value in all the spheres of distribution. And that good or set of goods is commonly monopolized, its value upheld by the strength and cohesion of its owners. I call a good dominant if the individuals who have it, because they have it, can command a wide range of other goods. It is monopolized whenever a single man or woman, a monarch in the world of value--or a group of men and women, oligarchs--successfully hold it against all rivals. Dominance describes a way of using social goods

that isn't limited by their intrinsic meanings or that shapes those meanings in its own image. Monopoly describes a way of owning or controlling social goods in order to exploit their dominance. When goods are scarce and widely needed, like water in the desert, monopoly itself will make them dominant. Mostly, however, dominance is a more elaborate social creation, the work of many hands, mixing reality and symbol. Physical strength, familial reputation, religious or political office, landed wealth, capital, technical knowledge: each of these, in different historical periods, has been dominant; and each of them has been monopolized by some group of men and women. And then all good things come to those who have the one best thing. Possess that one, and the others come in train. Or, to change the metaphor, a dominant good is converted into another good, into many others, in accordance with what often appears to be a natural process but is in fact magical, a kind of social alchemy.

No social good ever entirely dominates the range of goods; no monopoly is ever perfect. I mean to describe tendencies only, but crucial tendencies. For we can characterize whole societies in terms of the patterns of conversion that are established within them. Some characterizations are simple: in a capitalist society, capital is dominant and readily converted into prestige and power; in a technocracy, technical knowledge plays the same part. But it isn't difficult to imagine, or to find, more complex social arrangements. Indeed, capitalism and technocracy are more complex than their names imply, even if the names do convey real information about the most important forms of sharing, dividing, and exchanging. Monopolistic control of a dominant good makes a ruling class, whose members stand atop the distributive system--much as philosophers, claiming to have the wisdom they love, might like to do. But since dominance is always incomplete and monopoly imperfect, the rule of every ruling class is unstable. It is continually challenged by other groups in the name of alternative patterns of conversion.

Distribution is what social conflict is all about. Marx's heavy emphasis on productive processes should not conceal from us the simple truth that the struggle for control of the means of production is a distributive struggle. Land and capital are at stake, and these are goods that can be shared, divided, exchanged, and endlessly converted. But land and capital are not the only dominant goods; it is possible (it has historically been possible) to come to them by way of other goods--military or political power, religious office and charisma, and so on. History reveals no single dominant good and no naturally dominant good, but only different kinds of magic and competing bands of magicians.

The claim to monopolize a dominant good--when worked up for public purposes--constitutes an ideology. Its standard form is to connect legitimate possession with some set of personal qualities through the medium of a philosophical principle. So aristocracy, or the rule of the best, is the principle of those who lay claim to breeding and intelligence: they are commonly the monopolists of landed wealth and familial reputation. Divine supremacy is the principle of those who claim to know the word of God: they are the monopolists of grace and office. Meritocracy, or the career open to talents, is the principle of those who claim to be talented: they are most often the monopolists of education. Free exchange is the principle of those who are ready, or who tell us they are ready, to put their money at risk: they are the monopolists of movable wealth. These groups--and others, too, similarly marked off by their principles and possessions--compete with one another, struggling for supremacy. One group wins, and then a different one; or coalitions are worked out, and supremacy is uneasily shared. There is no final victory, nor should there be. But that is not to say that the claims of the different groups are necessarily wrong, or that the principles they invoke are of no value as distributive criteria; the principles are often exactly right within the limits of a particular sphere. Ideologies are readily corrupted, but their corruption is not the most interesting thing about them.

It is in the study of these struggles that I have sought the guiding thread of my own argument. The struggles have, I think, a paradigmatic form. Some group of men and women--class, caste, strata, estate, alliance, or social formation--comes to enjoy a monopoly or a near monopoly of some dominant good; or, a coalition of groups comes to enjoy, and so on. This dominant good is more or less systematically converted into all sorts of other things--opportunities, powers, and reputations. So wealth is seized by the strong, honor by the wellborn, office by the well educated. Perhaps the ideology that justifies the seizure is widely believed to be true. But resentment and resistance are (almost) as pervasive as belief. There are always some people, and after a time there are a great many, who think the seizure is not justice but usurpation. The ruling group does not possess, or does not uniquely possess, the qualities it claims; the conversion process violates the common understanding of the goods at stake. Social conflict is intermittent, or it is endemic; at some point, counterclaims are put forward. Though these are of many different sorts, three general sorts are especially important:

1. The claim that the dominant good, whatever it is, should be redistributed so that it can be equally or at least more widely shared: this amounts to saying that monopoly is unjust.
2. The claim that the way should be opened for the autonomous distribution of all social goods: this amounts to saying that dominance is unjust.
3. The claim that some new good, monopolized by some new group, should replace the currently dominant good: this amounts to saying that the existing pattern of dominance and monopoly is unjust.

The third claim is, in Marx's view, the model of every revolutionary ideology--except, perhaps, the proletarian or last ideology. Thus, the French Revolution in Marxist theory: the dominance of noble birth and blood and of feudal landholding is ended, and bourgeois wealth is established in its stead. The original situation is reproduced with different subjects and objects (this is never unimportant), and then the class war is immediately renewed. It is not my purpose here to endorse or to criticize Marx's view. I suspect, in fact, that there is something of all three claims in every revolutionary ideology, but that, too, is not a position that I shall try to defend here. Whatever its sociological significance, the third claim is not philosophically interesting--unless one believes that there is a naturally dominant good, such that its possessors could legitimately claim to rule the rest of us. In a sense, Marx believed exactly that. The means of production is the dominant good throughout history, and Marxism is a historicist doctrine insofar as it suggests that whoever controls the prevailing means legitimately rules.⁸ After the communist revolution, we shall all control the means of production: at that point, the third claim collapses into the first. Meanwhile, Marx's model is a program for ongoing distributive struggle. It will matter, of course, who wins at this or that moment, but we won't know why or how it matters if we attend only to the successive assertions of dominance and monopoly.

Simple Equality

It is with the first two claims that I shall be concerned, and ultimately with the second alone, for that one seems to me to capture best the plurality of social meanings and the real complexity of distributive systems. But the first is the more common among philosophers; it matches

their own search for unity and singularity; and I shall need to explain its difficulties at some length.

Men and women who make the first claim challenge the monopoly but not the dominance of a particular social good. This is also a challenge to monopoly in general; for if wealth, for example, is dominant and widely shared, no other good can possibly be monopolized. Imagine a society in which everything is up for sale and every citizen has as much money as every other. I shall call this the "regime of simple equality." Equality is multiplied through the conversion process, until it extends across the full range of social goods. The regime of simple equality won't last for long, because the further progress of conversion, free exchange in the market, is certain to bring inequalities in its train. If one wanted to sustain simple equality over time, one would require a "monetary law" like the agrarian laws of ancient times or the Hebrew sabbatical, providing for a periodic return to the original condition. Only a centralized and activist state would be strong enough to force such a return; and it isn't clear that state officials would actually be able or willing to do that, if money were the dominant good. In any case, the original condition is unstable in another way. It's not only that monopoly will reappear, but also that dominance will disappear.

In practice, breaking the monopoly of money neutralizes its dominance. Other goods come into play, and inequality takes on new forms. Consider again the regime of simple equality. Everything is up for sale, and everyone has the same amount of money. So everyone has, say, an equal ability to buy an education for his children. Some do that, and others don't. It turns out to be a good investment: other social goods are, increasingly, offered for sale only to people with educational certificates. Soon everyone invests in education; or, more likely, the purchase is universalized through the tax system. But then the school is turned into a competitive world within which money is no longer dominant. Natural talent or family upbringing or skill in writing examinations is dominant instead, and educational success and certification are monopolized by some new group. Let's call them (what they call themselves) the "group of the talented." Eventually the members of this group claim that the good they control should be dominant outside the school: offices, titles, prerogatives, wealth too, should all be possessed by themselves. This is the career open to talents, equal opportunity, and so on. This is what fairness requires; talent will out; and in any case, talented men and women will enlarge the resources available to everyone else. So Michael Young's meritocracy is born, with all its attendant inequalities. ⁹

What should we do now? It is possible to set limits to the new con-

version patterns, to recognize but constrain the monopoly power of the talented. I take this to be the purpose of John Rawls's difference principle, according to which inequalities are justified only if they are designed to bring, and actually do bring, the greatest possible benefit to the least advantaged social class.¹⁰ More specifically, the difference principle is a constraint imposed on talented men and women, once the monopoly of wealth has been broken. It works in this way: Imagine a surgeon who claims more than his equal share of wealth on the basis of the skills he has learned and the certificates he has won in the harsh competitive struggles of college and medical school. We will grant the claim if, and only if, granting it is beneficial in the stipulated ways. At the same time, we will act to limit and regulate the sale of surgery--that is, the direct conversion of surgical skill into wealth.

This regulation will necessarily be the work of the state, just as monetary laws and agrarian laws are the work of the state. Simple equality would require continual state intervention to break up or constrain incipient monopolies and to repress new forms of dominance. But then state power itself will become the central object of competitive struggles. Groups of men and women will seek to monopolize and then to use the state in order to consolidate their control of other social goods. Or, the state will be monopolized by its own agents in accordance with the iron law of oligarchy. Politics is always the most direct path to dominance, and political power (rather than the means of production) is probably the most important, and certainly the most dangerous, good in human history.^{*} Hence the need to constrain the agents of constraint, to establish constitutional checks and balances. These are limits imposed on political monopoly, and they are all the more important once the various social and economic monopolies have been broken.

One way of limiting political power is to distribute it widely. This may not work, given the well-canvassed dangers of majority tyranny; but these dangers are probably less acute than they are often made out to be. The greater danger of democratic government is that it will be

^{*}I should note here what will become more clear as I go along, that political power is a special sort of good. It has a twofold character. First, it is like the other things that men and women make, value, exchange, and share: sometimes dominant, sometimes not; sometimes widely held, sometimes the possession of a very few. And, second, it is unlike all the other things because, however it is had and whoever has it, political power is the regulative agency for social goods generally. It is used to defend the boundaries of all the distributive spheres, including its own, and to enforce the common understandings of what goods are and what they are for. (But it can also be used, obviously, to invade the different spheres and to override those understandings.) In this second sense, we might say, indeed, that political power is always dominant--at the boundaries, but not within them. The central problem of political life is to maintain that crucial distinction between "at" and "in." But this is a problem that cannot be solved given the imperatives of simple equality.

weak to cope with re-emerging monopolies in society at large, with the social strength of plutocrats, bureaucrats, technocrats, meritocrats, and so on. In theory, political power is the dominant good in a democracy, and it is convertible in any way the citizens choose. But in practice, again, breaking the monopoly of power neutralizes its dominance. Political power cannot be widely shared without being subjected to the pull of all the other goods that the citizens already have or hope to have. Hence democracy is, as Marx recognized, essentially a reflective system, mirroring the prevailing and emerging distribution of social goods. ¹¹ Democratic decision making will be shaped by the cultural conceptions that determine or underwrite the new monopolies. To prevail against these monopolies, power will have to be centralized, perhaps itself monopolized. Once again, the state must be very powerful if it is to fulfill the purposes assigned to it by the difference principle or by any similarly interventionist rule.

Still, the regime of simple equality might work. One can imagine a more or less stable tension between emerging monopolies and political constraints, between the claim to privilege put forward by the talented, say, and the enforcement of the difference principle, and then between the agents of enforcement and the democratic constitution. But I suspect that difficulties will recur, and that at many points in time the only remedy for private privilege will be statism, and the only escape from statism will be private privilege. We will mobilize power to check monopoly, then look for some way of checking the power we have mobilized. But there is no way that doesn't open opportunities for strategically placed men and women to seize and exploit important social goods.

These problems derive from treating monopoly, and not dominance, as the central issue in distributive justice. It is not difficult, of course, to understand why philosophers (and political activists, too) have focused on monopoly. The distributive struggles of the modern age begin with a war against the aristocracy's singular hold on land, office, and honor. This seems an especially pernicious monopoly because it rests upon birth and blood, with which the individual has nothing to do, rather than upon wealth, or power, or education, all of which--at least in principle--can be earned. And when every man and woman becomes, as it were, a smallholder in the sphere of birth and blood, an important victory is indeed won. Birthright ceases to be a dominant good; henceforth, it purchases very little; wealth, power, and education come to the fore. With regard to these latter goods, however, simple equality cannot be sustained at all, or it can only be sustained subject to the vicissitudes I have just described.

Within their own spheres, as they are currently understood, these three tend to generate natural monopolies that can be repressed only if state power is itself dominant and if it is monopolized by officials committed to the repression. But there is, I think, another path to another kind of equality.

Tyranny and Complex Equality

I want to argue that we should focus on the reduction of dominance--not, or not primarily, on the break-up or the constraint of monopoly. We should consider what it might mean to narrow the range within which particular goods are convertible and to vindicate the autonomy of distributive spheres. But this line of argument, though it is not uncommon historically, has never fully emerged in philosophical writing. Philosophers have tended to criticize (or to justify) existing or emerging monopolies of wealth, power, and education. Or, they have criticized (or justified) particular conversions--of wealth into education or of office into wealth. And all this, most often, in the name of some radically simplified distributive system. The critique of dominance will suggest instead a way of reshaping and then living with the actual complexity of distributions.

Imagine now a society in which different social goods are monopolistically held--as they are in fact and always will be, barring continual state intervention--but in which no particular good is generally convertible. As I go along, I shall try to define the precise limits on convertibility, but for now the general description will suffice. This is a complex egalitarian society. Though there will be many small inequalities, inequality will not be multiplied through the conversion process. Nor will it be summed across different goods, because the autonomy of distributions will tend to produce a variety of local monopolies, held by different groups of men and women. I don't want to claim that complex equality would necessarily be more stable than simple equality, but I am inclined to think that it would open the way for more diffused and particularized forms of social conflict. And the resistance to convertibility would be maintained, in large degree, by ordinary men and women within their own spheres of competence and control, without large-scale state action.

This is, I think, an attractive picture, but I have not yet explained

just why it is attractive. The argument for complex equality begins from our understanding--I mean, our actual, concrete, positive, and particular understanding--of the various social goods. And then it moves on to an account of the way we relate to one another through those goods.

Simple equality is a simple distributive condition, so that if I have fourteen hats and you have fourteen hats, we are equal. And it is all to the good if hats are dominant, for then our equality is extended through all the spheres of social life. On the view that I shall take here, however, we simply have the same number of hats, and it is unlikely that hats will be dominant for long. Equality is a complex relation of persons, mediated by the goods we make, share, and divide among ourselves; it is not an identity of possessions. It requires then, a diversity of distributive criteria that mirrors the diversity of social goods.

The argument for complex equality has been beautifully put by Pascal in one of his *Pensées*.

The nature of tyranny is to desire power over the whole world and outside its own sphere.

There are different companies--the strong, the handsome, the intelligent, the devout--and each man reigns in his own, not elsewhere. But sometimes they meet, and the strong and the handsome fight for mastery--foolishly, for their mastery is of different kinds. They misunderstand one another, and make the mistake of each aiming at universal dominion. Nothing can win this, not even strength, for it is powerless in the kingdom of the wise. . . .

Tyranny. The following statements, therefore, are false and tyrannical: "Because I am handsome, so I should command respect." "I am strong, therefore men should love me. . . ." "I am . . . et cetera."

Tyranny is the wish to obtain by one means what can only be had by another. We owe different duties to different qualities: love is the proper response to charm, fear to strength, and belief to learning. ¹²

Marx made a similar argument in his early manuscripts; perhaps he had this *pensée* in mind:

Let us assume man to be man, and his relation to the world to be a human one. Then love can only be exchanged for love, trust for trust, etc. If you wish to enjoy art you must be an artistically cultivated person; if you wish to influence other people, you must be a person who really has a stimulating and encouraging effect upon others. . . . If you love without evoking love in return, i.e., if you are not able, by the manifestation of yourself as a loving person, to make yourself a beloved person--then your love is impotent and a misfortune. ¹³

These are not easy arguments, and most of my book is simply an exposition of their meaning. But here I shall attempt something more simple

and schematic: a translation of the arguments into the terms I have already been using.

The first claim of Pascal and Marx is that personal qualities and social goods have their own spheres of operation, where they work their effects freely, spontaneously, and legitimately. There are ready or natural conversions that follow from, and are intuitively plausible because of, the social meaning of particular goods. The appeal is to our ordinary understanding and, at the same time, against our common acquiescence in illegitimate conversion patterns. Or, it is an appeal from our acquiescence to our resentment. There is something wrong, Pascal suggests, with the conversion of strength into belief. In political terms, Pascal means that no ruler can rightly command my opinions merely because of the power he wields. Nor can he, Marx adds, rightly claim to influence my actions: if a ruler wants to do that, he must be persuasive, helpful, encouraging, and so on. These arguments depend for their force on some shared understanding of knowledge, influence, and power. Social goods have social meanings, and we find our way to distributive justice through an interpretation of those meanings. We search for principles internal to each distributive sphere.

The second claim is that the disregard of these principles is tyranny. To convert one good into another, when there is no intrinsic connection between the two, is to invade the sphere where another company of men and women properly rules. Monopoly is not inappropriate within the spheres. There is nothing wrong, for example, with the grip that persuasive and helpful men and women (politicians) establish on political power. But the use of political power to gain access to other goods is a tyrannical use. Thus, an old description of tyranny is generalized: princes become tyrants, according to medieval writers, when they seize the property or invade the family of their subjects.¹⁴ In political life--but more widely, too--the dominance of goods makes for the domination of people.

The regime of complex equality is the opposite of tyranny. It establishes a set of relationships such that domination is impossible. In formal terms, complex equality means that no citizen's standing in one sphere or with regard to one social good can be undercut by his standing in some other sphere, with regard to some other good. Thus, citizen X may be chosen over citizen Y for political office, and then the two of them will be unequal in the sphere of politics. But they will not be unequal generally so long as X's office gives him no advantages over Y in any other sphere--superior medical care, access to better schools for his children, entrepreneurial opportunities, and so on. So long as

office is not a dominant good, is not generally convertible, office holders will stand, or at least can stand, in a relation of equality to the men

and women they govern.

But what if dominance were eliminated, the autonomy of the spheres established--and the same people were successful in one sphere after another, triumphant in every company, piling up goods without the need for illegitimate conversions? This would certainly make for an inegalitarian society, but it would also suggest in the strongest way that a society of equals was not a lively possibility. I doubt that any egalitarian argument could survive in the face of such evidence. Here is a person whom we have freely chosen (without reference to his family ties or personal wealth) as our political representative. He is also a bold and inventive entrepreneur. When he was younger, he studied science, scored amazingly high grades in every exam, and made important discoveries. In war, he is surpassingly brave and wins the highest honors. Himself compassionate and compelling, he is loved by all who know him. Are there such people? Maybe so, but I have my doubts. We tell stories like the one I have just told, but the stories are fictions, the conversion of power or money or academic talent into legendary fame. In any case, there aren't enough such people to constitute a ruling class and dominate the rest of us. Nor can they be successful in every distributive sphere, for there are some spheres to which the idea of success doesn't pertain. Nor are their children likely, under conditions of complex equality, to inherit their success. By and large, the most accomplished politicians, entrepreneurs, scientists, soldiers, and lovers will be different people; and so long as the goods they possess don't bring other goods in train, we have no reason to fear their accomplishments.

The critique of dominance and domination points toward an open-ended distributive principle. *No social good x should be distributed to men and women who possess some other good y merely because they possess y and without regard to the meaning of x.* This is a principle that has probably been reiterated, at one time or another, for every y that has ever been dominant. But it has not often been stated in general terms. Pascal and Marx have suggested the application of the principle against all possible y's, and I shall attempt to work out that application. I shall be looking, then, not at the members of Pascal's companies--the strong or the weak, the handsome or the plain--but at the goods they share and divide. The purpose of the principle is to focus our attention; it doesn't determine the shares or the division. The principle directs us to study the meaning of social goods, to examine the different distributive spheres from the inside.

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Three Distributive Principles

The theory that results is unlikely to be elegant. No account of the meaning of a social good, or of the boundaries of the sphere within

which it legitimately operates, will be uncontroversial. Nor is there any neat procedure for generating or testing different accounts. At best, the arguments will be rough, reflecting the diverse and conflict-ridden character of the social life that we seek simultaneously to understand and to regulate--but not to regulate until we understand. I shall set aside, then, all claims made on behalf of any single distributive criterion, for no such criterion can possibly match the diversity of social goods. Three criteria, however, appear to meet the requirements of the open-ended principle and have often been defended as the beginning and end of distributive justice, so I must say something about each of them. Free exchange, desert, and need: all three have real force, but none of them has force across the range of distributions. They are part of the story, not the whole of it.

Free Exchange

Free exchange is obviously open-ended; it guarantees no particular distributive outcome. At no point in any exchange process plausibly called "free" will it be possible to predict the particular division of social goods that will obtain at some later point. ¹⁵(It may be possible, however, to predict the general structure of the division.) In theory at least, free exchange creates a market within which all goods are convertible into all other goods through the neutral medium of money. There are no dominant goods and no monopolies. Hence the successive divisions that obtain will directly reflect the social meanings of the goods that are divided. For each bargain, trade, sale, and purchase will have been agreed to voluntarily by men and women who know what that meaning is, who are indeed its makers. Every exchange is a revelation of social meaning. By definition, then, no x will ever fall into the hands of someone who possesses y , merely because he possesses y and without regard to what x actually means to some other member of society. The market is radically pluralistic in its operations and its outcomes, infinitely sensitive to the meanings that individuals attach to goods. What possible restraints can be imposed on free exchange, then, in the name of pluralism?

But everyday life in the market, the actual experience of free ex-

change, is very different from what the theory suggests. Money, supposedly the neutral medium, is in practice a dominant good, and it is monopolized by people who possess a special talent for bargaining and trading--the green thumb of bourgeois society. Then other people demand a redistribution of money and the establishment of the regime of simple equality, and the search begins for some way to sustain that regime. But even if we focus on the first untroubled moment of simple equality--free exchange on the basis of equal shares--we will still need

to set limits on what can be exchanged for what. For free exchange leaves distributions entirely in the hands of individuals, and social meanings are not subject, or are not always subject, to the interpretative decisions of individual men and women.

Consider an easy example, the case of political power. We can conceive of political power as a set of goods of varying value, votes, influence, offices, and so on. Any of these can be traded on the market and accumulated by individuals willing to sacrifice other goods. Even if the sacrifices are real, however, the result is a form of tyranny--petty tyranny, given the conditions of simple equality. Because I am willing to do without my hat, I shall vote twice; and you who value the vote less than you value my hat, will not vote at all. I suspect that the result is tyrannical even with regard to the two of us, who have reached a voluntary agreement. It is certainly tyrannical with regard to all the other citizens who must now submit to my disproportionate power. It is not the case that votes can't be bargained for; on one interpretation, that's what democratic politics is all about. And democratic politicians have certainly been known to buy votes, or to try to buy them, by promising public expenditures that benefit particular groups of voters. But this is done in public, with public funds, and subject to public approval. Private trading is ruled out by virtue of what politics, or democratic politics, is--that is, by virtue of what we did when we constituted the political community and of what we still think about what we did.

Free exchange is not a general criterion, but we will be able to specify the boundaries within which it operates only through a careful analysis of particular social goods. And having worked through such an analysis, we will come up at best with a philosophically authoritative set of boundaries and not necessarily with the set that ought to be politically authoritative. For money seeps across all boundaries--this is the primary form of illegal immigration; and just where one ought to try to stop it is a question of expediency as well as of principle. Failure to stop it at some reasonable point has consequences throughout the range of distributions, but consideration of these belongs in a later chapter.

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Desert

Like free exchange, desert seems both open-ended and pluralistic. One might imagine a single neutral agency dispensing rewards and punishments, infinitely sensitive to all the forms of individual desert. Then the distributive process would indeed be centralized, but the results would still be unpredictable and various. There would be no dominant good. No x would ever be distributed without regard to its social meaning; for, without attention to what x is, it is conceptually impossible to say that x is deserved. All the different companies of men and

women would receive their appropriate reward. How this would work in practice, however, is not easy to figure out. It might make sense to say of this charming man, for example, that he deserves to be loved. It makes no sense to say that he deserves to be loved by this (or any) particular woman. If he loves her while she remains impervious to his (real) charms, that is his misfortune. I doubt that we would want the situation corrected by some outside agency. The love of particular men and women, on our understanding of it, can only be distributed by themselves, and they are rarely guided in these matters by considerations of desert.

The case is exactly the same with influence. Here, let's say, is a woman widely thought to be stimulating and encouraging to others. Perhaps she deserves to be an influential member of our community. But she doesn't deserve that I be influenced by her or that I follow her lead. Nor would we want my followership, as it were, assigned to her by any agency capable of making such assignments. She may go to great lengths to stimulate and encourage me, and do all the things that are commonly called stimulating or encouraging. But if I (perverse-ly) refuse to be stimulated or encouraged, I am not denying her anything that she deserves. The same argument holds by extension for politicians and ordinary citizens. Citizens can't trade their votes for hats; they can't individually decide to cross the boundary that separates the sphere of politics from the marketplace. But within the sphere of politics, they do make individual decisions; and they are rarely guided, again, by considerations of desert. It's not clear that offices can be deserved--another issue that I must postpone; but even if they can be, it would violate our understanding of democratic politics were they simply distributed to deserving men and women by some central agency.

Similarly, however we draw the boundaries of the sphere within which free exchange operates, desert will play no role within those

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boundaries. I am skillful at bargaining and trading, let's say, and so accumulate a large number of beautiful pictures. If we assume, as painters mostly do, that pictures are appropriately traded in the market, then there is nothing wrong with my having the pictures. My title is legitimate. But it would be odd to say that I deserve to have them simply because I am good at bargaining and trading. Desert seems to require an especially close connection between particular goods and particular persons, whereas justice only sometimes requires a connection of that sort. Still, we might insist that only artistically cultivated people, who deserve to have pictures, should actually have them. It's not difficult to imagine a distributive mechanism. The state could buy all the pictures that were offered for sale (but artists would have to be licensed, so that there wouldn't be an endless number of pictures), evaluate them, and then distribute them to artistically cultivated men and

women, the better pictures to the more cultivated. The state does something like this, sometimes, with regard to things that people need--medical care, for example--but not with regard to things that people deserve. There are practical difficulties here, but I suspect a deeper reason for this difference. Desert does not have the urgency of need, and it does not involve having (owning and consuming) in the same way. Hence, we are willing to tolerate the separation of owners of paintings and artistically cultivated people, or we are unwilling to require the kinds of interference in the market that would be necessary to end the separation. Of course, public provision is always possible alongside the market, and so we might argue that artistically cultivated people deserve not pictures but museums. Perhaps they do, but they don't deserve that the rest of us contribute money or appropriate public funds for the purchase of pictures and the construction of buildings. They will have to persuade us that art is worth the money; they will have to stimulate and encourage our own artistic cultivation. And if they fail to do that, their own love of art may well turn out to be "impotent and a misfortune."

Even if we were to assign the distribution of love, influence, offices, works of art, and so on, to some omnipotent arbiters of desert, how would we select them? How could anyone deserve such a position? Only God, who knows what secrets lurk in the hearts of men, would be able to make the necessary distributions. If human beings had to do the work, the distributive mechanism would be seized early on by some band of aristocrats (so they would call themselves) with a fixed conception of what is best and most deserving, and insensitive to the diverse excellences of their fellow citizens. And then desert would cease

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to be a pluralist criterion; we would find ourselves face to face with a new set (of an old sort) of tyrants. We do, of course, choose people as arbiters of desert--to serve on juries, for example, or to award prizes; it will be worth considering later what the prerogatives of a juror are. But it is important to stress here that he operates within a narrow range. Desert is a strong claim, but it calls for difficult judgments; and only under very special conditions does it yield specific distributions.

Need

Finally, the criterion of need. "To each according to his needs" is generally taken as the distributive half of Marx's famous maxim: we are to distribute the wealth of the community so as to meet the necessities of its members. ¹⁶A plausible proposal, but a radically incomplete one. In fact, the first half of the maxim is also a distributive proposal, and it doesn't fit the rule of the second half. "From each according to his ability" suggests that jobs should be distributed (or that men and

women should be conscripted to work) on the basis of individual qualifications. But individuals don't in any obvious sense need the jobs for which they are qualified. Perhaps such jobs are scarce, and there are a large number of qualified candidates: which candidates need them most? If their material needs are already taken care of, perhaps they don't need to work at all. Or if, in some non-material sense, they all need to work, then that need won't distinguish among them, at least not to the naked eye. It would in any case be odd to ask a search committee looking, say, for a hospital director to make its choice on the basis of the needs of the candidates rather than on those of the staff and the patients of the hospital. But the latter set of needs, even if it isn't the subject of political disagreement, won't yield a single distributive decision.

Nor will need work for many other goods. Marx's maxim doesn't help at all with regard to the distribution of political power, honor and fame, sailboats, rare books, beautiful objects of every sort. These are not things that anyone, strictly speaking, needs. Even if we take a loose view and define the verb to *need* the way children do, as the strongest form of the verb *to want*, we still won't have an adequate distributive criterion. The sorts of things that I have listed cannot be distributed equally to those with equal wants because some of them are generally, and some of them are necessarily, scarce, and some of them can't be possessed at all unless other people, for reasons of their own, agree on who is to possess them.

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Need generates a particular distributive sphere, within which it is itself the appropriate distributive principle. In a poor society, a high proportion of social wealth will be drawn into this sphere. But given the great variety of goods that arises out of any common life, even when it is lived at a very low material level, other distributive criteria will always be operating alongside of need, and it will always be necessary to worry about the boundaries that mark them off from one another. Within its sphere, certainly, need meets the general distributive rule about x and y . Needed goods distributed to needy people in proportion to their neediness are obviously not dominated by any other goods. It's not having y , but only lacking x that is relevant. But we can now see, I think, that every criterion that has any force at all meets the general rule within its own sphere, and not elsewhere. This is the effect of the rule: different goods to different companies of men and women for different reasons and in accordance with different procedures. And to get all this right, or to get it roughly right, is to map out the entire social world.

Hierarchies and Caste Societies

Or, rather, it is to map out a particular social world. For the analysis that I propose is imminent and phenomenological in character. It will yield not an ideal map or a master plan but, rather, a map and a plan appropriate to the people for whom it is drawn, whose common life it reflects. The goal, of course, is a reflection of a special kind, which picks up those deeper understandings of social goods which are not necessarily mirrored in the everyday practice of dominance and monopoly. But what if there are no such understandings? I have been assuming all along that social meanings call for the autonomy, or the relative autonomy, of distributive spheres; and so they do much of the time. But it's not impossible to imagine a society where dominance and monopoly are not violations but enactments of meaning, where social goods are conceived in hierarchical terms. In feudal Europe, for example, clothing was not a commodity (as it is today) but a badge of rank. Rank dominated dress. The meaning of clothing was shaped in the image of the feudal order. Dressing in finery to which one wasn't entitled was a kind of lie; it made a false statement about who one was. When a

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king or a prime minister dressed as a commoner in order to learn something about the opinions of his subjects, this was a kind of politic deceit. On the other hand, the difficulties of enforcing the clothing code (the sumptuary laws) suggests that there was all along an alternative sense of what clothing meant. At some point, at least, one can begin to recognize the boundaries of a distinct sphere within which people dress in accordance with what they can afford or what they are willing to spend or how they want to look. The sumptuary laws may still be enforced, but now one can make--and ordinary men and women do, in fact, make--egalitarian arguments against them.

Can we imagine a society in which all goods are hierarchically conceived? Perhaps the caste system of ancient India had this form (though that is a far-reaching claim, and it would be prudent to doubt its truth: for one thing, political power seems always to have escaped the laws of caste). We think of castes as rigidly segregated groups, of the caste system as a "plural society," a world of boundaries.¹⁷ But the system is constituted by an extraordinary integration of meanings. Prestige, wealth, knowledge, office, occupation, food, clothing, even the social good of conversation: all are subject to the intellectual as well as to the physical discipline of hierarchy. And the hierarchy is itself determined by the single value of ritual purity. A certain kind of collective mobility is possible, for castes or subcastes can cultivate the outward marks of purity and (within severe limits) raise their position in the social scale. And the system as a whole rests upon a religious doctrine that promises equality of opportunity, not in this life but across the lives of the soul. The individual's status here and now "is the result of his conduct in his last incarnation . . . and if unsatisfactory can be

remedied by acquiring merit in his present life which will raise his status in the next." ¹⁸ We should not assume that men and women are ever entirely content with radical inequality. Nevertheless, distributions here and now are part of a single system, largely unchallenged, in which purity is dominant over other goods--and birth and blood are dominant over purity. Social meanings overlap and cohere.

The more perfect the coherence, the less possible it is even to think about complex equality. All goods are like crowns and thrones in a hereditary monarchy. There is no room, and there are no criteria, for autonomous distributions. In fact, however, even hereditary monarchies are rarely so simply constructed. The social understanding of royal power commonly involves some notion of divine grace, or magical gift, or human insight; and these criteria for office holding are potentially independent of birth and blood. So it is for most social goods: they

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are only imperfectly integrated into larger systems; they are understood, at least sometimes, in their own terms. The theory of goods explicates understandings of this sort (where they exist), and the theory of complex equality exploits them. We say, for example, that it is tyrannical for a man without grace or gift or insight to sit upon the throne. And this is only the first and most obvious kind of tyranny. We can search for many other kinds.

Tyranny is always specific in character: a particular boundary crossing, a particular violation of social meaning. Complex equality requires the defense of boundaries; it works by differentiating goods just as hierarchy works by differentiating people. But we can only talk of a *regime* of complex equality when there are many boundaries to defend; and what the right number is cannot be specified. There is no right number. Simple equality is easier: one dominant good widely distributed makes an egalitarian society. But complexity is hard: how many goods must be autonomously conceived before the relations they mediate can become the relations of equal men and women? There is no certain answer and hence no ideal regime. But as soon as we start to distinguish meanings and mark out distributive spheres, we are launched on an egalitarian enterprise.

The Setting of the Argument

The political community is the appropriate setting for this enterprise. It is not, to be sure, a self-contained distributive world: only the world is a self-contained distributive world, and contemporary science fiction invites us to speculate about a time when even that won't be true. Social goods are shared, divided, and exchanged across political frontiers. Monopoly and dominance operate almost as easily beyond the frontiers

as within them. Things are moved, and people move themselves, back and forth across the lines. Nevertheless, the political community is probably the closest we can come to a world of common meanings. Language, history, and culture come together (come more closely together here than anywhere else) to produce a collective consciousness. National character, conceived as a fixed and permanent mental set, is obviously a myth; but the sharing of sensibilities and intuitions among the members of a historical community is a fact of life. Sometimes po-

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litical and historical communities don't coincide, and there may well be a growing number of states in the world today where sensibilities and intuitions aren't readily shared; the sharing takes place in smaller units. And then, perhaps, we should look for some way to adjust distributive decisions to the requirements of those units. But this adjustment must itself be worked out politically, and its precise character will depend upon understandings shared among the citizens about the value of cultural diversity, local autonomy, and so on. It is to these understandings that we must appeal when we make our arguments--all of us, not philosophers alone; for in matters of morality, argument simply is the appeal to common meanings.

Politics, moreover, establishes its own bonds of commonality. In a world of independent states, political power is a local monopoly. These men and women, we can say, under whatever constraints, shape their own destiny. Or they struggle as best they can to shape their own destiny. And if their destiny is only partially in their own hands, the struggle is entirely so. They are the ones whose decision it is to tighten or loosen distributive criteria, to centralize or decentralize procedures, to intervene or refuse to intervene in this or that distributive sphere. Probably, some set of leaders make the actual decisions, but the citizens should be able to recognize the leaders as their own. If the leaders are cruel or stupid or endlessly venal, as they often are, the citizens or some of the citizens will try to replace them, fighting over the distribution of political power. The fight will be shaped by the institutional structures of the community--that is, by the outcomes of previous fights. Politics present is the product of politics past. It establishes an unavoidable setting for the consideration of distributive justice.

There is one last reason for adopting the view of the political community as setting, a reason that I shall elaborate on at some length in the next chapter. The community is itself a good--conceivably the most important good--that gets distributed. But it is a good that can only be distributed by taking people in, where all the senses of that latter phrase are relevant: they must be physically admitted and politically received. Hence membership cannot be handed out by some external agency; its value depends upon an internal decision. Were there no communities capable of making such decisions, there would in this

case be no good worth distributing.

The only plausible alternative to the political community is humanity itself, the society of nations, the entire globe. But were we to take the globe as our setting, we would have to imagine what does not yet exist: a community that included all men and women everywhere. We

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would have to invent a set of common meanings for these people, avoiding if we could the stipulation of our own values. And we would have to ask the members of this hypothetical community (or their hypothetical representatives) to agree among themselves on what distributive arrangements and patterns of conversion are to count as just. Ideal contractualism or undistorted communication, which represents one approach--not my own--to justice in particular communities, may well be the only approach for the globe as a whole.¹⁹ But whatever the hypothetical agreement, it could not be enforced without breaking the political monopolies of existing states and centralizing power at the global level. Hence the agreement (or the enforcement) would make not for complex but for simple equality--if power was dominant and widely shared--or simply for tyranny--if power was seized, as it probably would be, by a set of international bureaucrats. In the first case, the people of the world would have to live with the difficulties I have described: the continual reappearance of local privilege, the continual reassertion of global statism. In the second case, they would have to live with difficulties that are considerably worse. I will have a little more to say about these difficulties later. For now I take them to be reasons enough to limit myself to cities, countries, and states that have, over long periods of time, shaped their own internal life.

With regard to membership, however, important questions arise between and among such communities, and I shall try to focus on them and to draw into the light all those occasions when ordinary citizens focus on them. In a limited way, the theory of complex equality can be extended from particular communities to the society of nations, and the extension has this advantage: it will not run roughshod over local understandings and decisions. Just for that reason, it also will not yield a uniform system of distributions across the globe, and it will only begin to address the problems raised by mass poverty in many parts of the globe. I don't think the beginning unimportant; in any case, I can't move beyond it. To do that would require a different theory, which would take as its subject not the common life of citizens but the more distanced relations of states: a different theory, a different book, another time.

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Membership

Members and Strangers

The idea of distributive justice presupposes a bounded world within which distributions takes place: a group of people committed to dividing, exchanging, and sharing social goods, first of all among themselves. That world, as I have already argued, is the political community, whose members distribute power to one another and avoid, if they possibly can, sharing it with anyone else. When we think about distributive justice, we think about independent cities or countries capable of arranging their own patterns of division and exchange, justly or unjustly. We assume an established group and a fixed population, and so we miss the first and most important distributive question: How is that group constituted?

I don't mean, How *was* it constituted? I am concerned here not with the historical origins of the different groups, but with the decisions they make in the present about their present and future populations. The primary good that we distribute to one another is membership in some human community. And what we do with regard to membership structures all our other distributive choices: it determines with whom we make those choices, from whom we require obedience and collect taxes, to whom we allocate goods and services.

Men and women without membership anywhere are stateless persons. That condition doesn't preclude every sort of distributive relation: markets, for example, are commonly open to all comers. But non-members are vulnerable and unprotected in the marketplace. Al-

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though they participate freely in the exchange of goods, they have no part in those goods that are shared. They are cut off from the communal provision of security and welfare. Even those aspects of security and welfare that are, like public health, collectively distributed are not guaranteed to non-members: for they have no guaranteed place in the collectivity and are always liable to expulsion. Statelessness is a condition of infinite danger.

But membership and non-membership are not the only--or, for our purposes, the most important--set of possibilities. It is also possible to be a member of a poor or a rich country, to live in a densely crowded or a largely empty country, to be the subject of an authoritarian regime or the citizen of a democracy. Since human beings are highly mobile, large numbers of men and women regularly attempt to change their residence and their membership, moving from unfavored to favored

environments. Affluent and free countries are, like elite universities, besieged by applicants. They have to decide on their own size and character. More precisely, as citizens of such a country, we have to decide: Whom should we admit? Ought we to have open admissions? Can we choose among applicants? What are the appropriate criteria for distributing membership?

The plural pronouns that I have used in asking these questions suggest the conventional answer to them: we who are already members do the choosing, in accordance with our own understanding of what membership means in our community and of what sort of a community we want to have. Membership as a social good is constituted by our understanding; its value is fixed by our work and conversation; and then we are in charge (who else could be in charge?) of its distribution. But we don't distribute it among ourselves; it is already ours. We give it out to strangers. Hence the choice is also governed by our relationships with stranger--not only by our understanding of those relationships but also by the actual contacts, connections, alliances we have established and the effects we have had beyond our borders. But I shall focus first on strangers in the literal sense, men and women whom we meet, so to speak, for the first time. We don't know who they are or what they think, yet we recognize them as men and women. Like us but not of us: when we decide on membership, we have to consider them as well as ourselves.

I won't try to recount here the history of Western ideas about strangers. In a number of ancient languages, Latin among them, strangers and enemies were named by a single word. We have come only slowly, through a long process of trial and error, to distinguish the two and

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to acknowledge that, in certain circumstances, strangers (but not enemies) might be entitled to our hospitality, assistance, and good will. This acknowledgment can be formalized as the principle of mutual aid, which suggests the duties that we owe, as John Rawls has written, "not only to definite individuals, say to those cooperating together in some social arrangement, but to persons generally." ¹ Mutual aid extends across political (and also cultural, religious, and linguistic) frontiers. The philosophical grounds of the principle are hard to specify (its history provides its practical ground). I doubt that Rawls is right to argue that we can establish it simply by imagining "what a society would be like if this duty were rejected" ²--for rejection is not an issue within any particular society; the issue arises only among people who don't share, or don't know themselves to share, a common life. People who do share a common life have much stronger duties.

It is the absence of any cooperative arrangements that sets the context for mutual aid: two strangers meet at sea or in the desert or, as

in the Good Samaritan story, by the side of the road. What precisely they owe one another is by no means clear, but we commonly say of such cases that positive assistance is required if (1) it is needed or urgently needed by one of the parties; and (2) if the risks and costs of giving it are relatively low for the other party. Given these conditions, I ought to stop and help the injured stranger, wherever I meet him, whatever his membership or my own. This is our morality; conceivably his, too. It is, moreover, an obligation that can be read out in roughly the same form at the collective level. Groups of people ought to help necessitous strangers whom they somehow discover in their midst or on their path. But the limit on risks and costs in these cases is sharply drawn. I need not take the injured stranger into my home, except briefly, and I certainly need not care for him or even associate with him for the rest of my life. My life cannot be shaped and determined by such chance encounters. Governor John Winthrop, arguing against free immigration to the new Puritan commonwealth of Massachusetts, insisted that this right of refusal applies also to collective mutual aid: "As for hospitality, that rule does not bind further than for some present occasion, not for continual residence."³ Whether Winthrop's view can be defended is a question that I shall come to only gradually. Here I only want to point to mutual aid as a (possible) external principle for the distribution of membership, a principle that doesn't depend upon the prevailing view of membership within a particular society. The force of the principle is uncertain, in part because of its own vagueness, in part because it sometimes comes up against

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the internal force of social meanings. And these meanings can be specified, and are specified, through the decision-making processes of the political community.

We might opt for a world without particular meanings and without political communities: where no one was a member or where everyone "belonged" to a single global state. These are the two forms of simple equality with regard to membership. If all human beings were strangers to one another, if all our meetings were like meetings at sea or in the desert or by the side of the road, then there would be no membership to distribute. Admissions policy would never be an issue. Where and how we lived, and with whom we lived, would depend upon our individual desires and then upon our partnerships and affairs. Justice would be nothing more than non-coercion, good faith, and Good Samaritanism--a matter entirely of external principles. If, by contrast, all human beings were members of a global state, membership would already have been distributed, equally; and there would be nothing more to do. The first of these arrangements suggests a kind of global libertarianism; the second, a kind of global socialism. These are the two conditions under which the distribution of membership would never arise. Either there would be no such status to

distribute, or it would simply come (to everyone) with birth. But neither of these arrangements is likely to be realized in the foreseeable future; and there are impressive arguments, which I will come to later, against both of them. In any case, so long as members and strangers are, as they are at present, two distinct groups, admissions decisions have to be made, men and women taken in or refused. Given the indeterminate requirements of mutual aid, these decisions are not constrained by any widely accepted standard. That's why the admissions policies of countries are rarely criticized, except in terms suggesting that the only relevant criteria are those of charity, not justice. It is certainly possible that a deeper criticism would lead one to deny the member/stranger distinction. But I shall try, nevertheless, to defend that distinction and then to describe the internal and the external principles that govern the distribution of membership.

The argument will require a careful review of both immigration and naturalization policy. But it is worth noting first, briefly, that there are certain similarities between strangers in political space (immigrants) and descendants in time (children). People enter a country by being born to parents already there as well as, and more often than, by crossing the frontier. Both these processes can be controlled. In the first case, however, unless we practice a selective infanticide, we will be deal-

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ing with unborn and hence unknown individuals. Subsidies for large families and programs of birth control determine only the size of the population, not the characteristics of its inhabitants. We might, of course, award the right to give birth differentially to different groups of parents, establishing ethnic quotas (like country-of-origin quotas in immigration policy) or class or intelligence quotas, or allowing right-to-give-birth certificates to be traded on the market. These are ways of regulating who has children and of shaping the character of the future population. They are, however, indirect and inefficient ways, even with regard to ethnicity, unless the state also regulates intermarriage and assimilation. Even well short of that, the policy would require very high, and surely unacceptable, levels of coercion: the dominance of political power over kinship and love. So the major public policy issue is the size of the population only--its growth, stability, or decline. To how many people do we distribute membership? The larger and philosophically more interesting questions--To what sorts of people?, and To what particular people?--are most clearly confronted when we turn to the problems involved in admitting or excluding strangers.

Analogies: Neighborhoods, Clubs, and Families

Admissions policies are shaped partly by arguments about economic and political conditions in the host country, partly by arguments about

the character and "destiny" of the host country, and partly by arguments about the character of countries (political communities) in general. The last of these is the most important, in theory at least; for our understanding of countries in general will determine whether particular countries have the right they conventionally claim: to distribute membership for (their own) particular reasons. But few of us have any direct experience of what a country is or of what it means to be a member. We often have strong feelings about our country, but we have only dim perceptions of it. As a political community (rather than a place), it is, after all, invisible; we actually see only its symbols, offices, and representatives. I suspect that we understand it best when we compare it to other, smaller associations whose compass we can more easily grasp. For we are all members of formal and informal groups of many different sorts; we know their workings intimately. And all these groups

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have, and necessarily have, admissions policies. Even if we have never served as state officials, even if we have never emigrated from one country to another, we have all had the experience of accepting or rejecting strangers, and we have all had the experience of being accepted or rejected. I want to draw upon this experience. My argument will be worked through a series of rough comparisons, in the course of which the special meaning of political membership will, I think, become increasingly apparent.

Consider, then, three possible analogues for the political community: we can think of countries as neighborhoods, clubs, or families. The list is obviously not exhaustive, but it will serve to illuminate certain key features of admission and exclusion. Schools, bureaucracies, and companies, though they have some of the characteristics of clubs, distribute social and economic status as well as membership; I will take them up separately. Many domestic associations are parasitic for their memberships, relying on the procedures of other associations: unions depend upon the hiring policies of companies; parent-teacher organizations depend upon the openness of neighborhoods or upon the selectiveness of private schools. Political parties are generally like clubs; religious congregations are often designed to resemble families. What should countries be like?

The neighborhood is an enormously complex human association, but we have a certain understanding of what it is like--an understanding at least partially reflected (though also increasingly challenged) in contemporary American law. It is an association without an organized or legally enforceable admissions policy. Strangers can be welcomed or not welcomed; they cannot be admitted or excluded. Of course, being welcomed or not welcomed is sometimes effectively the same thing as being admitted or excluded, but the distinction is theoretically important. In principle, individuals and families move into a neighborhood

for reasons of their own; they choose but are not chosen. Or, rather, in the absence of legal controls, the market controls their movements. Whether they move is determined not only by their own choice but also by their ability to find a job and a place to live (or, in a society different from our own, to find a factory commune or a cooperative apartment house ready to take them in). Ideally, the market works independently of the existing composition of the neighborhood. The state upholds this independence by refusing to enforce restrictive covenants and by acting to prevent or minimize discrimination in employment. There are no institutional arrangements capable of maintaining "ethnic purity"--though zoning laws sometimes maintain class segrega-

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tion. ⁴ * With reference to any formal criteria, the neighborhood is a random association, "not a selection, but rather a specimen of life as a whole. . . . By the very indifference of space," as Bernard Bosanquet has written, "we are liable to the direct impact of all possible factors." ⁶

It was a common argument in classical political economy that national territory should be as "indifferent" as local space. The same writers who defended free trade in the nineteenth century also defended unrestricted immigration. They argued for perfect freedom of contract, without any political restraint. International society, they thought, should take shape as a world of neighborhoods, with individuals moving freely about, seeking private advancement. In their view, as Henry Sidgwick reported it in the 1890s, the only business of state officials is "to maintain order over [a] particular territory . . . but not in any way to determine who is to inhabit this territory, or to restrict the enjoyment of its natural advantages to any particular portion of the human race." ⁷ Natural advantages (like markets) are open to all comers, within the limits of private property rights; and if they are used up or devalued by overcrowding, people presumably will move on, into the jurisdiction of new sets of officials.

Sidgwick thought that this is possibly the "ideal of the future," but he offered three arguments against a world of neighborhoods in the present. First of all, such a world would not allow for patriotic sentiment, and so the "casual aggregates" that would probably result from the free movement of individuals would "lack internal cohesion." Neighbors would be strangers to one another. Second, free movement might interfere with efforts "to raise the standard of living among the poorer classes" of a particular country, since such efforts could not be undertaken with equal energy and success everywhere in the world. And, third, the promotion of moral and intellectual culture and the efficient working of political institutions might be "defeated" by the continual creation of heterogeneous populations. ⁸ Sidgwick presented these three arguments as a series of utilitarian considerations that weigh against the benefits of labor mobility and contractual freedom. But they

seem to me to have a rather different character. The last two arguments draw their force from the first, but only if the first is conceived in non-utilitarian terms. It is only if patriotic sentiment has some moral basis, only if communal cohesion makes for obligations and shared meanings, only if there are members as well as strangers, that state offi-

*The use of zoning laws to bar from neighborhoods (boroughs, villages, towns) certain sorts of people--namely, those who don't live in conventional families--is a new feature of our political history, and I shall not try to comment on it here. ⁵

cialists would have any reason to worry especially about the welfare of their own people (and of *all* their own people) and the success of their own culture and politics. For it is at least dubious that the average standard of living of the poorer classes throughout the world would decline under conditions of perfect labor mobility. Nor is there firm evidence that culture cannot thrive in cosmopolitan environments, nor that it is impossible to govern casual aggregations of people. As for the last of these, political theorists long ago discovered that certain sorts of regimes--namely, authoritarian regimes--thrive in the absence of communal cohesion. That perfect mobility makes for authoritarianism might suggest a utilitarian argument against mobility; but such an argument would work only if individual men and women, free to come and go, expressed a desire for some other form of government. And that they might not do.

Perfect labor mobility, however, is probably a mirage, for it is almost certain to be resisted at the local level. Human beings, as I have said, move about a great deal, but not because they love to move. They are, most of them, inclined to stay where they are unless their life is very difficult there. They experience a tension between love of place and the discomforts of a particular place. While some of them leave their homes and become foreigners in new lands, others stay where they are and resent the foreigners in their own land. Hence, if states ever become large neighborhoods, it is likely that neighborhoods will become little states. Their members will organize to defend the local politics and culture against strangers. Historically, neighborhoods have turned into closed or parochial communities (leaving aside cases of legal coercion) whenever the state was open: in the cosmopolitan cities of multinational empires, for example, where state officials don't foster any particular identity but permit different groups to build their own institutional structures (as in ancient Alexandria), or in the receiving centers of mass immigration movements (early twentieth century New York) where the country is an open but also an alien world--or, alternatively, a world full of aliens. The case is similar where the state doesn't exist

at all or in areas where it doesn't function. Where welfare monies are raised and spent locally, for example, as in a seventeenth-century English parish, the local people will seek to exclude newcomers who are likely welfare recipients. It is only the nationalization of welfare (or the nationalization of culture and politics) that opens the neighborhood communities to whoever chooses to come in.

Neighborhoods can be open only if countries are at least potentially closed. Only if the state makes a selection among would-be members

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and guarantees the loyalty, security, and welfare of the individuals it selects, can local communities take shape as "indifferent" associations, determined solely by personal preference and market capacity. Since individual choice is most dependent upon local mobility, this would seem to be the preferred arrangement in a society like our own. The politics and the culture of a modern democracy probably require the kind of largeness, and also the kind of boundedness, that states provide. I don't mean to deny the value of sectional cultures and ethnic communities; I mean only to suggest the rigidities that would be forced upon both in the absence of inclusive and protective states. To tear down the walls of the state is not, as Sidgwick worriedly suggested, to create a world without walls, but rather to create a thousand petty fortresses.

The fortresses, too, could be torn down: all that is necessary is a global state sufficiently powerful to overwhelm the local communities. Then the result would be the world of the political economists, as Sidgwick described it--a world of radically deracinated men and women. Neighborhoods might maintain some cohesive culture for a generation or two on a voluntary basis, but people would move in, people would move out; soon the cohesion would be gone. The distinctiveness of cultures and groups depends upon closure and, without it, cannot be conceived as a stable feature of human life. If this distinctiveness is a value, as most people (though some of them are global pluralists, and others only local loyalists) seem to believe, then closure must be permitted somewhere. At some level of political organization, something like the sovereign state must take shape and claim the authority to make its own admissions policy, to control and sometimes restrain the flow of immigrants.

But this right to control immigration does not include or entail the right to control emigration. The political community can shape its own population in the one way, not in the other: this is a distinction that gets reiterated in different forms throughout the account of membership. The restraint of entry serves to defend the liberty and welfare, the politics and culture of a group of people committed to one another and to their common life. But the restraint of exit replaces commitment with coercion. So far as the coerced members are concerned,

there is no longer a community worth defending. A state can, perhaps, banish individual citizens or expel aliens living within its borders (if there is some place ready to receive them). Except in times of national emergency, when everyone is bound to work for the survival of the community, states cannot prevent such people from getting up and leaving. The fact that individuals can rightly leave their own country, however,

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doesn't generate a right to enter another (any other). Immigration and emigration are morally asymmetrical.⁹ Here the appropriate analogy is with the club, for it is a feature of clubs in domestic society--as I have just suggested it is of states in international society--that they can regulate admissions but cannot bar withdrawals.

Like clubs, countries have admissions committees. In the United States, Congress functions as such a committee, though it rarely makes individual selections. Instead, it establishes general qualifications, categories for admission and exclusion, and numerical quotas (limits). Then admissible individuals are taken in, with varying degrees of administrative discretion, mostly on a first-come, first-served basis. This procedure seems eminently defensible, though that does not mean that any particular set of qualifications and categories ought to be defended. To say that states have a right to act in certain areas is not to say that anything they do in those areas is right. One can argue about particular admissions standards by appealing, for example, to the condition and character of the host country and to the shared understandings of those who are already members. Such arguments have to be judged morally and politically as well as factually. The claim of American advocates of restricted immigration (in 1920, say) that they were defending a homogeneous white and Protestant country, can plausibly be called unjust as well as inaccurate: as if non-white and non-Protestant citizens were invisible men and women, who didn't have to be counted in the national census!¹⁰ Earlier Americans, seeking the benefits of economic and geographic expansion, had created a pluralist society; and the moral realities of that society ought to have guided the legislators of the 1920s. If we follow the logic of the club analogy, however, we have to say that the earlier decision might have been different, and the United States might have taken shape as a homogeneous community, an Anglo-Saxon nation-state (assuming what happened in any case: the virtual extermination of the Indians who, understanding correctly the dangers of invasion, struggled as best they could to keep foreigners out of their native lands). Decisions of this sort are subject to constraint, but what the constraints are I am not yet ready to say. It is important first to insist that the distribution of membership in American society, and in any ongoing society, is a matter of political decision. The labor market may be given free rein, as it was for many decades in the United States, but that does not happen by an act of nature or of God; it depends upon choices that are ultimately political. What kind of community

do the citizens want to create? With what other men and women do they want to share and exchange social goods?

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These are exactly the questions that club members answer when they make membership decisions, though usually with reference to a less extensive community and to a more limited range of social goods. In clubs, only the founders choose themselves (or one another); all other members have been chosen by those who were members before them. Individuals may be able to give good reasons why they should be selected, but no one on the outside has a right to be inside. The members decide freely on their future associates, and the decisions they make are authoritative and final. Only when clubs split into factions and fight over property can the state intervene and make its own decision about who the members are. When states split, however, no legal appeal is possible; there is no superior body. Hence, we might imagine states as perfect clubs, with sovereign power over their own selection processes. *

But if this description is accurate in regard to the law, it is not an accurate account of the moral life of contemporary political communities. Clearly, citizens often believe themselves morally bound to open the doors of their country--not to anyone who wants to come in, perhaps, but to a particular group of outsiders, recognized as national or ethnic "relatives." In this sense, states are like families rather than clubs, for it is a feature of families that their members are morally connected to people they have not chosen, who live outside the household. In time of trouble, the household is also a refuge. Sometimes, under the auspices of the state, we take in fellow citizens to whom we are not related, as English country families took in London children during the blitz; but our more spontaneous beneficence is directed at our own kith and kin. The state recognizes what we can call the "kinship principle" when it gives priority in immigration to the relatives of citizens. That is current policy in the United States, and it seems especially appropriate in a political community largely formed by the admission of immigrants. It is a way of acknowledging that labor mobility has a social price: since laborers are men and women with families, one cannot admit them for the sake of their labor without accepting some commitment to their aged parents, say, or to their sickly brothers and sisters.

In communities differently formed, where the state represents a nation largely in place, another sort of commitment commonly develops, along lines determined by the principle of nationality. In time of trouble, the state is a refuge for members of the nation, whether or not

*Winthrop made the point clearly: "If we here be a corporation established by free consent, if the place of our habitation be our own, then no man hath right to come into us . . . without

our consent." ¹¹I will come back to the question of "place" later (page 43).

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they are residents and citizens. Perhaps the border of the political community was drawn years ago so as to leave their villages and towns on the wrong side; perhaps they are the children or grandchildren of emigrants. They have no legal membership rights, but if they are persecuted in the land where they live, they look to their homeland not only with hope but also with expectation. I am inclined to say that such expectations are legitimate. Greeks driven from Turkey, Turks from Greece, after the wars and revolutions of the early twentieth century, had to be taken in by the states that bore their collective names. What else are such states for? They don't only preside over a piece of territory and a random collection of inhabitants; they are also the political expression of a common life and (most often) of a national "family" that is never entirely enclosed within their legal boundaries. After the Second World War, millions of Germans, expelled by Poland and Czechoslovakia, were received and cared for by the two Germanies. Even if these states had been free of all responsibility in the expulsions, they would still have had a special obligation to the refugees. Most states recognize obligations of this sort in practice; some do so in law.

Territory

We might, then, think of countries as national clubs or families. But countries are also territorial states. Although clubs and families own property, they neither require nor (except in feudal systems) possess jurisdiction over territory. Leaving children aside, they do not control the physical location of their members. The state does control physical location--if only for the sake of clubs and families and the individual men and women who make them up; and with this control there come certain obligations. We can best examine these if we consider once again the asymmetry of immigration and emigration.

The nationality principle has one significant limit, commonly accepted in theory, if not always in practice. Though the recognition of national affinity is a reason for permitting immigration, nonrecognition is not a reason for expulsion. This is a major issue in the modern world, for many newly independent states find themselves in control of territory into which alien groups have been admitted under the auspices of the old imperial regime. Sometimes these people are forced to leave,

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the victims of a popular hostility that the new government cannot restrain. More often the government itself fosters such hostility, and

takes positive action to drive out the "alien elements," invoking when it does so some version of the club or the family analogy. Here, however, neither analogy applies: for though no "alien" has a right to be a member of a club or a family, it is possible, I think, to describe a kind of territorial or locational right.

Hobbes made the argument in classical form when he listed those rights that are given up and those that are retained when the social contract is signed. The retained rights include self-defense and then "the use of fire, water, free air, *and place to live in*, and . . . all things necessary for life." (italics mine) ¹²The right is not, indeed, to a particular place, but it is enforceable against the state, which exists to protect it; the state's claim to territorial jurisdiction derives ultimately from this individual right to place. Hence the right has a collective as well as an individual form, and these two can come into conflict. But it can't be said that the first always or necessarily supercedes the second, for the first came into existence for the sake of the second. The state owes something to its inhabitants simply, without reference to their collective or national identity. And the first place to which the inhabitants are entitled is surely the place where they and their families have lived and made a life. The attachments and expectations they have formed argue against a forced transfer to another country. If they can't have this particular piece of land (or house or apartment), then some other must be found for them within the same general "place." Initially, at least, the sphere of membership is given: the men and women who determine what membership means, and who shape the admissions policies of the political community, are simply the men and women who are already there. New states and governments must make their peace with the old inhabitants of the land they rule. And countries are likely to take shape as closed territories dominated, perhaps, by particular nations (clubs or families), but always including aliens of one sort or another--whose expulsion would be unjust.

This common arrangement raises one important possibility: that many of the inhabitants of a particular country won't be allowed full membership (citizenship) because of their nationality. I will consider that possibility, and argue for its rejection, when I turn to the specific problems of naturalization. But one might avoid such problems entirely, at least at the level of the state, by opting for a radically different arrangement. Consider once again the neighborhood analogy: perhaps we should deny to national states, as we deny to churches and political

parties, the collective right of territorial jurisdiction. Perhaps we should insist upon open countries and permit closure only in non-territorial groups. Open neighborhoods together with closed clubs and families: that is the structure of domestic society. Why can't it, why shouldn't

it be extended to the global society?

An extension of this sort was actually proposed by the Austrian socialist writer Otto Bauer, with reference to the old multinational empires of Central and Eastern Europe. Bauer would have organized nations into autonomous corporations permitted to tax their members for educational and cultural purposes, but denied any territorial dominion. Individuals would be free to move about in political space, within the empire, carrying their national memberships with them, much as individuals move about today in liberal and secular states, carrying their religious memberships and partisan affiliations. Like churches and parties, the corporations could admit or reject new members in accordance with whatever standards their old members thought appropriate. ¹³

The major difficulty here is that all the national communities that Bauer wanted to preserve came into existence, and were sustained over the centuries, on the basis of geographical coexistence. It isn't any misunderstanding of their histories that leads nations newly freed from imperial rule to seek a firm territorial status. Nations look for countries because in some deep sense they already have countries: the link between people and land is a crucial feature of national identity. Their leaders understand, moreover, that because so many critical issues (including issues of distributive justice, such as welfare, education, and so on) can best be resolved within geographical units, the focus of political life can never be established elsewhere. "Autonomous" corporations will always be adjuncts, and probably parasitic adjuncts, of territorial states; and to give up the state is to give up any effective self-determination. That's why borders, and the movements of individuals and groups across borders, are bitterly disputed as soon as imperial rule recedes and nations begin the process of "liberation." And, once again, to reverse this process or to repress its effects would require massive coercion on a global scale. There is no easy way to avoid the country (and the proliferation of countries) as we currently know it. Hence the theory of justice must allow for the territorial state, specifying the rights of its inhabitants and recognizing the collective right of admission and refusal.

The argument cannot stop here, however, for the control of territory opens the state to the claim of necessity. Territory is a social good in a double sense. It is living space, earth and water, mineral resources

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and potential wealth, a resource for the destitute and the hungry. And it is protected living space, with borders and police, a resource for the persecuted and the stateless. These two resources are different, and we might conclude differently with regard to the kinds of claim that can be made on each. But the issue at stake should first be put in general terms. Can a political community exclude destitute and hungry, perse-

cuted and stateless--in a word, necessitous--men and women simply because they are foreigners? Are citizens bound to take in strangers? Let us assume that the citizens have no formal obligations; they are bound by nothing more stringent than the principle of mutual aid. The principle must be applied, however, not to individuals directly but to the citizens as a group, for immigration is a matter of political decision. Individuals participate in the decision making, if the state is democratic; but they decide not for themselves but for the community generally. And this fact has moral implications. It replaces immediacy with distance and the personal expense of time and energy with impersonal bureaucratic costs. Despite John Winthrop's claim, mutual aid is more coercive for political communities than it is for individuals because a wide range of benevolent actions is open to the community which will only marginally affect its present members considered as a body or even, with possible exceptions, one by one or family by family or club by club. (But benevolence will, perhaps, affect the children or grandchildren or great-grandchildren of the present members--in ways not easy to measure or even to make out. I'm not sure to what extent considerations of this sort can be used to narrow the range of required actions.) These actions probably include the admission of strangers, for admission to a country does not entail the kinds of intimacy that could hardly be avoided in the case of clubs and families. Might not admission, then, be morally imperative, at least for *these* strangers, who have no other place to go?

Some such argument, turning mutual aid into a more stringent charge on communities than it can ever be on individuals, probably underlies the common claim that exclusion rights depend upon the territorial extent and the population density of particular countries. Thus, Sidgwick wrote that he "cannot concede to a state possessing large tracts of unoccupied land an absolute right of excluding alien elements." ¹⁴ Perhaps, in his view, the citizens can make some selection among necessitous strangers, but they cannot refuse entirely to take strangers in so long as their state has (a great deal of) available space. A much stronger argument might be made from the other side, so to speak, if we consider the necessitous strangers not as objects of benefi-

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cent action but as desperate men and women, capable of acting on their own behalf. In *Leviathan*, Hobbes argued that such people, if they cannot earn a living in their own countries, have a right to move into "countries not sufficiently inhabited: where nevertheless they are not to exterminate those they find there, but constrain them to inhabit closer together and not range a great deal of ground to snatch what they find." ¹⁵ Here the "Samaritans" are not themselves active but acted upon and (as we shall see in a moment) charged only with nonresistance.

"White Australia" and the Claim of Necessity

The Hobbesian argument is clearly a defense of European colonization--and also of the subsequent "constraint" of native hunters and gatherers. But it has a wider application. Sidgwick, writing in 1891, probably had in mind the states the colonists had created: the United States, where agitation for the exclusion of immigrants had been at least a sporadic feature of political life all through the nineteenth century; and Australia, then just beginning the great debate over immigration that culminated in the "White Australia" policy. Years later, an Australian minister of immigration defended that policy in terms that should by now be familiar: "We seek to create a homogeneous nation. Can anyone reasonably object to that? Is not this the elementary right of every government, to decide the composition of the nation? It is just the same prerogative as the head of a family exercises as to who is to live in his own house." ¹⁶ But the Australian "family" held a vast territory of which it occupied (and I shall assume, without further factual reference, still occupies) only a small part. The right of white Australians to the great empty spaces of the subcontinent rested on nothing more than the claim they had staked, and enforced against the aboriginal population, before anyone else. That does not seem a right that one would readily defend in the face of necessitous men and women, clamoring for entry. If, driven by famine in the densely populated lands of Southeast Asia, thousands of people were to fight their way into an Australia otherwise closed to them, I doubt that we would want to charge the invaders with aggression. Hobbes's charge might make more sense: "Seeing every man, not only by Right, but also by necessity of Nature, is supposed to endeavor all he can, to obtain that which is necessary for his conservation; he that shall oppose himself against it, for things superfluous, is guilty of the war that thereupon is to follow." ¹⁷

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But Hobbes's conception of "things superfluous" is extraordinarily wide. He meant, superfluous to life itself, to the bare requirements of physical survival. The argument is more plausible, I think, if we adopt a more narrow conception, shaped to the needs of particular historical communities. We must consider "ways of life" just as, in the case of individuals, we must consider "life plans." Now let us suppose that the great majority of Australians could maintain their present way of life, subject only to marginal shifts, given a successful invasion of the sort I have imagined. Some individuals would be more drastically affected, for they have come to "need" hundreds or even thousands of empty miles for the life they have chosen. But such needs cannot be given moral priority over the claims of necessitous strangers. Space on that scale is a luxury, as time on that scale is a luxury in more conventional Good Samaritan arguments; and it is subject to a kind of moral en-

croachment. Assuming, then, that there actually is superfluous land, the claim of necessity would force a political community like that of White Australia to confront a radical choice. Its members could yield land for the sake of homogeneity, or they could give up homogeneity (agree to the creation of a multiracial society) for the sake of the land. And those would be their only choices. White Australia could survive only as Little Australia.

I have put the argument in these forceful terms in order to suggest that the collective version of mutual aid might require a limited and complex redistribution of membership and/or territory. Farther than this we cannot go. We cannot describe the littleness of Little Australia without attending to the concrete meaning of "things superfluous." To argue, for example, that living space should be distributed in equal amounts to every inhabitant of the globe would be to allow the individual version of the right to a place in the world to override the collective version. Indeed, it would deny that national clubs and families can ever acquire a firm title to a particular piece of territory. A high birthrate in a neighboring land would immediately annul the title and require territorial redistribution.

The same difficulty arises with regard to wealth and resources. These, too, can be superfluous, far beyond what the inhabitants of a particular state require for a decent life (even as they themselves define the meaning of a decent life). Are those inhabitants morally bound to admit immigrants from poorer countries for as long as superfluous resources exist? Or are they bound even longer than that, beyond the limits of mutual aid, until a policy of open admissions ceases to attract and benefit the poorest people in the world? Sidgwick seems to have opted for

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the first of these possibilities; he proposed a primitive and parochial version of Rawls's difference principle: immigration can be restricted as soon as failure to do so would "interfere materially . . . with the efforts of the government to maintain an adequately high standard of life among the members of the community generally--especially the poorer classes."¹⁸ But the community might well decide to cut off immigration even before that, if it were willing to export (some of) its superfluous wealth. Its members would face a choice similar to that of the Australians: they could share their wealth with necessitous strangers outside their country or with necessitous strangers inside their country. But just how much of their wealth do they have to share? Once again, there must be some limit, short (and probably considerably short) of simple equality, else communal wealth would be subject to indefinite drainage. The very phrase "communal wealth" would lose its meaning if all resources and all products were globally common. Or, rather, there would be only one community, a world state, whose redistributive processes would tend over time to annul the historical particu-

larity of the national clubs and families.

If we stop short of simple equality, there will continue to be many communities, with different histories, ways of life, climates, political structures, and economies. Some places in the world will still be more desirable than others, either to individual men and women with particular tastes and aspirations, or more generally. Some places will still be uncomfortable for at least some of their inhabitants. Hence immigration will remain an issue even after the claims of distributive justice have been met on a global scale--assuming, still, that global society is and ought to be pluralist in form and that the claims are fixed by some version of collective mutual aid. The different communities will still have to make admissions decisions and will still have a right to make them. If we cannot guarantee the full extent of the territorial or material base on which a group of people build a common life, we can still say that the common life, at least, is their own and that their comrades and associates are theirs to recognize or choose.

Refugees

There is, however, one group of needy outsiders whose claims cannot be met by yielding territory or exporting wealth; they can be met only by taking people in. This is the group of refugees whose need is for membership itself, a non-exportable good. The liberty that makes cer-

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tain countries possible homes for men and women whose politics or religion isn't tolerated where they live is also non-exportable: at least we have found no way of exporting it. These goods can be shared only within the protected space of a particular state. At the same time, admitting refugees doesn't necessarily decrease the amount of liberty the members enjoy within that space. The victims of political or religious persecution, then, make the most forceful claim for admission. If you don't take me in, they say, I shall be killed, persecuted, brutally oppressed by the rulers of my own country. What can we reply?

Toward some refugees, we may well have obligations of the same sort that we have toward fellow nationals. This is obviously the case with regard to any group of people whom we have helped turn into refugees. The injury we have done them makes for an affinity between us: thus Vietnamese refugees had, in a moral sense, been effectively Americanized even before they arrived on these shores. But we can also be bound to help men and women persecuted or oppressed by someone else--if they are persecuted or oppressed because they are like us. Ideological as well as ethnic affinity can generate bonds across political lines, especially, for example, when we claim to embody certain principles in our communal life and encourage men and women else-

where to defend those principles. In a liberal state, affinities of this latter sort may be highly attenuated and still morally coercive. Nineteenth-century political refugees in England were generally not English liberals. They were heretics and oppositionists of all sorts, at war with the autocracies of Central and Eastern Europe. It was chiefly because of their enemies that the English recognized in them a kind of kin. Or, consider the thousands of men and women who fled Hungary after the failed revolution of 1956. It is hard to deny them a similar recognition, given the structure of the Cold War, the character of Western propaganda, the sympathy already expressed with East European "freedom fighters." These refugees probably had to be taken in by countries like Britain and the United States. The repression of political comrades, like the persecution of co-religionists, seems to generate an obligation to help, at least to provide a refuge for the most exposed and endangered people. Perhaps every victim of authoritarianism and bigotry is the moral comrade of a liberal citizen: that is an argument I would like to make. But that would press affinity too hard, and it is in any case unnecessary. So long as the number of victims is small, mutual aid will generate similar practical results; and when the number increases, and we are forced to choose among the victims, we will look, rightfully, for some more direct connection with our own way of life.

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If, on the other hand, there is no connection at all with particular victims, antipathy rather than affinity, there can't be a requirement to choose them over other people equally in need. * Britain and the United States could hardly have been required, for example, to offer refuge to Stalinists fleeing Hungary in 1956, had the revolution triumphed. Once again, communities must have boundaries; and however these are determined with regard to territory and resources, they depend with regard to population on a sense of relatedness and mutuality. Refugees must appeal to that sense. One wishes them success; but in particular cases, with reference to a particular state, they may well have no right to be successful.

Since ideological (far more than ethnic) affinity is a matter of mutual recognition, there is a lot of room here for political choice--and thus, for exclusion as well as admission. Hence it might be said that my argument doesn't reach to the desperation of the refugee. Nor does it suggest any way of dealing with the vast numbers of refugees generated by twentieth-century politics. On the one hand, everyone must have a place to live, and a place where a reasonably secure life is possible. On the other hand, this is not a right that can be enforced against particular host states. (The right can't be enforced in practice until there is an international authority capable of enforcing it; and were there such an authority, it would certainly do better to intervene against the states whose brutal policies had driven their own citizens into exile, and so enable them all to go home.) The cruelty of this dilemma is

mitigated to some degree by the principle of asylum. Any refugee who has actually made his escape, who is not seeking but has found at least a temporary refuge, can claim asylum--a right recognized today, for example, in British law; and then he cannot be deported so long as the only available country to which he might be sent "is one to which he is unwilling to go owing to well-founded fear of being persecuted for reasons of race, religion, nationality. . . or political opinion."²⁰ Though he is a stranger, and newly come, the rule against expulsion applies to him as if he had already made a life where he is: for there is no other place where he can make a life.

But this principle was designed for the sake of individuals, consid-

*Compare Bruce Ackerman's claim that "the only reason for restricting immigration is to protect the ongoing process of liberal conversation itself" (the italics are Ackerman's).¹⁹ People publicly committed to the destruction of "liberal conversation" can rightfully be excluded--or perhaps Ackerman would say that they can be excluded only if their numbers or the strength of their commitment poses a real threat. In any case, the principle stated in this way applies only to liberal states. But surely other sorts of political communities also have a right to protect their members' shared sense of what they are about.

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ered one by one, where their numbers are so small that they cannot have any significant impact upon the character of the political community. What happens when the numbers are not small? Consider the case of the millions of Russians captured or enslaved by the Nazis in the Second World War and overrun by Allied armies in the final offensives of the war. All these people were returned, many of them forcibly returned, to the Soviet Union, where they were immediately shot or sent on to die in labor camps.²¹ Those of them who foresaw their fate pleaded for asylum in the West, but for expedient reasons (having to do with war and diplomacy, not with nationality and the problems of assimilation), asylum was denied them. Surely, they should not have been forcibly returned--not once it was known that they would be murdered; and that means that the Western allies should have been ready to take them in, negotiating among themselves, I suppose, about appropriate numbers. There was no other choice: at the extreme, the claim of asylum is virtually undeniable. I assume that there are in fact limits on our collective liability, but I don't know how to specify them.

This last example suggests that the moral conduct of liberal and humane states can be determined by the immoral conduct of authoritarian and brutal states. But if that is true, why stop with asylum? Why be concerned only with men and women actually on our territory who ask to remain, and not with men and women oppressed in their own countries who ask to come in? Why mark off the lucky or the aggressive, who have somehow managed to make their way across our borders,

from all the others? Once again, I don't have an adequate answer to these questions. We seem bound to grant asylum for two reasons: because its denial would require us to use force against helpless and desperate people, and because the numbers likely to be involved, except in unusual cases, are small and the people easily absorbed (so we would be using force for "things superfluous"). But if we offered a refuge to everyone in the world who could plausibly say that he needed it, we might be overwhelmed. The call "Give me . . . your huddled masses yearning to breathe free" is generous and noble; actually to take in large numbers of refugees is often morally necessary; but the right to restrain the flow remains a feature of communal self-determination. The principle of mutual aid can only modify and not transform admissions policies rooted in a particular community's understanding of itself.

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Alienage and Naturalization

The members of a political community have a collective right to shape the resident population--a right subject always to the double control that I have described: the meaning of membership to the current members and the principle of mutual aid. Given these two, particular countries at particular times are likely to include among their residents men and women who are in different ways alien. These people may be members in their turn of minority or pariah groups, or they may be refugees or immigrants newly arrived. Let us assume that they are rightfully where they are. Can they claim citizenship and political rights within the community where they now live? Does citizenship go with residence? In fact, there is a second admissions process, called "naturalization," and the criteria appropriate to this second process must still be determined. I should stress that what is at stake here is citizenship and not (except in the legal sense of the term) nationality. The national club or family is a community different from the state, for reasons I have already sketched. Hence it is possible, say, for an Algerian immigrant to France to become a French citizen (a French "national") without becoming a Frenchman. But if he is not a Frenchman, but only a resident in France, has he any right to French citizenship?

One might insist, as I shall ultimately do, that the same standards apply to naturalization as to immigration, that every immigrant and every resident is a citizen, too--or, at least, a potential citizen. That is why territorial admission is so serious a matter. The members must be prepared to accept, as their own equals in a world of shared obligations, the men and women they admit; the immigrants must be prepared to share the obligations. But things can be differently arranged. Often the state controls naturalization strictly, immigration only loosely. Immigrants become resident aliens and, except by special dispensation, nothing more. Why are they admitted? To free the citizens from

hard and unpleasant work. Then the state is like a family with live-in servants.

That is not an attractive image, for a family with live-in servants is--inevitably, I think--a little tyranny. The principles that rule in the household are those of kinship and love. They establish the underlying pattern of mutuality and obligation, of authority and obedience. The servants have no proper place in that pattern, but they have to be assimilated to it. Thus, in the pre-modern literature on family life, servants

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are commonly described as children of a special sort: children, because they are subject to command; of a special sort, because they are not allowed to grow up. Parental authority is asserted outside its sphere, over adult men and women who are not, and can never be, full members of the family. When this assertion is no longer possible, when servants come to be seen as hired workers, the great household begins its slow decline. The pattern of living-in is gradually reversed; erstwhile servants seek households of their own.

The Athenian Metics

It is not possible to trace a similar history at the level of the political community. Live-in servants have not disappeared from the modern world. As "guest workers" they play an important role in its most advanced economies. But before considering the status of guest workers, I want to turn to an older example and consider the status of resident aliens (metics) in ancient Athens. The Athenian polis was almost literally a family with live-in servants. Citizenship was an inheritance passed on from parents to children (and only passed on if both parents were citizens: after 450 B.C., Athens lived by the law of double endogamy). Hence a great deal of the city's work was done by residents who could not hope to become citizens. Some of these people were slaves; but I shall not focus on them, since the injustice of slavery is not disputed these days, at least not openly. The case of the metics is harder and more interesting.

"We throw open our city to the world," said Pericles in his Funeral Oration, "and never exclude foreigners from any opportunity." So the metics came willingly to Athens, drawn by economic opportunity, perhaps also by the city's "air of freedom." Most of them never rose above the rank of laborer or "mechanic," but some prospered: in fourth-century Athens, metics were represented among the wealthiest merchants. Athenian freedom, however, they shared only in its negative forms. Though they were required to join in the defense of the city, they had no political rights at all; nor did their descendants. Nor did they share in the most basic of welfare rights: "Foreigners were ex-

cluded from the distribution of corn." ²²As usual, these exclusions both expressed and enforced the low standing of the metics in Athenian society. In the surviving literature, metics are commonly treated with contempt--though a few favorable references in the plays of Aristophanes suggest the existence of alternative views. ²³

Aristotle, though himself a metic, provides the classic defense of ex-

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clusion, apparently responding to critics who argued that co-residence and shared labor were a sufficient basis for political membership. "A citizen does not become such," he wrote, "merely by inhabiting a place." Labor, even necessary labor, is no better as a criterion: "you must not posit as citizens all those [human beings] without whom you could not have a city." ²⁴Citizenship required a certain "excellence" that was not available to everyone. I doubt that Aristotle really believed this excellence to be transmitted by birth. For him, the existence of members and non-members as hereditary castes was probably a matter of convenience. Someone had to do the hard work of the city, and it was best if the workers were clearly marked out and taught their place from birth. Labor itself, the everyday necessity of economic life, put the excellence of citizenship beyond their reach. Ideally, the band of citizens was an aristocracy of the leisured (in fact, it included "mechanics" just as the metics included men of leisure); and its members were aristocrats because they were leisured, not because of birth and blood or any inner gift. Politics took most of their time, though Aristotle would not have said that they ruled over slaves and aliens. Rather, they took turns ruling one another. The others were simply their passive subjects, the "material condition" of their excellence, with whom they had no political relations at all.

In Aristotle's view, slaves and aliens lived in the realm of necessity; their fate was determined by the conditions of economic life. Citizens, by contrast, lived in the realm of choice; their fate was determined in the political arena by their own collective decisions. But the distinction is a false one. In fact, citizens made all sorts of decisions that were authoritative for the slaves and aliens in their midst--decisions having to do with war, public expenditure, the improvement of trade, the distribution of corn, and so on. Economic conditions were subject to political control, though the extent of that control was always frighteningly limited. Hence slaves and aliens were indeed ruled; their lives were shaped politically as well as economically. They, too, stood within the arena, simply by virtue of being inhabitants of the protected space of the city-state; but they had no voice there. They could not hold public office or attend the assembly or serve on a jury; they had no officers or political organizations of their own and were never consulted about impending decisions. If we take them to be, despite Aristotle, men and women capable of rational deliberation, then we have to say that they

were the subjects of a band of citizen-tyrants, governed without consent. Indeed, this seems to have been at least the implicit view of other Greek writers. Thus Isocrates's critique of oligarchy: when some citi-

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zens monopolize political power, they become "tyrants" and turn their fellows into "metics."²⁵ If that's true, then the actual metics must always have lived with tyranny.

But Isocrates would not have made that last point; nor do we have any record of metics who made it. Slavery was a much debated issue in ancient Athens, but "no vestige survives of any controversy over the *metoikia*."²⁶ Some of the sophists may have had their doubts, but the ideology that distinguished metics from citizens seems to have been widely accepted among metics and citizens alike. The dominance of birth and blood over political membership was part of the common understanding of the age. Athenian metics were themselves hereditary citizens of the cities from which they had come; and though this status offered them no practical protection, it helped, perhaps, to balance their low standing in the city where they lived and worked. They, too, if they were Greeks, were of citizen blood; and their relation with the Athenians could plausibly be described (as it was described by Lycias, another metic, and more ready than Aristotle to acknowledge his status) in contractual terms: good behavior in exchange for fair treatment.²⁷

This view hardly applies, however, to the children of the first metic generation; no contractualist argument can justify the creation of a caste of resident aliens. The only justification of the *metoikia* lies in the conception of citizenship as something that the Athenians literally could not distribute given what they thought it was. All they could offer to aliens was fair treatment, and that was all the aliens could think to ask of them. There is considerable evidence for this view, but there is evidence against it, too. Individual metics were occasionally enfranchised, though perhaps corruptly. Metics played a part in the restoration of democracy in 403 B.C. after the government of the Thirty Tyrants; and they were eventually rewarded, despite strong opposition, with a grant of citizenship.²⁸ Aristotle made it an argument against large cities that "resident aliens readily assume a share in the exercise of political rights"--which suggests that there was no conceptual barrier to the extension of citizenship.²⁹ In any case, there is certainly no such barrier in contemporary democratic communities, and it is time now to consider our own metics. The question that apparently gave the Greeks no trouble is both practically and theoretically troubling today. Can states run their economies with live-in servants, guest workers, excluded from the company of citizens?

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Guest Workers

I will not attempt a full description of the experience of contemporary guest workers. Laws and practices differ from one European country to another and are constantly changing; the situation is complex and unstable. All that is necessary here is a schematic sketch (based chiefly on the legal situation in the early 1970s) designed to highlight those features of the experience that are morally and politically controversial. ³⁰

Consider, then, a country like Switzerland or Sweden or West Germany, a capitalist democracy and welfare state, with strong trade unions and a fairly affluent population. The managers of the economy find it increasingly difficult to attract workers to a set of jobs that have come to be regarded as exhausting, dangerous, and degrading. But these jobs are also socially necessary; someone must be found to do them. Domestically, there are only two alternatives, neither of them palatable. The constraints imposed on the labor market by the unions and the welfare state might be broken, and then the most vulnerable segment of the local working class driven to accept jobs hitherto thought undesirable. But this would require a difficult and dangerous political campaign. Or, the wages and working conditions of the undesirable jobs might be dramatically improved so as to attract workers even within the constraints of the local market. But this would raise costs throughout the economy and, what is probably more important, challenge the existing social hierarchy. Rather than adopt either of these drastic measures, the economic managers, with the help of their government, shift the jobs from the domestic to the international labor market, making them available to workers in poorer countries who find them less undesirable. The government opens recruiting offices in a number of economically backward countries and draws up regulations to govern the admission of guest workers.

It is crucial that the workers who are admitted should be "guests," not immigrants seeking a new home and a new citizenship. For if the workers came as future citizens, they would join the domestic labor force, temporarily occupying its lower ranks, but benefiting from its unions and welfare programs and in time reproducing the original dilemma. Moreover, as they advanced, they would come into direct competition with local workers, some of whom they would outdo. Hence the regulations that govern their admission are designed to bar them from the protection of citizenship. They are brought in for a fixed time

period, on contract to a particular employer; if they lose their jobs, they have to leave; they have to leave in any case when their visas expire.

They are either prevented or discouraged from bringing dependents along with them, and they are housed in barracks, segregated by sex, on the outskirts of the cities where they work. Mostly they are young men or women in their twenties or thirties; finished with education, not yet infirm, they are a minor drain on local welfare services (unemployment insurance is not available to them since they are not permitted to be unemployed in the countries to which they have come). Neither citizens nor potential citizens, they have no political rights. The civil liberties of speech, assembly, association--otherwise strongly defended--are commonly denied to them, sometimes explicitly by state officials, sometimes implicitly by the threat of dismissal and deportation.

Gradually, as it becomes clear that foreign workers are a long-term requirement of the local economy, these conditions are somewhat mitigated. For certain jobs, workers are given longer visas, allowed to bring in their families, and admitted to many of the benefits of the welfare state. But their position remains precarious. Residence is tied to employment, and the authorities make it a rule that any guest worker who cannot support himself and his family without repeated recourse to state welfare programs, can be deported. In time of recession, many of the guests are forced to leave. In good times, however, the number who choose to come, and who find ways to remain, is high; soon some 10 percent to 15 percent of the industrial labor force is made up of foreigners. Frightened by this influx, various cities and towns establish residence quotas for guest workers (defending their neighborhoods against an open state). Bound to their jobs, the guests are in any case narrowly restricted in choosing a place to live.

Their existence is harsh and their wages low by European standards, less so by their own standards. What is most difficult is their homelessness: they work long and hard in a foreign country where they are not encouraged to settle down, where they are always strangers. For those workers who come alone, life in the great European cities is like a self-imposed prison term. They are deprived of normal social, sexual, and cultural activities (of political activity, too, if that is possible in their home country) for a fixed period of time. During that time, they live narrowly, saving money and sending it home. Money is the only return that the host countries make to their guests; and though much of it is exported rather than spent locally, the workers are still very cheaply had. The costs of raising and educating them where they work, and

of paying them what the domestic labor market requires, would be much higher than the amounts remitted to their home countries. So the relation of guests and hosts seems to be a bargain all around: for the harshness of the working days and years is temporary, and the money sent home counts there in a way it could never count in a Euro-

pean city.

But what are we to make of the host country as a political community? Defenders of the guest-worker system claim that the country is now a neighborhood economically, but politically still a club or a family. As a place to live, it is open to anyone who can find work; as a forum or assembly, as a nation or a people, it is closed except to those who meet the requirements set by the present members. The system is a perfect synthesis of labor mobility and patriotic solidarity. But this account somehow misses what is actually going on. The state-as-neighborhood, an "indifferent" association governed only by the laws of the market, and the state-as-club-or-family, with authority relations and police, do not simply coexist, like two distinct moments in historical or abstract time. The market for guest workers, while free from the particular political constraints of the domestic labor market, is not free from all political constraints. State power plays a crucial role in its creation and then in the enforcement of its rules. Without the denial of political rights and civil liberties and the everpresent threat of deportation, the system would not work. Hence guest workers can't be described merely in terms of their mobility, as men and women free to come and go. While they are guests, they are also subjects. They are ruled, like the Athenian metics, by a band of citizen-tyrants.

But don't they agree to be ruled? Isn't the contractualist argument effective here, with men and women who actually come in on contracts and stay only for so many months or years? Certainly they come knowing roughly what to expect, and they often come back knowing exactly what to expect. But this kind of consent, given at a single moment in time, while it is sufficient to legitimize market transactions, is not sufficient for democratic politics. Political power is precisely the ability to make decisions over periods of time, to change the rules, to cope with emergencies; it can't be exercised democratically without the ongoing consent of its subjects. And its subjects include every man and woman who lives within the territory over which those decisions are enforced. The whole point of calling guest workers "guests," however, is to suggest that they don't (really) live where they work. Though they are treated like indentured servants, they are not in fact indentured. They can quit their jobs, buy train or airline tickets, and go home; they are

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citizens elsewhere. If they come voluntarily, to work and not to settle, and if they can leave whenever they want, why should they be granted political rights while they stay? Ongoing consent, it might be argued, is required only from permanent residents. Aside from the explicit provisions of their contracts, guest workers have no more rights than tourists have.

In the usual sense of the word, however, guest workers are not

"guests," and they certainly are not tourists. They are workers, above all; and they come (and generally stay for as long as they are allowed) because they need the work, not because they expect to enjoy the visit. They are not on vacation; they do not spend their days as they please. State officials are not polite and helpful, giving directions to the museums, enforcing the traffic and currency laws. These guests experience the state as a pervasive and frightening power that shapes their lives and regulates their every move--and never asks for their opinion. Departure is only a formal option; deportation, a continuous practical threat. As a group, they constitute a disenfranchised class. They are typically an exploited or oppressed class as well, and they are exploited or oppressed at least in part because they are disenfranchised, incapable of organizing effectively for self-defense. Their material condition is unlikely to be improved except by altering their political status. Indeed, the purpose of their status is to prevent them from improving their condition; for if they could do that, they would soon be like domestic workers, unwilling to take on hard and degrading work or accept low rates of pay.

And yet the company of citizens from which they are excluded is not an endogamous company. Compared with Athens, every European country is radically heterogeneous in character, and they all have naturalization procedures in place. Guest workers, then, are excluded from the company of men and women that includes other people exactly like themselves. They are locked into an inferior position that is also an anomalous position; they are outcasts in a society that has no caste norms, metics in a society where metics have no comprehensible, protected, and dignified place. That is why the government of guest workers looks very much like tyranny: it is the exercise of power outside its sphere, over men and women who resemble citizens in every respect that counts in the host country, but are nevertheless barred from citizenship.

The relevant principle here is not mutual aid but political justice. The guests don't need citizenship--at least not in the same sense in which they might be said to need their jobs. Nor are they injured, help-

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less, destitute; they are able-bodied and earning money. Nor are they standing, even figuratively, by the side of the road; they are living among the citizens. They do socially necessary work, and they are deeply enmeshed in the legal system of the country to which they have come. Participants in economy and law, they ought to be able to regard themselves as potential or future participants in politics as well. And they must be possessed of those basic civil liberties whose exercise is so much preparation for voting and office holding. They must be set on the road to citizenship. They may choose not to become citizens, to return home or stay on as resident aliens. Many--perhaps

most--will choose to return because of their emotional ties to their national family and their native land. But unless they have that choice, their other choices cannot be taken as so many signs of their acquiescence to the economy and law of the countries where they work. And if they do have that choice, the local economy and law are likely to look different: a firmer recognition of the guests' civil liberties and some enhancement of their opportunities for collective bargaining would be difficult to avoid once they were seen as potential citizens.

I should add that something of the same sort might be obtained in another way. The host countries might undertake to negotiate formal treaties with the home countries, setting out in authoritative form a list of "guest rights"--the same rights, roughly, that the workers might win for themselves as union members and political activists. The treaty could include a proviso stipulating its periodic renegotiation, so that the list of rights could be adapted to changing social and economic conditions. Then, even when they were not living at home, the original citizenship of the guests would work for them (as it never worked for the Athenian metics); and they would, in some sense, be represented in local decision making. In one way or another, they ought to be able to enjoy the protection of citizenship or potential citizenship.

Leaving aside such international arrangements, the principle of political justice is this: that the processes of self-determination through which a democratic state shapes its internal life, must be open, and equally open, to all those men and women who live within its territory, work in the local economy, and are subject to local law. *Hence, second admissions (naturalization) depend on first admissions (immigration) and are subject only to certain constraints of time and qualification,

*It has been suggested to me that this argument doesn't plausibly apply to privileged guests: technical advisors, visiting professors, and so on. I concede the point, though I'm not sure just how to describe the category "guest workers" so as to exclude these others. But the others are not very important, and it is in the nature of their privileged positions that they are able to call upon the protection of their home states if they ever need it. They enjoy a kind of extra-territoriality.

never to the ultimate constraint of closure. When second admissions are closed, the political community collapses into a world of members and strangers, with no political boundaries between the two, where the strangers are subjects of the members. Among themselves, perhaps, the members are equal; but it is not their equality but their tyranny that determines the character of the state. Political justice is a bar to perma-

ment alienage--either for particular individuals or for a class of changing individuals. At least, this is true in a democracy. In an oligarchy, as Isocrates wrote, even the citizens are really resident aliens, and so the issue of political rights doesn't arise in the same way. But as soon as some residents are citizens in fact, all must be so. No democratic state can tolerate the establishment of a fixed status between citizen and foreigner (though there can be stages in the transition from one of these political identities to the other). Men and women are either subject to the state's authority, or they are not; and if they are subject, they must be given a say, and ultimately an equal say, in what that authority does. Democratic citizens, then, have a choice: if they want to bring in new workers, they must be prepared to enlarge their own membership; if they are unwilling to accept new members, they must find ways within the limits of the domestic labor market to get socially necessary work done. And those are their only choices. Their right to choose derives from the existence in this particular territory of a community of citizens; and it is not compatible with the destruction of the community or its transformation into yet another local tyranny.

Membership and Justice

The distribution of membership is not pervasively subject to the constraints of justice. Across a considerable range of the decisions that are made, states are simply free to take in strangers (or not)--much as they are free, leaving aside the claims of the needy, to share their wealth with foreign friends, to honor the achievements of foreign artists, scholars, and scientists, to choose their trading partners, and to enter into collective security arrangements with foreign states. But the right to choose an admissions policy is more basic than any of these, for it is not merely a matter of acting in the world, exercising sovereignty, and pursuing national interests. At stake here is the shape of the community

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that acts in the world, exercises sovereignty, and so on. Admission and exclusion are at the core of communal independence. They suggest the deepest meaning of self-determination. Without them, there could not be *communities of character*, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life. ³¹

But self-determination in the sphere of membership is not absolute. It is a right exercised, most often, by national clubs or families, but it is held in principle by territorial states. Hence it is subject both to internal decisions by the members themselves (*all* the members, including those who hold membership simply by right of place) and to the external principle of mutual aid. Immigration, then, is both a matter of political choice and moral constraint. Naturalization, by contrast,

is entirely constrained: every new immigrant, every refugee taken in, every resident and worker must be offered the opportunities of citizenship. If the community is so radically divided that a single citizenship is impossible, then its territory must be divided, too, before the rights of admission and exclusion can be exercised. For these rights are to be exercised only by the community as a whole (even if, in practice, some national majority dominates the decision making) and only with regard to foreigners, not by some members with regard to others. No community can be half-metic, half-citizen and claim that its admissions policies are acts of self-determination or that its politics is democratic.

The determination of aliens and guests by an exclusive band of citizens (or of slaves by masters, or women by men, or blacks by whites, or conquered peoples by their conquerors) is not communal freedom but oppression. The citizens are free, of course, to set up a club, make membership as exclusive as they like, write a constitution, and govern one another. But they can't claim territorial jurisdiction and rule over the people with whom they share the territory. To do this is to act outside their sphere, beyond their rights. It is a form of tyranny. Indeed, the rule of citizens over non-citizens, of members over strangers, is probably the most common form of tyranny in human history. I won't say much more than this about the special problems of non-citizens and strangers: henceforth, whether I am talking about the distribution of security and welfare or about hard work or power itself, I shall assume that all the eligible men and women hold a single political status. This assumption doesn't exclude other sorts of inequality further down the road, but it does exclude the piling up of inequalities that is characteristic of divided societies. The denial of membership is always the first of a long train of abuses. There is no way to break the train, so we must

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deny the rightfulness of the denial. The theory of distributive justice begins, then, with an account of membership rights. It must vindicate at one and the same time the (limited) right of closure, without which there could be no communities at all, and the political inclusiveness of the existing communities. For it is only as members somewhere that men and women can hope to share in all the other social goods--security, wealth, honor, office, and power--that communal life makes possible.

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3 Security and Welfare

Membership and Need

Membership is important because of what the members of a political community owe to one another and to no one else, or to no one else in the same degree. And the first thing they owe is the communal provision of security and welfare. This claim might be reversed: communal provision is important because it teaches us the value of membership. If we did not provide for one another, if we recognized no distinction between members and strangers, we would have no reason to form and maintain political communities. "How shall men love their country," Rousseau asked, "if it is nothing more for them than for strangers, and bestows on them only that which it can refuse to none?" ¹ Rousseau believed that citizens ought to love their country and therefore that their country ought to give them particular reasons to do so. Membership (like kinship) is a special relation. It's not enough to say, as Edmund Burke did, that "to make us love our country, our country ought to be lovely." ² The crucial thing is that it be lovely for us--though we always hope that it will be lovely for others (we also love its reflected loveliness).

Political community for the sake of provision, provision for the sake of community: the process works both ways, and that is perhaps its crucial feature. Philosophers and political theorists have been too quick to turn it into a simple calculation. Indeed, we are rationalists of everyday life; we come together, we sign the social contract or reiterate the signing of it, in order to provide for our needs. And we value the con-

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tract insofar as those needs are met. But one of our needs is community itself: culture, religion, and politics. It is only under the aegis of these three that all the other things we need become *socially recognized needs*, take on historical and determinate form. The social contract is an agreement to reach decisions together about what goods are necessary to our common life, and then to provide those goods for one another. The signers owe one another more than mutual aid, for that they owe or can owe to anyone. They owe mutual provision of all those things for the sake of which they have separated themselves from mankind as a whole and joined forces in a particular community. *Amour social* is one of those things; but though it is a distributed good--often unevenly distributed--it arises only in the course of other distributions (and of the political choices that the other distributions require). Mutual provision breeds mutuality. So the common life is simultaneously the prerequisite of provision and one of its products.

Men and women come together because they literally cannot live apart. But they can live together in many different ways. Their survival and then their well-being require a common effort: against the wrath of the gods, the hostility of other people, the indifference and malevolence of nature (famine, flood, fire, and disease), the brief transit of

a human life. Not army camps alone, as David Hume wrote, but temples, storehouses, irrigation works, and burial grounds are the true mothers of cities. ³As the list suggests, origins are not singular in character. Cities differ from one another, partly because of the natural environments in which they are built and the immediate dangers their builders encounter, partly because of the conceptions of social goods that the builders hold. They recognize but also create one another's needs and so give a particular shape to what I will call the "sphere of security and welfare." The sphere itself is as old as the oldest human community. Indeed, one might say that the original community is a sphere of security and welfare, a system of communal provision, distorted, no doubt, by gross inequalities of strength and cunning. But the system has, in any case, no natural form. Different experiences and different conceptions lead to different patterns of provision. Though there are some goods that are needed absolutely, there is no good such that once we see it, we know how it stands vis-à-vis all other goods and how much of it we owe to one another. The nature of a need is not self-evident.

Communal provision is both general and particular. It is general whenever public funds are spent so as to benefit all or most of the members without any distribution to individuals. It is particular whenever

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goods are actually handed over to all or any of the members. ^{*}Water, for example, is one of "the bare requirements of civil life," and the building of reservoirs is a form of general provision. ⁴But the delivery of water to one rather than to another neighborhood (where, say, the wealthier citizens live) is particular. The securing of the food supply is general; the distribution of food to widows and orphans is particular. Public health is most often general, the care of the sick, most often particular. Sometimes the criteria for general and particular provision will differ radically. The building of temples and the organization of religious services is an example of general provision designed to meet the needs of the community as a whole, but communion with the gods may be allowed only to particularly meritorious members (or it may be sought privately in secret or in nonconformist sects). The system of justice is a general good, meeting common needs; but the actual distribution of rewards and punishments may serve the particular needs of a ruling class, or it may be organized, as we commonly think it should be, to give to individuals what they individually deserve. Simone Weil has argued that, with regard to justice, need operates at both the general and the particular levels, since criminals need to be punished. ⁵But that is an idiosyncratic use of the word *need*. More likely, the punishment of criminals is something only the rest of us need. But need does operate both generally and particularly for other goods: health care is an obvious example that I will later consider in some detail.

Despite the inherent forcefulness of the word, needs are elusive. People don't just have needs, they have ideas about their needs; they have priorities, they have degrees of need; and these priorities and degrees are related not only to their human nature but also to their history and culture. Since resources are always scarce, hard choices have to be made. I suspect that these can only be political choices. They are subject to a certain philosophical elucidation, but the idea of need and the commitment to communal provision do not by themselves yield any clear determination of priorities or degrees. Clearly we can't meet, and we don't have to meet, every need to the same degree or any need

* I don't mean to reiterate here the technical distinction that economists make between public and private goods. General provision is always public, at least on the less stringent definitions of that term (which specify only that public goods are those that can't be provided to some and not to other members of the community). So are most forms of particular provision, for even goods delivered to individuals generate non-exclusive benefits for the community as a whole. Scholarships to orphans, for example, are private to the orphans, public to the community of citizens within which the orphans will one day work and vote. But public goods of this latter sort, which depend upon prior distributions to particular persons or groups, have been controversial in many societies; and I have designed my categories so as to enable me to examine them closely.

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to the ultimate degree. The ancient Athenians, for example, provided public baths and gymnasiums for the citizens but never provided anything remotely resembling unemployment insurance or social security. They made a choice about how to spend public funds, a choice shaped presumably by their understanding of what the common life required. It would be hard to argue that they made a mistake. I suppose there are notions of need that would yield such a conclusion, but these would not be notions acceptable to--they might not even be comprehensible to--the Athenians themselves.

The question of degree suggests even more clearly the importance of political choice and the irrelevance of any merely philosophical stipulation. Needs are not only elusive; they are also expansive. In the phrase of the contemporary philosopher Charles Fried, needs are voracious; they eat up resources.⁶ But it would be wrong to suggest that therefore need cannot be a distributive principle. It is, rather, a principle subject to political limitation; and the limits (within limits) can be arbitrary, fixed by some temporary coalition of interests or majority of voters. Consider the case of physical security in a modern American city. We

could provide absolute security, eliminate every source of violence except domestic violence, if we put a street light every ten yards and stationed a policeman every thirty yards throughout the city. But that would be very expensive, and so we settle for something less. How much less can only be decided politically. *One can imagine the sorts of things that would figure in the debates. Above all, I think, there would be a certain understanding--more or less widely shared, controversial only at the margins--of what constitutes "enough" security or of what level of insecurity is simply intolerable. The decision would also be affected by other factors: alternate needs, the state of the economy, the agitation of the policemen's union, and so on. But whatever decision is ultimately reached, for whatever reasons, security is provided because the citizens need it. And because, at some level, they all need it, the criterion of need remains a critical standard (as we shall see) even though it cannot determine priority and degree.

*And should be decided politically: that is what democratic political arrangements are for. Any philosophical effort to stipulate in detail the rights or the entitlements of individuals would radically constrain the scope of democratic decision making. I have argued this point elsewhere. [7](#)

Communal Provision

There has never been a political community that did not provide, or try to provide, or claim to provide, for the needs of its members as its members understood those needs. And there has never been a political community that did not engage its collective strength--its capacity to direct, regulate, pressure, and coerce--in this project. The modes of organization, the levels of taxation, the timing and reach of conscription: these have always been a focus of political controversy. But the use of political power has not, until very recently, been controversial. The building of fortresses, dams, and irrigation works; the mobilization of armies; the securing of the food supply and of trade generally--all these require coercion. The state is a tool that cannot be made without iron. And coercion, in turn, requires agents of coercion. Communal provision is always mediated by a set of officials (priests, soldiers, and bureaucrats) who introduce characteristic distortions into the process, siphoning off money and labor for their own purposes or using provision as a form of control. But these distortions are not my immediate concern. I want to stress instead the sense in which every political community is in principle a "welfare state." Every set of officials is at least putatively committed to the provision of security and welfare; every set of members is committed to bear the necessary burdens (and actu-

ally does bear them). The first commitment has to do with the duties of office; the second, with the dues of membership. Without some shared sense of the duty and the dues there would be no political community at all and no security or welfare--and the life of mankind "solitary, poor, nasty, brutish, and short."

But how much security and welfare is required? Of what sorts? Distributed how? Paid for how? These are the serious issues, and they can be resolved in many different ways. Since every resolution will be appropriate or inappropriate to a particular community, it will be best to turn now to some concrete examples. I have chosen two, from different historical periods, with very different general and particular distributive commitments. The two represent the two strands of our own cultural tradition, Hellenic and Hebraic; but I have not looked for anything like extreme points on the range of possibilities. Rather, I have chosen two communities that are, like our own, relatively democratic and generally respectful of private property. Neither of them, so far as I know, has ever figured significantly in histories of the welfare state; and yet

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the citizens of both understood well the meaning of communal provision.

Athens in the Fifth and Fourth Centuries

"The Hellenistic city-states were highly sensitive to what may be called the general welfare, that is, they were quite willing to take measures which looked to the benefit of the citizenry as a whole; to social welfare . . . in particular the benefit of the poor as such, they were, on the contrary, largely indifferent."⁸ This comment by the contemporary classicist Louis Cohn-Haft occurs in the course of a study of the "public physicians" of ancient Greece, a minor institution but a useful starting point for my own account. In Athens, in the fifth century B.C. (and during the later Hellenistic period in many Greek cities), a small number of doctors were elected to public office, much as generals were elected, and paid a stipend from public funds. It's not clear what their duties were; the surviving evidence is fragmentary. They apparently charged fees for their services much as other doctors did, though it seems likely that "as stipendiaries of the whole citizen body [they] would be under considerable social pressure not to refuse a sick person who could not pay a fee." The purpose of the election and the stipend seems to have been to assure the presence of qualified doctors in the city--in time of plague, for example. The provision was general, not particular; and the city apparently took little interest in the further distribution of medical care. It did honor public physicians who "gave themselves ungrudgingly to all who claimed to need them"; but this suggests that the giving was not a requirement of the office; the doctors

were paid for something else.⁹

This was the common pattern at Athens, but the range of general provision was very wide. It began with defense: the fleet, the army, the walls down to Piraeus, were all the work of the citizens themselves under the direction of their magistrates and generals. Or, perhaps it began with food: the Assembly was required, at fixed intervals, to consider an agenda item that had a fixed form--"corn and the defense of the country." Actual distributions of corn occurred only rarely; but the import trade was closely watched, and the internal market regulated, by an impressive array of officials: ten commissioners of trade, ten superintendents of the markets, ten inspectors of weights and measures, thirty-five "corn guardians" who enforced a just price, and--in moments of crisis--a group of corn buyers "who sought supplies wherever it could find them, raised public subscriptions for the necessary

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funds, introduced price reductions and rationing."¹⁰ All of these officials were chosen by lot from among the citizens. Or, perhaps it began with religion: the major public buildings of Athens were temples, built with public money; priests were public officials who offered sacrifices on the city's behalf. Or, perhaps it began, as in Locke's account of the origins of the state, with justice: Athens was policed by a band of state slaves (eighteen hundred Scythian archers); the city's courts were intricately organized and always busy. And beyond all this, the city provided a variety of other goods. Five commissioners supervised the building and repair of the roads. A board of ten enforced a rather minimal set of public health measures: "they ensure that the dung collectors do not deposit dung within ten *stadon*s of the walls."¹¹ As I have already noted, the city provided baths and gymnasiums, probably more for social than for hygienic reasons. The burial of corpses found lying on the streets was a public charge. So were the funerals of the war dead, like the one at which Pericles spoke in 431. Finally, the great drama festivals were publicly organized and paid for, through a special kind of taxation, by wealthy citizens. Is this last an expense for security and welfare? We might think of it as a central feature of the religious and political education of the Athenian people. By contrast, there was no public expenditure for schools or teachers at any level: no subsidies for reading and writing or for philosophy.

Alongside all this, the particular distributions authorized by the Athenian Assembly--with one central exception--came to very little. "There is a law," Aristotle reported, "that anyone with property of less than three *minae* who suffers from a physical disability which prevents his undertaking any employment should come before the Council, and if his claim is approved he should receive two *obols* a day subsistence from public funds."¹² These (very small) pensions could be challenged by any citizen, and then the pensioner had to defend himself before

a jury. One of the surviving orations of Lycias was written for a crippled pensioner. "All fortune, good and bad," Lycias had the pensioner tell the jury, "is to be shared in common by the community as a whole." ¹³ This was hardly an accurate description of the city's practices. But the citizens did recognize their obligations to orphans and also to the widows of fallen soldiers. Beyond that, particular provision was left to the families of those who needed it. The city took an interest but only at a distance: a law of Solon required fathers to teach their sons a trade and sons to maintain their parents in old age.

The central exception, of course, was the distribution of public funds to all those citizens who held an office, served on the Council, attended

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the Assembly, or sat on a jury. Here a particular distribution served a general purpose: the maintenance of a vigorous democracy. The monies paid out were designed to make it possible for artisans and farmers to miss a day's work. Public spirit was still required, for the amounts were small, less than the daily earnings even of an unskilled laborer. But the yearly total was considerable, coming to something like half of the internal revenue of the city in the fifth century and more than that at many points in the fourth. ¹⁴ Since the revenue of the city was not raised from taxes on land or income (but from taxes on imports, court fines, rents, the income of the silver mines, and so on), it can't be said that these payments were redistributive. But they did distribute public funds so as to balance somewhat the inequalities of Athenian society. This was particularly the case with regard to payments to elderly citizens who would not have been working anyway. Professor M. I. Finley is inclined to attribute to this distributive effect the virtual absence of civil strife or class war throughout the history of democratic Athens. ¹⁵ Perhaps this was an intended result, but it seems more likely that what lay behind the payments was a certain conception of citizenship. To make it possible for each and every citizen to participate in political life, the citizens as a body were prepared to lay out large sums. Obviously, this appropriation benefited the poorest citizens the most, but of poverty itself the city took no direct notice.

A Medieval Jewish Community

I shall not refer here to any particular Jewish community but shall try to describe a typical community in Christian Europe during the high Middle Ages. I am concerned primarily to produce a list of goods generally or particularly provided; and the list doesn't vary significantly from one place to another. Jewish communities under Islamic rule, especially as these have been reconstructed in the remarkable books of Professor S. D. Goitein, undertook essentially the same sort of provision though under somewhat different circumstances. ¹⁶ In contrast to

Athens, all these were autonomous but not sovereign communities. In Europe, they possessed full powers of taxation, though much of the money they raised had to be passed on to the secular--that is, Christian--king, prince, or lord, either in payment of his taxes or as bribes, subsidies, "loans," and so on. This can be thought of as the price of protection. In the Egyptian cities studied by Goitein, the largest part of the communal funds was raised through charitable appeals, but the standardized form of the gifts suggests that social pressure worked very

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much like political power. It was hardly possible to live in the Jewish community without contributing; and short of conversion to Christianity, a Jew had no alternative; there was no place else to go.

In principle, these were democratic communities, governed by an assembly of male members, meeting in the synagogue. External pressures tended to produce oligarchy or, more precisely, plutocracy--the rule of the heads of the wealthiest families, who were best able to deal with avaricious kings. But the rule of the wealthy was continually challenged by more ordinary members of the religious community, and was balanced by the authority of the rabbinic courts. The rabbis played a crucial role in the apportionment of taxes, a matter of ongoing and frequently bitter controversy. The rich preferred a *per capita* tax, though in moments of crisis they could hardly avoid contributing what was necessary to their own, as well as the community's, survival. The rabbis seem generally to have favored proportional (a few of them even raised the possibility of progressive) taxation. ¹⁷

As one might expect in communities whose members were at best precariously established, subject to intermittent persecution and constant harassment, a high proportion of public funds was distributed to individuals in trouble. But though it was established early on that the poor of one's own community took precedence over "foreign" Jews, the larger solidarity of a persecuted people is revealed in the very strong commitment to the "ransom of captives"--an absolute obligation on any community to which an appeal was made, and a significant drain on communal resources. "The redemption of captives," wrote Maimonides, "has precedence over the feeding and clothing of the poor." ¹⁸ This priority derived from the immediate physical danger in which the captive found himself, but it probably also had to do with the fact that his danger was religious as well as physical. Forced conversion or slavery to a non-Jewish owner were threats to which the organized Jewish communities were especially sensitive; for these were above all religious communities, and their conceptions of public life and of the needs of individual men and women were alike shaped through centuries of religious discussion.

The major forms of general provision--excluding protection

money--were religious in character, though these included services that we now think of as secular. The synagogue and its officials, the courts and their officials, were paid for out of public funds. The courts administered Talmudic law, and their jurisdiction was wide (though it did not extend to capital crimes). Economic dealings were closely regulated, especially dealings with non-Jews since these could have im-

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plications for the community as a whole. The pervasive sumptuary laws were also designed with non-Jews in mind, so as not to excite envy and resentment. The community provided public baths, more for religious than for hygienic reasons, and supervised the work of the slaughterers. Kosher meat was taxed (in the Egyptian communities, too), so this was both a form of provision and a source of revenue. There was also some effort made to keep the streets clear of rubbish and to avoid overcrowding in Jewish neighborhoods. Toward the end of the medieval period, many communities established hospitals and paid communal midwives and physicians.

Particular distributions commonly took the form of a dole: regular weekly or twice-weekly distributions of food; less frequent distributions of clothing; special allocations for sick people, stranded travelers, widows and orphans, and so on--all this on a remarkable scale given the size and resources of the communities. Maimonides had written that the highest form of charity was the gift or loan or partnership designed to make the recipient self-supporting. These words were often quoted but, as Goitein has argued, they did not shape the structure of social services in the Jewish community. Perhaps the poor were too numerous, the situation of the community itself too precarious, for anything more than relief. Goitein has calculated that among the Jews of Old Cairo, "there was one relief recipient to every four contributors to the charities." ¹⁹ The contributors of money also contributed their time and energy: from their ranks came a host of minor officials involved in the endless work of collection and distribution. Hence, the dole was a large and continuous drain, accepted as a religious obligation, with no end in sight until the coming of the messiah. This was divine justice with a touch of Jewish irony: "You must help the poor in proportion to their needs, but you are not obligated to make them rich." ²⁰

Beyond the dole, there were additional forms of particular provision, most importantly for educational purposes. In fifteenth-century Spain, some sixty years before the expulsion, a remarkable effort was made to establish something like universal and compulsory public education. The Valladolid synod of 1432. established special taxes on meat and wine, and on weddings, circumcisions, and burials, and ordered

that every community of fifteen householders [or more] shall be obliged to maintain a qualified elementary teacher to instruct their children in

Scripture. . . . The parents shall be obliged to send their children to that teacher, and each shall pay him in accordance with their means. If this revenue should prove inadequate, the community shall be obliged to supplement it.

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More advanced schools were required in every community of forty or more householders. The chief rabbi of Castile was authorized to divert money from wealthy to impoverished communities in order to subsidize struggling schools.²¹ This was a program considerably more ambitious than anything attempted earlier on. But throughout the Jewish communities a great deal of attention was paid to education: the school fees of poor children were commonly paid; and there were greater or lesser public subsidies, as well as additional charitable support, for religious schools and academies. Jews went to school the way Greeks went to the theater or the assembly--as neither group could have done had these institutions been left entirely to private enterprise.

Together, the Jews and the Greeks suggest not only the range of communal activity but also, and more important, the way in which this activity is structured by collective values and political choices. In any political community where the members have something to say about their government, some such pattern will be worked out: a set of general and particular provisions designed to sustain and enhance a common culture. The point would hardly have to be made were it not for contemporary advocates of a minimal or libertarian state, who argue that all such matters (except for defense) should be left to the voluntary efforts of individuals.²² But individuals left to themselves, if that is a practical possibility, will necessarily seek out other individuals for the sake of collective provision. They need too much from one another--not only material goods, which might be provided through a system of free exchange, but material goods that have, so to speak, a moral and cultural shape. Certainly one can find examples--there are many--of states that failed to provide either the material goods or the morality or that provided them so badly, and did so much else, that ordinary men and women yearned for nothing so much as deliverance from their impositions. Having won deliverance, however, these same men and women don't set out simply to maintain it but go on to elaborate a pattern of provision suited to their own needs (their own conception of their needs). The arguments for a minimal state have never recommended themselves to any significant portion of mankind. Indeed, what is most common in the history of popular struggles is the demand not for deliverance but for performance: that the state actually serve the purposes it claims to serve, and that it do so for all its members. The political community grows by invasion as previously excluded groups, one after another--plebians, slaves, women, minorities of all sorts--demand their share of security and welfare.

Fair Shares

What is their rightful share? There are, in fact, two different questions here. The first concerns the range of goods that ought to be shared, the boundaries of the sphere of security and welfare: that is the subject of the next section. The second concerns the distributive principles appropriate within the sphere, which I shall try now to tease out of the Greek and Jewish examples.

We can best begin with the Talmudic maxim that the poor must (the imperative is important) be helped in proportion to their needs. That is common sense, I suppose, but it has an important negative thrust: not in proportion to any personal quality--physical attractiveness, say, or religious orthodoxy. One of the persistent efforts of Jewish communal organization, never entirely successful, was the elimination of beggary. The beggar is rewarded for his skill in telling a story, for his pathos, often--in Jewish lore--for his audacity; and he is rewarded in accordance with the kindness, the self-importance, the *noblesse oblige* of his benefactor, but never simply in proportion to his needs. But if we tighten the link between need and provision, we can free the distributive process from all these extraneous factors. When we give out food, we will attend directly to the purpose of the giving: the relief of hunger. Hungry men and women don't have to stage a performance, or pass an exam, or win an election.

This is the inner logic, the social and moral logic of provision. Once the community undertakes to provide some needed good, it must provide it to all the members who need it in proportion to their needs. The actual distribution will be limited by the available resources; but all other criteria, beyond need itself, are experienced as distortions and not as limitations of the distributive process. And the available resources of the community are simply the past and present product, the accumulated wealth of its members--not some "surplus" of that wealth. It is commonly argued that the welfare state "rests on the availability of some form of economic surplus."²³ But what can that mean? We can't subtract from the total social product the maintenance costs of men and machines, the price of social survival, and then finance the welfare state out of what is left, for we will already have financed the welfare state out of what we have subtracted. Surely the price of social survival includes state expenditures for military security, say, and public health, and education. Socially recognized needs are the first charge

against the social product; there is no real surplus until they have been

met. What the surplus finances is the production and exchange of commodities outside the sphere of need. Men and women who appropriate vast sums of money for themselves, while needs are still unmet, act like tyrants, dominating and distorting the distribution of security and welfare.

I should stress again that needs are not merely physical phenomena. Even the need for food takes different forms under different cultural conditions. Thus the general distributions of food before religious holidays in the Jewish communities: a ritual and not a physical need was being served. It was important not only that the poor should eat but also that they should eat the right sorts of food, for otherwise they would be cut off from the community--but they were helped in the first place only because they were members of the community. Similarly, if disability is a reason for providing a pension, then every disabled citizen is entitled to that pension; but it still remains to work out what constitutes disability. In Athens this was accomplished, characteristically, through litigation. One can readily imagine alternative means but not, given the initial recognition of disability, alternative reasons. In fact, Lycias's pensioner felt bound to tell the jury that he was really a good fellow: I don't mean to suggest that the inner logic of provision is always or immediately understood. But the crucial charge against the pensioner was that he wasn't seriously disabled, and his crucial response was that he indeed fell within the category of disabled citizens as it had always been understood.

Education raises harder questions of cultural definition, and so may serve to complicate our understanding of both the possibilities and the limits of distributive justice in the sphere of security and welfare. Ignorance is obviously a more ambiguous notion than hunger or disability, for it is always relative to some body of socially valued knowledge. The education that children need is relative to the life we expect or want them to have. Children are educated for some reason, and they are educated particularly, not generally ("general education" is a modern idea designed to meet the specific requirements of our own society). In the medieval Jewish communities, the purpose of education was to enable adult men to participate actively in religious services and in discussions of religious doctrine. Since women were religiously passive, the community undertook no commitment to their education. In every other area of particular provision--food, clothing, medical care--women were helped exactly as men were helped, in proportion to their needs. But women did not need an education, for they were in

fact less than full members of the (religious) community. Their primary place was not the synagogue but the household. Male dominance was most immediately expressed in the synagogue services (as it was among the Athenians in the Assembly debates) and then converted into the