

Philosophic Foundations of Distributive Justice

What and how we think of distributive justice is informed first and foremost from philosophic foundations. Although distributive justice has a long history of interest among philosophers, it is largely only in the twentieth century that it has claimed the attention of economists and public policy makers. While there are many reasons for the exclusion of distributive justice from economic considerations, economists have helped to refine the notion in terms of economic functions of the public sector in general, and in terms of how risk governs decisions in particular. Before we turn to the role of economists in the framing of the question of distributive justice, we can begin our inquiry by looking first at what philosophers in the Western Tradition have had to say on the subject.

Plato (428-348 BCE)

The Republic, Book II

“They say that to do injustice is, by nature, good; to suffer injustice, evil; but that the evil is greater than the good. And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just. This they affirm to be the origin and nature of justice; – it is a mean or compromise, between the best of all, which is to do injustice and not be punished, and the worst of all, which is to suffer injustice without the power of retaliation; and justice, being at a middle point between the two, is tolerated not as a good, but as the lesser evil, and honoured by reason of the inability of men to do injustice. For no man who is worthy to be called a man would ever submit to such an agreement if he were able to resist; he would be mad if he did. Such is the received account, Socrates, of the nature and origin of justice.”^[4]

On the division of social classes, Plato wrote of:

Governing (Rulers or Philosopher Kings) — those who are intelligent, rational, self-controlled, in love with wisdom, well suited to make decisions for the community. These correspond to the "reason" part of the soul and are very few.

Protective (Warriors or Guardians) — those who are adventurous, strong and brave; in the armed forces. These correspond to the "spirit" part of the soul.

Productive (Workers) — the labourers, carpenters, plumbers, masons, merchants, farmers, ranchers, etc. These correspond to the "appetite" part of the soul.

Plato’s taxonomy of social classes did not include slaves, who constituted a not inconsiderable share of ancient Greek society. Moreover, Plato rejected the model of Athenian democracy in favor of rule by philosopher-kings.

Pericles (495-429 BCE)
The Funeral Oration
from Thucydides (460-395)
The Peloponnesian War, Book II.

"Our constitution does not copy the laws of neighbouring states; we are rather a pattern to others than imitators ourselves. Its administration favours the many instead of the few; this is why it is called a democracy. If we look to the laws, they afford equal justice to all in their private differences; if no social standing, advancement in public life falls to reputation for capacity, class considerations not being allowed to interfere with merit; nor again does poverty bar the way, if a man is able to serve the state, he is not hindered by the obscurity of his condition.

"The freedom which we enjoy in our government extends also to our ordinary life. There, far from exercising a jealous surveillance over each other, we do not feel called upon to be angry with our neighbour for doing what he likes, or even to indulge in those injurious looks which cannot fail to be offensive, although they inflict no positive penalty. But all this ease in our private relations does not make us lawless as citizens. Against this fear is our chief safeguard, teaching us to obey the magistrates and the laws, particularly such as regard the protection of the injured, whether they are actually on the statute book, or belong to that code which, although unwritten, yet cannot be broken without acknowledged disgrace.

"Further, we provide plenty of means for the mind to refresh itself from business. We celebrate games and sacrifices all the year round, and the elegance of our private establishments forms a daily source of pleasure and helps to banish the spleen; while the magnitude of our city draws the produce of the world into our harbour, so that to the Athenian the fruits of other countries are as familiar a luxury as those of his own.

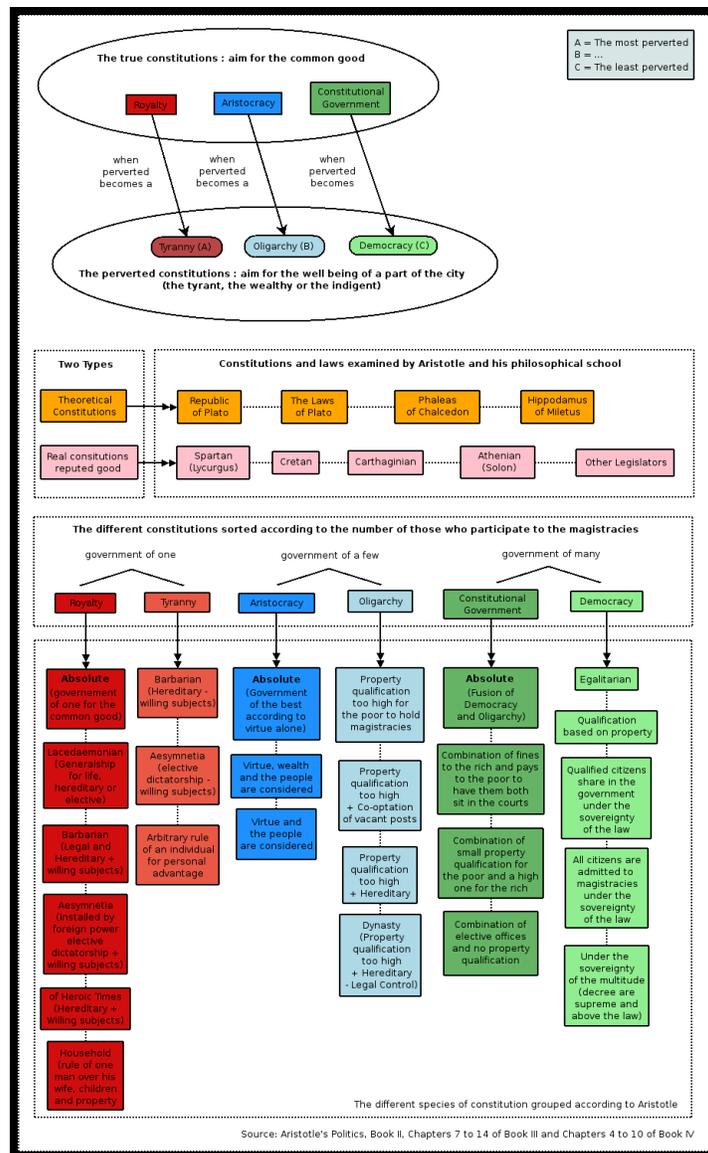
Aristotle (384-322)
Politics
"Man is by nature a political animal."
(Book 1, Section 1253)

Aristotle discusses the parts of the household, which includes slaves, leading to a discussion of whether slavery can ever be just and better for the person enslaved or is always unjust and bad. He distinguishes between those who are slaves because the law says they are and those who are [slaves by nature](#), saying the inquiry hinges on whether there are any such natural slaves. Only someone as different from other people as the body is from the soul or beasts are from human beings would be a slave by nature, Aristotle concludes, all others being slaves solely by law or convention. Some scholars have therefore concluded that the qualifications for natural slavery preclude the existence of such a being.^[3]

Aristotle then moves to the question of property in general, arguing that the acquisition of property does not form a part of household management (*oikonomike*) and criticizing those who take it too seriously. It is necessary, but that does not make it a part of household management any more than it makes medicine a part of household management just because health is necessary. He criticizes income based upon [trade](#) and

upon [interest](#), saying that those who become avaricious do so because they forget that money merely symbolizes wealth without being wealth and "contrary to nature" on interest because it increases by itself not through exchange.

Book I concludes with Aristotle's assertion that the proper object of household rule is the virtuous character of one's wife and children, not the management of slaves or the acquisition of property. Rule over the slaves is despotic, rule over children kingly, and rule over one's wife political (except there is no rotation in office). Aristotle questions whether it is sensible to speak of the "virtue" of a slave and whether the "virtues" of a wife and children are the same as those of a man before saying that because the city must be concerned that its women and children be virtuous, the virtues that the father should instill are dependent upon the regime and so the discussion must turn to what has been said about the best regime.



Thomas Aquinas (1225-1274)
Summa Theologica (1265-1274)

“...in distributive justice something is given to a private individual, in so far as what belongs to the whole is due to the part, and in a quantity that is proportionate to the importance of the position of that part in respect of the whole. Consequently in distributive justice a person receives all the more of the common goods, according as he holds a more prominent position in the community. This prominence in an aristocratic community is gauged according to virtue, in an oligarchy according to wealth, in a democracy according to liberty, and in various ways according to various forms of community. Hence in distributive justice the mean is observed, not according to equality between thing and thing, but according to proportion between things and persons: in such a way that even as one person surpasses another, so that which is given to one person surpasses that which is allotted to another...”

Thomas Hobbes (1588-1679)
Leviathan (1651)

“And distributive justice, the justice of an arbitrator; that is to say, the act of defining what is just. Wherein, being trusted by them that make him arbitrator, if he perform his trust, he is said to distribute to every man his own: and this is indeed just distribution, and may be called, though improperly, distributive justice, but more properly equity, which also is a law of nature, as shall be shown in due place.

John Locke (1632-1704)
Second Treatise on Government (1689)
Essay on Human Understanding (1690)

Locke's political theory was founded on [social contract](#) theory. Unlike [Thomas Hobbes](#), Locke believed that [human nature](#) is characterised by reason and tolerance. Like Hobbes, Locke believed that human nature allowed men to be selfish. This is apparent with the introduction of currency. In a [natural state](#) all people were equal and independent, and everyone had a natural right to defend his “Life, health, Liberty, or Possessions”.^[34] Most scholars trace the phrase “[life, liberty, and the pursuit of happiness](#),” in the American Declaration of Independence, to Locke's theory of rights,^[35] though other origins have been suggested.^[36]

Locke stresses that inequality has come about by tacit agreement on the use of money, not by the social contract establishing civil society or the law of land regulating property. Locke is aware of a problem posed by unlimited accumulation but does not consider it his task. He just implies that government would function to moderate the conflict between the unlimited accumulation of property and a more nearly equal distribution of wealth; he does not identify which principles that government should apply to solve this problem. However, not all elements of his thought form a consistent whole.

“If man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? Why will he give up this empire, and subject himself to the dominion and control of any other power? To which it is obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and

constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very unsecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties and estates, which I call by the general name, property.”

(2nd Tr., §123)

The concept of the right of revolution was also taken up by John Locke in *Two Treatises of Government* as part of his [social contract theory](#). Locke declared that under [natural law](#), all [people](#) have the right to [life](#), [liberty](#), and [estate](#); under the social contract, the people could instigate a [revolution](#) against the government when it acted against the interests of [citizens](#), to replace the government with one that served the interests of citizens. In some cases, Locke deemed revolution an obligation. The right of revolution thus essentially acted as a safeguard against [tyranny](#).

Locke affirmed an explicit right to revolution in *Two Treatises of Government*: “*whenever the Legislators endeavor to take away, and destroy the Property of the People, or to reduce them to Slavery under Arbitrary Power, they put themselves into a state of War with the People, who are thereupon absolved from any farther Obedience, and are left to the common Refuge, which God hath provided for all Men, against Force and Violence. Whensoever therefore the Legislative shall transgress this fundamental Rule of Society; and either by Ambition, Fear, Folly or Corruption, endeavor to grasp themselves, or put into the hands of any other an Absolute Power over the Lives, Liberties, and Estates of the People; By this breach of Trust they forfeit the Power, the People had put into their hands, for quite contrary ends, and it devolves to the People, who have a Right to resume their original Liberty.*”^[12]

Jean-Jacques Rousseau (1712-1778)

Discourse on Inequality (1755)

Rousseau's text is divided into four main parts: the dedication, the preface, an extended inquiry into the nature of the human being and another inquiry into the evolution of the human species within society. Also, there is a set of writings that expound upon important issues that were brought up in the beginning of the text.^[2] Rousseau discusses two types of inequality, natural or physical and ethical or political.

Natural inequality involves differences between one man's physical strength and that of another – it is a product of nature. Rousseau is not concerned with this type of inequality and wishes to investigate moral inequality. He argues [moral](#) inequality is endemic to a [civil society](#) and relates to, and causes, differences in power and wealth. This type of inequality is established by convention. Rousseau appears to take a cynical view of civil society, where man has strayed from his "natural state" of isolation and consequent freedom to satisfy his individual needs and desires. In the work, Rousseau concludes that civil society is a trick perpetrated by the powerful on the weak in order to maintain their power or wealth.

His discussion begins with an analysis of a natural man who has not yet acquired language or abstract thought. He then considers the origin of society:

“The first man who, having fenced in a piece of land, said "This is mine," and found people naïve enough to believe him, that man was the true founder of [civil society](#). From how many crimes, wars, and murders, from how many horrors and misfortunes might not any one have saved mankind, by pulling up the stakes, or filling up the ditch, and crying to his fellows: Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody.” — Jean-Jacques Rousseau, *Discourse on Inequality*, 1754

The two fundamental principles of Rousseau's natural man are his natural, non-destructive [love of self](#) (*amour de soi meme*), and [pity/compassion](#) for the suffering of others ("another principle which has escaped Hobbes").^[31] Pity and self-love, acting together, contribute to preserving the human species through time.

Rousseau's natural man significantly differs from, and is a response to, that of [Hobbes](#); Rousseau explicitly points this out at various points throughout his work. Rousseau discredits Hobbes for taking an overly cynical view of man. Unlike Hobbes's natural man, Rousseau's is not motivated by fear of death because he cannot conceive of that end, thus fear of death already suggests a movement out of the [state of nature](#). Rousseau's natural man is more or less like any other animal, with "self-preservation being his chief and almost sole concern" and "the only goods he recognizes in the universe" being "food, a female, and sleep..." This natural man, unlike Hobbes's, is not in constant state of fear and anxiety. Rousseau's natural man possesses a few qualities that allow him to distinguish himself from the animals over a long period of time. Of importance is man's ability to choose, which Rousseau refers to as "free-agency" (f. *libre-arbitre*). However, Rousseau's proclamation of man's [free will](#) is undermined by his belief that man is "a being that always acts in accordance with certain and invariable principles",^[41] and indeed contradicts the basic premise of the *Discourse* itself: that we can logically infer what actions man must have taken over the course of his development.^[citation needed]

The quality of compassion also motivates man to interact. Finally, man possesses the quality of [perfectibility](#)," which allows him to improve his own physical condition/environmental situation and develop ever more sophisticated survival tactics. The increasing regularity and convention of man's contact with other men transfigures his basic capacity for reason and reflection, his natural or naïve self-love into a corrupting dependency on the perceptions and favor of others. Natural, non-destructive love of self advances gradually yet qualitatively into a state of *amour propre*, a love of self now driven by pride and jealousy rather than merely elemental self-preservation. This accession to *amour propre* has four consequences: (1) competition, (2) self-comparison with others, (3) hatred, and (4) urge for power. These all lead to Rousseau's cynical civil society. But *amour de soi meme* also suggests a significant step out of the state of nature.^[citation needed]

Rousseau's man is a "savage" man. He is a loner and self-sufficient. Any battle or skirmish was only to protect himself. The natural man was in prime condition, fast, and strong, capable of caring for himself. He killed only for his own self-preservation. When the natural man established property as his own, this was the "beginning of evil" according to Rousseau, though he acknowledges the sanctity of the institution of property and that government should be created to protect it. The natural man should have "pulled up the stakes" to prevent this evil from spreading. This property established divisions in

the natural world. The first was the master-slave relationship. Property also led to the creation of families. The natural man was no longer alone. The subsequent divisions almost all stem from this division of land.

Jean-Jacques Rousseau (1712-1778)
The Social Contract (1762)

This sum of forces can arise only where several persons come together: but, as the force and liberty of each man are the chief instruments of his self-preservation, how can he pledge them without harming his own interests, and neglecting the care he owes to himself? This difficulty, in its bearing on my present subject, may be stated in the following terms:

"The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before." This is the fundamental problem of which the *Social Contract* provides the solution.

The clauses of this contract are so determined by the nature of the act that the slightest modification would make them vain and ineffective; so that, although they have perhaps never been formally set forth, they are everywhere the same and everywhere tacitly admitted and recognised, until, on the violation of the social compact, each regains his original rights and resumes his natural liberty, while losing the conventional liberty in favour of which he renounced it.

Immanuel Kant (1724-1804)
Critique of Pure Reason (1787)

"Kant's political teaching may be summarized in a phrase: republican government and international organization. In more characteristically Kantian terms, it is doctrine of the state based upon the law ([Rechtsstaat](#)) and of eternal peace. Indeed, in each of these formulations, both terms express the same idea: that of legal constitution or of "peace through law." ... Taken simply by itself, Kant's political philosophy, being essentially a legal doctrine, rejects by definition the opposition between moral education and the play of passions as alternate foundations for social life. The state is defined as the union of men under law. The state rightly so called is constituted by laws which are necessary a priori because they flow from the very concept of law. A regime can be judged by no other criteria nor be assigned any other functions, than those proper to the lawful order as such." [\[86\]](#)

He opposed "democracy," which at his time meant direct democracy, believing that majority rule posed a threat to individual liberty. He stated, "...democracy is, properly speaking, necessarily a despotism, because it establishes an executive power in which 'all' decide for or even against one who does not agree; that is, 'all,' who are not quite all, decide, and this is a contradiction of the general will with itself and with freedom." [87] As with most writers at the time, he distinguished three forms of government i.e. democracy, aristocracy, and monarchy with mixed government as the most ideal form of it.

Kant espoused a theory of deontology, which is based on a “categorical imperative” as to what constitutes good. It is an absolute standard, and stands in opposition to utilitarian theory, where the greater gains of some might compensate for the lesser losses of liberty to others. This said, Kant arrives at no notion that the pursuit of justice via a categorical imperative requires action by the state.

Adam Smith (1732-1790)
The Theory of Moral Sentiments (1759)
The Wealth of Nations (1776)

“How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortunes of others, and render their happiness necessary to him, though he derives nothing from it, except the pleasure of seeing it. Of this kind is pity or compassion, the emotion we feel for the misery of others, when we either see it, or are made to conceive it in a very lively manner. That we often derive sorrow from the sorrows of others, is a matter of fact too obvious to require any instances to prove it; for this sentiment, like all the other original passions of human nature, is by no means confined to the virtuous or the humane, though they perhaps may feel it with the most exquisite sensibility. The greatest ruffian, the most hardened violator of the laws of society, is not altogether without it.” (TMS)

“The rich only select from the heap what is most precious and agreeable. They consume little more than the poor, and in spite of their natural selfishness and rapacity, though they mean only their own conveniency, though the sole end which they propose from the labours of all the thousands whom they employ, be the gratification of their own vain and insatiable desires, they divide with the poor the produce of all their improvements. They are led by an invisible hand to make nearly the same distribution of the necessaries of life, which would have been made, had the earth been divided into equal portions among all its inhabitants, and thus without intending it, without knowing it, advance the interest of the society, and afford means to the multiplication of the species.”

John Rawls (1921-2002)
A Theory of Justice (1971)

In *A Theory of Justice*, Rawls argues for a principled reconciliation of [liberty](#) and [equality](#). Central to this effort is an account of the circumstances of justice, inspired by [David Hume](#), and a fair choice situation for parties facing such circumstances, similar to some of [Immanuel Kant](#)'s views. Principles of justice are sought to guide the conduct of the parties. These parties are recognized to face moderate scarcity, and they are neither naturally altruistic nor purely egoistic. They have ends which they seek to advance, but prefer to advance them through cooperation with others on mutually acceptable terms. Rawls offers a model of a fair choice situation (the [original position](#) with its [veil of ignorance](#)) within which parties would hypothetically choose mutually acceptable principles of justice. Under such constraints, Rawls believes that parties would find his favoured principles of justice to be especially attractive, winning out over varied alternatives, including [utilitarian](#) and [right-libertarian](#) accounts.

Rawls belongs to the [social contract](#) tradition. However, Rawls' social contract takes a different view from that of previous thinkers. Specifically, Rawls develops what he claims are principles of justice through the use of an artificial device he calls the *Original position* in which everyone decides principles of justice from behind a [veil of ignorance](#).

This "veil" is one that essentially blinds people to all facts about themselves so they cannot tailor principles to their advantage.

"no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance."

According to Rawls, ignorance of these details about oneself will lead to principles that are fair to all. If an individual does not know how he will end up in his own conceived society, he is likely not going to privilege any one class of people, but rather develop a scheme of justice that treats all fairly. In particular, Rawls claims that those in the Original Position would all adopt a maximin strategy which would maximise the prospects of the least well-off.

They are the principles that rational and free persons concerned to further their own interests would accept in an initial position of equality as defining the fundamentals of the terms of their association [Rawls, p 11]

Rawls claims that the parties in the original position would adopt two such principles, which would then govern the assignment of rights and duties and regulate the distribution of social and economic advantages across society. The difference principle permits inequalities in the distribution of goods only if those inequalities benefit the worst-off members of society. Rawls believes that this principle would be a rational choice for the representatives in the original position for the following reason: Each member of society has an equal claim on their society's goods. Natural attributes should not affect this claim, so the basic right of any individual, before further considerations are taken into account, must be to an equal share in material wealth. What, then, could justify unequal distribution? Rawls argues that inequality is acceptable only if it is to the advantage of those who are worst-off.

The agreement that stems from the original position is both *hypothetical* and *ahistorical*. It is hypothetical in the sense that the principles to be derived are what the parties would, under certain legitimating conditions, agree to, not what they have agreed to. Rawls seeks to use an argument that the principles of justice are what *would* be agreed upon if people were in the hypothetical situation of the original position and that those principles have moral weight as a result of that. It is ahistorical in the sense that it is not supposed that the agreement has ever been, or indeed could ever have been, derived in the real world outside of carefully limited experimental exercises.

First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.^[1]

The basic liberties of citizens are, the political liberty to vote and run for office, [freedom of speech](#) and assembly, liberty of conscience, freedom of personal property and freedom from arbitrary arrest. However, he says:

"liberties not on the list, for example, the right to own certain kinds of property (e.g. means of production) and freedom of contract as understood by the doctrine of [laissez-faire](#) are not basic; and so they are not protected by the priority of the first principle."^[2]

Social and economic inequalities are to be arranged so that (Rawls, 1971, p.302; revised edition, p. 47):

- (a) they are to be of the greatest benefit to the least-advantaged members of society, consistent with the just savings principle (*the difference principle*).
- (b) offices and positions must be open to everyone under conditions of *fair equality of opportunity*

Rawls' claim in (a) is that departures from equality of a list of what he calls primary goods—"things which a rational man wants whatever else he wants" [Rawls, 1971, pg. 92]—are justified only to the extent that they improve the lot of those who are worst-off under that distribution in comparison with the previous, equal, distribution. His position is at least in some sense [egalitarian](#), with a provision that equality is not to be achieved by worsening the position of the least advantaged. An important consequence here, however, is that inequalities can actually be just on Rawls' view, as long as they are to the benefit of the least well off. His argument for this position rests heavily on the claim that morally arbitrary factors (for example, the family one is born into) shouldn't determine one's life chances or opportunities. Rawls is also keying on an intuition that a person does not morally deserve their inborn talents; thus that one is not entitled to all the benefits they could possibly receive from them; hence, at least one of the criteria which could provide an alternative to equality in assessing the justice of distributions is eliminated.

Robert Nozick (1938-2002)
Anarchy, State, and Utopia (1974)

Nozick's entitlement theory comprises 3 main principles:

1. **A principle of justice in acquisition** - This principle deals with the initial acquisition of holdings. It is an account of how people first come to own common property, what types of things can be held, and so forth.
2. **A principle of justice in transfer** - This principle explains how one person can acquire holdings from another, including voluntary exchange and gifts.
3. **A principle of rectification of injustice** - how to deal with holdings that are unjustly acquired or transferred, whether and how much victims can be compensated, how to deal with long past transgressions or injustices done by a government, and so on.

Nozick believes that if the world were wholly just, only the first two principles would be needed, as "the following inductive definition would exhaustively cover the subject of justice in holdings":

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

3. No one is entitled to a holding except by (repeated) applications of 1 and 2. (Nozick 1974:151)

Thus, entitlement theory would imply "a distribution is just if everyone is entitled to the holdings they possess under the distribution" (Nozick 1974:151). Unfortunately, not everyone follows these rules: "some people steal from others, or defraud them, or enslave them, seizing their product and preventing them from living as they choose, or forcibly exclude others from competing in exchanges" (Nozick 1974:152). Thus the third principle of rectification is needed.

Entitlement theory is based on [John Locke](#)'s ideas.^[1] Under entitlement theory, people are represented as ends in themselves and equals, as [Kant](#) claimed, though different people may own (i.e. be entitled to) different amounts of property. Nozick's ideas create a strong system of [private property](#) and a [free-market economy](#). The only just transaction is a voluntary one. [Taxation](#) of the rich to support [social programs](#) for the poor are unjust because the state is acquiring money by force instead of through a voluntary transaction.