

Chapter 6

# FAIRNESS AND DISTRIBUTIVE JUSTICE

How should we treat people in order to treat them fairly?

What does an ethically justifiable distribution of income look like?

When does justice require us to respect people’s property rights?

In 2012, the average CEO of a corporation listed on the S&P 500 index received a total compensation of about 12 million dollars, which was 354 times as much as the yearly salary of an average US worker. (AFL-CIO, 2013) This 354:1 ratio rose from a ratio of only 42:1 in 1980. (Institute for Policy Studies, 2012) Table 6.1 shows the situation in other countries around the world.

Country	Stock index	Average CEO compensation	Average worker compensation	Pay ratio CEO:worker
USA	S&P 500	\$12,259,894	\$34,645	354:1
Canada	TSX 60	\$8,704,118	\$42,253	206:1
Australia	ASX 100	\$4,183,419	\$44,983	93:1
UK	FTSE 100	\$3,758,412	\$44,743	84:1
Japan	Nikkei 225	\$2,354,581	\$35,143	67:1
Norway	OBX	\$2,551,420	\$43,990	58:1

Table 6.1: CEO-to-worker pay ratios in selected countries 2012. (AFL-CIO, 2013)

Is this situation fair? Arguments about the fairness of executive compensation are the concerns of distributive justice. Principles of distributive justice are ways of treating people as moral equals. Treating people as moral equals, however, does not mean

## CHAPTER 6

treating everyone the same. Sometimes there are good moral reasons why some people should have more than others have.

Some argue that CEOs of large corporations deserve higher compensation relative to workers because of their higher productivity; the CEO makes a much larger contribution to the firm's output than does the worker. Because everyone has an equal opportunity to compete for CEO positions, the system gives equal treatment to both those who become CEOs and those who become workers. As we shall see, however, there are problems measuring individual contributions to corporate output.

Others base their argument on the moral justification of the free-market. The free-market system is fair because it respects everyone's property rights equally. Very able individuals own their talents and their time, and they are entitled to sell their talents and time for whatever other people are willing to pay for them. If the pay of those who become CEOs is higher than the pay of those who work on the shop floor, then this is fair. As we shall see, however, there are problems with this Libertarian theory of ownership.

Others offer a utilitarian argument, claiming that the free-market system is the most efficient way to produce and distribute goods and services, and that maximizing the production of goods and services will maximize human welfare. Even though the free-market offers higher compensation to those who become CEOs than to those who become workers, the market still maximizes total human welfare. Because a utilitarian argument weights everyone's interests by the same factor, it considers everyone's interests equally. As we shall see, however, there is another way of thinking about utilitarian justice that argues for equal compensation for everyone.

Yet others might offer an argument based, surprisingly, on the idea that everyone should have an equal share of society's resources. They would argue that giving incentives to the talented to work extra hard will increase the total amount of goods and services produced by the economy. Because there will be more economic goods to go around, even the least well off will be better off than they would have been if everyone had received a strictly equal share. This argument still treats everyone as moral equals in the distribution of resources, even though it does not treat everyone in the same way. However, this argument only works if there is some system of redistributive taxation in place that ensures the least well off do benefit.

In this chapter, we will examine these sorts of arguments about justice. Ethical reasoning about distributive justice is very complex. We will survey some of the approaches and issues that are relevant to business decision-making.

### THE MORAL EQUALITY OF PERSONS

We treat people fairly by not favouring one person over another for arbitrary reasons. Business firms treat customers, suppliers, owners, and employees fairly by giving them equal treatment. Justice requires that we treat people as moral equals, yet justice does not require that we treat everyone exactly the same way. What moral equality requires is that governments, business firms, and individuals do not treat people differently based on morally arbitrary features. Race, sex, age, religious preference, sexual orientation, and family background are morally arbitrary features of people. At the most basic

## FAIRNESS AND DISTRIBUTIVE JUSTICE

level, justice requires that we not favour one person over another based on such features. Paradigm examples of injustice include aristocratic societies, where positions in society go to those who are born to privileged parents, and caste societies, where people are born into their positions in society and coerced into staying there for religious reasons.

On the other hand, treating people as equals requires that we also recognize morally relevant differences between people. Society treats disabled people equally by treating them differently when it gives disabled people reserved, convenient parking spaces. Businesses reward workers who put in more effort. Society allows only women to take pregnancy leave, and requires that high earners pay income tax at a higher rate than low earners do. Justice is not as simple as treating everyone in the same way.

Ethics commonly deals with three types of justice. Corrective or **retributive justice** ensures that society holds people accountable for harming others or violating their rights. **Compensatory justice** ensures that people who infringe the rights of others without consent fairly recompense those who they harm. **Distributive justice** ensures that society allocates benefits and burdens in a way that treats people as moral equals. A theory of distributive justice does not actually take physical economic goods or services and pass them around. Rather it justifies a particular system of legal rights regarding economic goods and services. Distributive justice criticizes or justifies schemes of property rights, such as the legal rights to possess or sell economic goods and productive resources. This chapter will focus on theories of distributive justice.

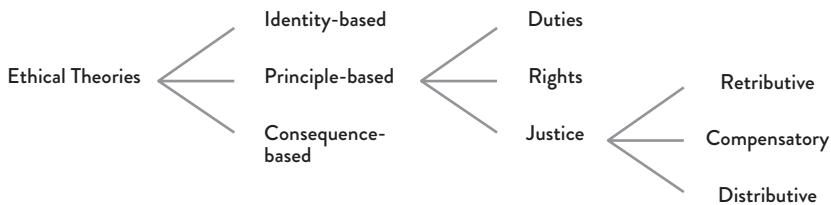
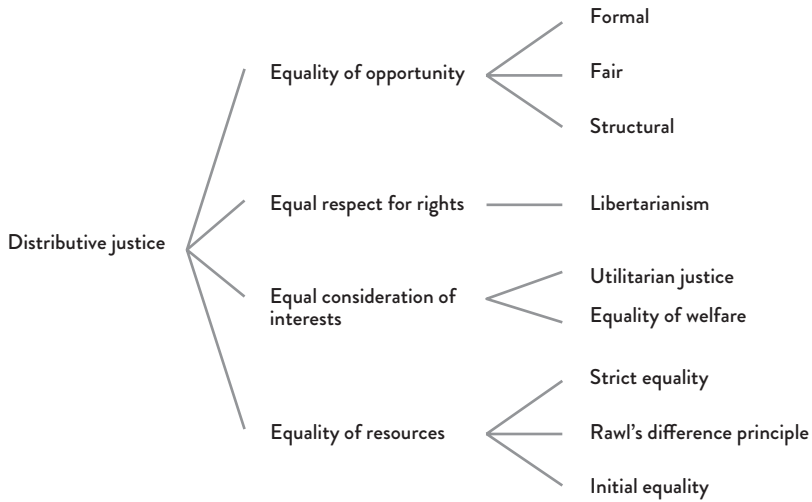


Figure 6.1: A conceptual map locating the different types of justice.

Distributive justice involves treating people as moral equals when assigning property rights to economic goods and services. However, different theories of distributive justice interpret the moral equality of persons in different ways. One theoretical approach understands moral equality as requiring no more than giving everyone an equal opportunity to compete for ownership of resources. A second approach, the libertarian view, understands moral equality as requiring equal respect for the natural rights of persons to acquire and exchange private property. A third approach, based on a utilitarian concern for human welfare, understands moral equality as requiring giving equal consideration to the welfare interests of every person. A fourth approach understands moral equality as requiring that we employ a principle of equality in directly assigning property rights in resources. Figure 6.2 gives a conceptual map of the various theoretical approaches to treating people as moral equals, and shows the issues of distributive justice to which each approach gives rise.

## CHAPTER 6



*Figure 6.2: A conceptual map of the various approaches to treating people as moral equals, and the issues of distributive justice that these approaches raise.*

## EQUALITY OF OPPORTUNITY: FAIRNESS

**Equality of opportunity** says that a distribution is just if, and only if, it assigns positions in society according to morally relevant criteria such as ability or merit and not according to morally arbitrary criteria such as race or gender.

However, there are several different conceptions of the nature of equality of opportunity. **Formal equality of opportunity** requires that there be no legal impediment to a person with certain talents competing for a position that requires those talents. People should get the position they deserve based on ability and past performance, and no organization should deny them these positions because of their race or gender. Business decisions often employ this conception of equality regarding employees, suppliers, and customers.

From the point of view of the moral equality of persons, the weakness of formal equality of opportunity is that morally irrelevant factors often determine people's talents. People's family background, their luck in the genetic lottery for intellectual ability, and their receipt of a good education often determine the talents with which they compete for positions. Factors that are arbitrary from a moral point of view often determine people's abilities, their willingness to exert an effort, and their productivity in society. Even though formal, legal considerations do not block them from the opportunity to obtain positions, their level of talent does. If morally arbitrary factors, such as the social class from which they come, determine their level of talent, then the distribution of positions will still be unjust.

Fair equality of opportunity tries to rectify this weakness of formal equality of opportunity by requiring that society make a special effort to provide high quality

education to those who would otherwise receive a poor education. **Fair equality of opportunity** requires both that there be formal equality of opportunity and that society provide a uniform quality of education for all to give everyone a fair chance to acquire the skills needed to compete for social positions. Unfortunately, it is difficult for education to compensate for bad luck in the genetic lottery for innate abilities. Fair equality is also not something that a single business firm can easily implement; it is something that only the whole society can create.

Feminists have pointed out that, even under conditions of fair equality of opportunity, there may still be structural inequality of opportunity. One example of the structural inequality of opportunity is that many positions in business and government are not really positions that people responsible for the care of small children can fill. Even if there are no legal impediments to a caregiver applying for the position, and even if these potential applicants are well trained and educated, the nature of the position and the demands it makes on the occupant's time, may mean that caregivers cannot fill the position.

**Structural equality of opportunity** requires that organizations design positions in such a way that persons doing the necessary work of society, such as those responsible for the care of young children, can still fill those positions. Structural equality of opportunity is something that businesses can implement in the design of jobs and in the provision of services such as daycare.

## EQUALITY OF OPPORTUNITY: MEASURING CONTRIBUTION

Equality of opportunity in its various forms is not yet a theory of distributive justice. It removes various types of impediments to people applying for positions, but it does not say anything about what is the appropriate compensation for various positions. How should organizations distribute benefits to positions? The usual answer is that compensation should correspond to marginal productivity, or the marginal contribution that a person in this position makes to the firm. The CEO arguably makes a larger contribution to the profitability of a firm than does the janitor, and so her compensation should be correspondingly larger.

The problem with using marginal productivity to determine compensation is that we cannot easily measure marginal productivity, and when we can it will often appear unfair as a gauge to compensation. In the modern world, production is seldom carried out by a solitary artisan, but is instead the joint product of many people working together. It is through specialization and the division of labour that large firms are able to achieve high levels of productivity. Adam Smith pointed this out in his example of the pin factory, and all introductory economics textbooks reiterate Smith's point. As we saw in an earlier chapter, Smith claimed that a solitary pin maker could scarcely produce 20 pins a day, but that 10 specialists working together in a factory setting could produce around 48,000 pins per day. (Adam Smith, *The Wealth of Nations*, 1776, I.1.3) The increased productivity of the factory arose from specialization, and the organized division of labour. However, there is no obvious way to attribute the increased productivity to the individual workers.

## CHAPTER 6

Nor does marginal productivity reasoning work in a model where just two workers cooperate. Together, as we saw, Jack and Jill produce 90 pins per day. Without Jill, Jack can produce only 9 pins per day. Jill's additional contribution to the factory appears to be 81 pins. ( $90 - 9 = 81$ ) Therefore, if we distribute ownership of the pins according to marginal contribution, then Jill should receive 81 pins. On the other hand, without Jack, Jill can produce only 9 pins per day. Therefore, if we distribute ownership of the pins according to marginal contribution, then Jack should receive 81 pins. Unfortunately, their total entitlements, which are  $81 + 81 = 162$  pins, exceed their total production of 90 pins. This will not work. In joint production, marginal contributions are likely to exceed the total production of the firm.

Economists would think about marginal contribution financially, as the marginal revenue generated by the employee minus any marginal costs, other than salary, of adding the employee. Because of the law of diminishing marginal returns, in the short term, with a fixed supply of other factors of production besides labour, a firm's marginal revenue from an additional employee will decrease as it adds new employees. At the same time, the supply curve for the labour market will ensure that the marginal cost of each additional employee will gradually rise.

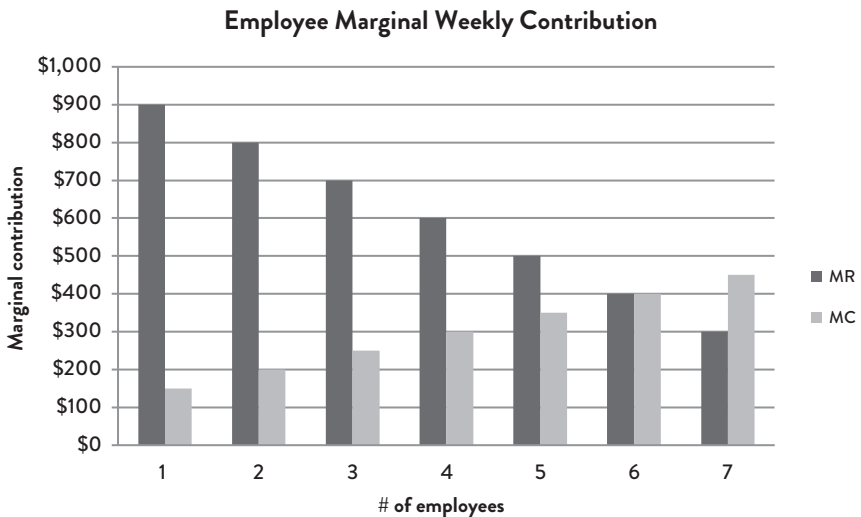


Figure 6.3: Weekly marginal contribution of additional employees in a firm.

For employees all doing the same work, the situation for a small firm will look like the model in Figure 6.3. The marginal contribution of each employee is the difference between MR, the marginal revenue generated by the worker, and MC, the marginal cost other than salary of employing the worker. A firm seeking to maximize profit will keep adding employees until the additional cost of employing a worker (MC)

## FAIRNESS AND DISTRIBUTIVE JUSTICE

exceeds the additional revenue (MR) she generates. In this example, the firm will hire 6 workers.

This marginal financial contribution method of determining the appropriate level of compensation for positions also has a major weakness. By hypothesis, all of the workers are doing the same work, yet the method attributes to the employee designated as employee #1, perhaps the first one hired, marginal contribution of  $\$900 - \$150 = \$750$ , and attributes to the employee designated as #2 a marginal contribution of  $\$800 - \$200 = \$600$ , and so on. Compensation for identical work will be different, and will depend on the order in which the employees are hired. Paying people different wages based on the order in which they are hired is arbitrary from a moral point of view. It results in unequal pay for equal work. This would be unacceptable to the employees, and goes against our intuitions regarding distributive justice.

These models show how difficult it is to measure the contribution of a worker or a CEO to the total output of the firm. Yet if we do not have a plausible way of measuring contribution, then it appears that we need further arguments for why it is fair for a CEO to receive 354 times the compensation of the average worker.

## EQUAL RESPECT FOR RIGHTS: LIBERTARIANISM

**Libertarianism** holds that a distribution of rights and responsibilities is just if, and only if, it respects people's natural rights to self-ownership. Libertarian political theory attempts to justify a system of unrestricted private property rights by tracking property rights back to a natural feature of human beings, their capacity for autonomous choice. The moral rights that protect the capacity for autonomy are the negative rights of self-ownership. Self-owners are the opposite of slaves. Self-owners have the maximum possible liberty compatible with other people having the same. In particular, self-owners have the right to manage and sell their own labour.

A libertarian system of property rights entails a minimally regulated, free enterprise economic system. A libertarian argument for justifying a system of private property rights and a free market economy goes as follows: All people have a natural right of self-ownership to their own labour. When people labour on things that are un-owned, they come to own them, so long as they leave enough of the un-owned things for others. Therefore, people have a natural right to things acquired in this way. Their property rights in these things include the right to give, sell, or trade them with others. Therefore, people have a natural right to any property that they have acquired either by initial acquisition or by just transfer from others.

The premise in this argument regarding the initial acquisition of property comes from the influential writings of the seventeenth-century English philosopher, John Locke (1632–1704). He formulated his theory in the following passage.

Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that

## CHAPTER 6

nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others. (Locke, 1689, Chapter 2, Section 27)

The notion of mixing self-owned labour with un-owned nature to create a privately owned economic good is a weak metaphor. Someone who pours his can of beer in the ocean and thereby mixes something he owns with something that is un-owned, does not gain ownership of the ocean. (Nozick, 1974, pp. 174–75) One libertarian response is to shift focus from the mixing metaphor to the idea of adding value. The new argument instead claims that, by her labour, the initial appropriator adds value to natural objects and thereby deserves to own these modified natural objects. The argument then makes the factual claim that, because of the productive efficiency of property-based economic systems, some of this value will accrue to those who missed the initial appropriation, leaving them better off than they would have been in a state of un-owned nature. Thus, the value added approach satisfies the requirement that enough, and as good, be left in common.

Nozick's reconstruction of Locke's argument goes like this: All people have equal natural rights of self-ownership to their labour. People who add value to something un-owned, thereby come to own it, as long as this process leaves others at least as well off as they were before this initial acquisition. Therefore, people have a natural right to their initially acquired property. This property right includes the right to give, sell, or trade with others. Therefore, people have a natural right to any property that they have acquired either by initial acquisition or by just transfer from others. Property rights are distributed justly only when they are acquired in these two ways. Libertarian justice gives equal respect to everyone's rights to their own labour and to their private property. However, it justifies an unrestricted capitalist economic system in which some people can receive large incomes while others have very little.

It seems to follow from libertarianism that the CEO of a large firm, who owns her talents and skills, is justified in receiving from her company whatever compensation she can negotiate with the company's board of directors. The company freely contracts with her for her services and she is entitled to charge what the market will bear. However, her compensation is fair and just only if the company's ownership of the resources that it transfers to her is fair and just. Libertarianism is a historical theory of justice, so it requires tracking down the title to each piece of private property to see if its present owner acquired it through a series of fair transactions from a fair act of initial acquisition centuries ago. For example, Locke's model for initial acquisition was the European appropriation of North America in the seventeenth century. Most land titles in North America will track to theft from Native Americans and most land titles in Europe will track to acts of conquest.



## FAIRNESS AND DISTRIBUTIVE JUSTICE

Therefore, in order to justify huge levels of executive compensation, the libertarian must trace how the company's shareholders acquired their assets either by adding value to something un-owned or by freely contracting with someone who did so. This is a daunting task. It is especially daunting because, as Adam Smith pointed out, the source of most value added is specialization and the division of labour, not individual labour. Attributing value added to the labour of a particular individual is mostly impossible. Yet, if libertarianism is to justify huge disparities in compensation, then it must be able to justify long chains of individual acquisition and transfer.

## EQUAL CONSIDERATION OF INTERESTS

Utilitarianism is the ethical theory that people and organizations should bring the best consequences judged in terms of the sorts of mental states that they bring about in others. Having positive mental states, like pleasure or preference satisfaction, is always in a person's interest. Utilitarianism implicitly treats people as moral equals because it considers everyone's interests equally. For example, it does not weight the interests of men higher than the interests of women when it comes to maximizing human welfare. Its implicit theory of equality is equal consideration of interests. **Equal consideration of interests** holds that a distribution is just if, and only if, it assigns the same weight to everyone's interests in the aggregation of interests for purposes of utilitarian maximization.

Equal consideration of interests, however, does not imply any sort of equal distribution of resources. We have seen before the potential conflict between the maximizing concerns of direct utilitarianism and the fairness concerns of distributive justice. For the direct utilitarian, if an action that leads to the impoverishment of a minority happens to create the most happiness, then it is the action that a person should perform.

Indirect utilitarianism does not try to maximize welfare in each decision, but instead advocates whatever policies are necessary to produce maximum aggregate utility, including obedience to rules, respect for rights, or a system of distributive justice. It turns out that indirect utilitarianism has the potential to imply a theory of distributive justice in which everyone receives an equal income. An **indirect utilitarian theory of justice** claims that equal consideration of interests will lead to equality of resources because of the diminishing marginal utility of income.

Financial income is an all-purpose economic resource that people can use to purchase the goods and services that satisfy their preferences and bring them well-being. Utility is an abstract measure of people's well-being. The **total utility** of a group of economic goods or services is the sum of all the utility produced by the consumption of those goods or services. The **marginal utility** of an economic good or service is the additional utility gained through the consumption of one additional unit of that good or service. In economics, the **law of diminishing marginal utility** states that as the consumption of a given economic good increases, the marginal utility produced by the consumption of one additional unit of the good tends to decrease. For example, as someone consumes more and more candies, the total pleasure or utility that she receives from each candy will rise, but at a diminishing rate. Table 6.2 shows a simple model of this situation.

## CHAPTER 6

# of candies	0		1		2		3		4
Total Utility (TU) in utils	0		3		5		6		6
Marginal Utility (MU) in utils		+3		+2		+1		+0	

Table 6.2: Diminishing marginal utility of candy consumption.

We can see the same information if we graph this person's total utility as a function of her candy consumption.

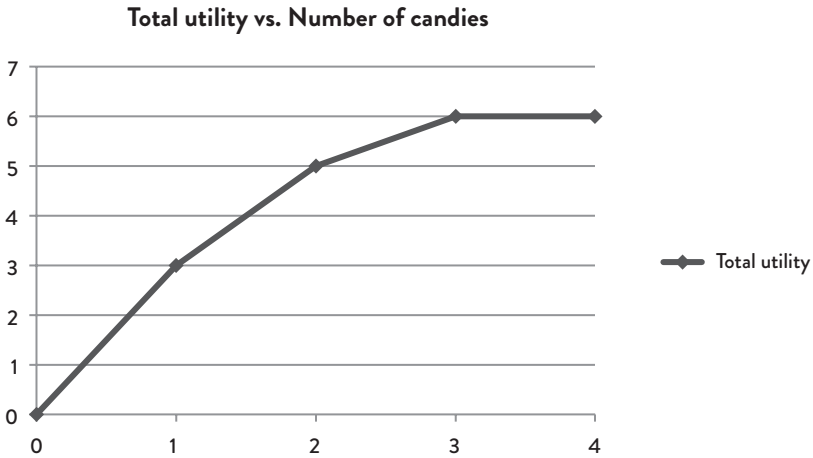


Figure 6.4: Graph showing the diminishing marginal utility of candy consumption with total utility on the vertical axis and number of candies on the horizontal axis. Each additional candy brings the person less and less utility.

In general, poorer people get more satisfaction out of an extra dollar than do rich people. Therefore, we can maximize satisfaction by redistributing dollars from the rich to the poor. An indirect utilitarian can argue that, because it maximizes total utility, equal weighting of everyone's utilities, together with the diminishing marginal utility of income, leads to an equal distribution.

For example, suppose that we have 4 candies to distribute between Ann and Bob. Both Ann and Bob get the same utility from each candy, and both of their utility schedules are the one in Table 6.2 and graphed in Figure 6.4. Suppose we distribute 3 candies to Ann and 1 candy to Bob. From Table 6.2, we can see that Ann will get 6 utils from her 3 candies and Bob will get 3 utils from his 1 candy. The aggregate utility for everyone in this simple model will be  $6 + 3 = 9$  utils. This is the case in the second line of Table 6.3.

## FAIRNESS AND DISTRIBUTIVE JUSTICE

Ann's #	Bob's #	Ann's TU	Bob's TU	Aggregate utility
4	0	6	0	$6 + 0 = 6$
3	1	6	3	$6 + 3 = 9$
2	2	5	5	$5 + 5 = 10$
1	3	3	6	$3 + 6 = 9$
0	4	0	6	$0 + 6 = 6$

*Table 6.3: When Bob and Ann get the same utility from each candy, an equal distribution of candies will maximize aggregate utility.*

Looking through Table 6.3, we can see that an equal distribution of 2 candies to each of Ann and Bob maximizes the total aggregate utility. We could predict this from the declining marginal utility of resources and incomes. Anything but an equal distribution will give one person more candy than the other has. The person who has less candies will receive more utility through the return to an equal distribution than will the person who has more candies will lose in the process. For example, the utility that the poorer person gains from moving from 1 candy to 2 candies will be greater than the utility that the richer loses in moving from 3 candies to 2 candies.

The indirect utilitarian argument for equal distributive shares assumes that all parties get the same utility from resources. The argument breaks down if one party gets more utility from income or other resources than other parties do. Suppose in our model that Bob gets 3 times more utility from a candy than Ann does. For example, if 1 candy gives Ann 3 utiles, then 1 candy will give Bob 9 utiles. Table 6.4 shows what happens.

Ann's #	Bob's #	Ann's TU	Bob's TU	Aggregate utility
4	0	6	$3 \times 0 = 0$	$6 + 0 = 6$
3	1	6	$3 \times 3 = 9$	$6 + 9 = 15$
2	2	5	$5 \times 5 = 15$	$5 + 15 = 20$
1	3	3	$3 \times 6 = 18$	$3 + 18 = 21$
0	4	0	$3 \times 6 = 18$	$0 + 18 = 18$

*Table 6.4: When Bob gets 3 times more utility from a candy than Ann does, an equal distribution of candies no longer maximizes aggregate utility.*

## CHAPTER 6

Utility is maximized in the model in Table 6.4 when Ann gets 1 candy and Bob gets 3 candies. We can maximize utility by giving more candies to Bob, who is more efficient at turning candies into pleasure. An equal distribution of candies no longer maximizes aggregate utility. An indirect utilitarian theory of distributive justice would imply the value of equality if everyone turned resources into welfare in the same way. Because this assumption is implausible, the indirect utilitarian theory of distributive justice is not a viable theory for those who think that equality is very important.

A utilitarian could defend high levels of executive compensation by trying to establish that high executive compensation leads to economic efficiency and thus higher happiness for all. Even if such an economic fact could be established, this utilitarian consideration would have to be balanced against distributive justice considerations.

## EQUALITY OF WELFARE

Interpreting the equal consideration of interests in the indirect utilitarian way is unsatisfactory. Another way to consider everyone's welfare interests equally is to argue that everyone should get an equal level of happiness or preference satisfaction. **Equality of welfare** holds that a distribution of property rights in resources is just if, and only if, it results in everyone having the same level of welfare. Equality of welfare is different from indirect utilitarian justice because it says nothing about maximizing total welfare. It does not say just that we should weight everyone's welfare interests equally in a utilitarian calculation. Instead, it makes the stronger claim that we should satisfy everyone's welfare interests to the same degree. Equality of welfare would not supply any obvious ethical justification for high levels of executive compensation.

Equality of welfare is not an attractive theory either. It has not had many defenders, though we might read the communist slogan, "From each according to his abilities, to each according to his needs," as a call for equality of welfare. It is, however, interesting to survey the problems with equality of welfare, because plausible theories of distributive justice must avoid these problems.

One problem with equality of welfare as a theory of distributive justice is that amounts of welfare are very difficult to measure and compare between people. We looked at welfare measurement problems in our discussion of utilitarianism. One suggestion was to use willingness to pay, or how much income a person was willing to give up to buy some good or service, as a measure of the intensity of a person's preference for an economic resource. If we assume a person's welfare increase is proportional to the strength of the preference satisfied, then we get a measure of welfare. This suggests that we should distribute income equally to ensure equal welfare. The problem, as we just saw in our discussion of indirect utilitarian justice, is that people convert resources, such as increased income, into welfare at different rates. Therefore, we have no assurance that equality of income will lead to equality of welfare.

A second problem with equality of welfare as a distributional principle is the problem of expensive tastes. Some people acquire tastes for expensive items, such as champagne, and get no pleasure from inexpensive substitutes like beer. Other people enjoy inexpensive items like beer, and never acquire a taste for expensive substitutes such as

## FAIRNESS AND DISTRIBUTIVE JUSTICE

fine wines. Does this mean that to equalize welfare we should devote extra resources to satisfying people's expensive tastes? It seems intuitively unjust that people should be entitled to more of society's resources because they have acquired expensive tastes. It seems more plausible to hold people responsible for their tastes and to ask them to moderate their consumption of champagne, even if this distribution gives champagne drinkers less welfare than it does to beer drinkers.

A third problem with equality of welfare is the problem of levelling down. In the face of a situation of inequality of welfare, there are two ways to proceed. The first is to raise the welfare level of the worse off, and the second is to lower the welfare level of the better off. From the point of view of equality of welfare, both situations are equally good. Equality of welfare appears to imply that we should reduce everyone to the same level of preference satisfaction if that is the only way to achieve equality of welfare.

#	Distribution	Ron	Sal	Tom
1	Equality of welfare (utils)	60	60	60
2	Inequality of welfare (utils)	65	70	75

*Table 6.5: Levelling down of welfare.*

In Table 6.5, equality of welfare appears to say that the first distribution is better than the second distribution because all three people receive the same welfare. However, if the only choice is between these two distributions, then most people's intuitions favour the unequal distribution, in which everyone is better off than in the equal distribution. The idea of levelling down people's welfare, just for the sake of equality, conflicts with the considered moral judgments of most people.

A fourth problem with equality of welfare is that it would tend to diminish personal responsibility. If people receive resources that would bring them happiness, or they waste or squander these resources, then the theory of equality of welfare requires that they should receive more resources in order to raise their welfare level back to equality. Equality of welfare fails to hold people accountable for using resources wisely. It also totally disconnects the activities of production and consumption. Since equality of resources guarantees a certain level of welfare, it provides no incentive for people to contribute to the production of the resources whose consumption create this level of welfare.

## EQUALITY OF RESOURCES AND THE DIFFERENCE PRINCIPLE

A large problem with thinking of distributive justice as the equal consideration of welfare interests was that such theories could not properly take into account expensive tastes and unjust preferences that others have less. One way to avoid these problems is to think of distributive justice as assigning resources instead of welfare to people.

CHAPTER 6

How people then use their fair share of resources would be up to them; if they want to buy champagne infrequently instead of buying beer frequently, then that is their business. The simplest version of equality of resources would just give everyone an equal share of income or an equal share of economic goods and services. **Strict equality of resources** holds that a distribution of property rights in resources is just if, and only if, it results in everyone having the same amount of resources.

Strict equality of resources solves measurement and comparison problem because it just assigns everyone the same income to buy whatever resources they wish to have. It solves the expensive tastes problem because people with champagne tastes cannot demand more than an equal share of resources to satisfy their expensive tastes. It holds people responsible for forming only preferences that are affordable with their fair share.

Unfortunately, simple or strict equality is still vulnerable to the problem of leveling down to achieve equality. Even if everyone would be better-off in a society with an unequal distribution of resources, strict equality of resources tells us that a distribution in which everyone gets the same share would be fairer, which is counterintuitive. Nor does it hold people responsible for contributing to the production of goods and services; even beach bums will still receive their equal share of income.

In what is perhaps the most influential modern account of distributive justice, the American philosopher, John Rawls (1921–2002), proposed a way to avoid some of these problems. He set out his general conception of justice in his 1971 book, *A Theory of Justice*.

All social primary goods—liberty and opportunity, income and wealth, and the bases of self-respect—are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favored. (Rawls, 1971, p. 301)

He called his principle, in which an unequal distribution of resources is fair so long as it betters the position of the least well-off, the “difference principle.” The **difference principle** says a distribution of rights and responsibilities is just if, and only if, everyone receives the same resources unless an unequal distribution results in the least well-off receiving more than in the strictly equal distribution. Plainly, an unequal distribution of liberties or of opportunities to compete fairly for positions does nothing to benefit the least favoured, so the difference principle will give everyone the same basic liberties and opportunities. However, it will not give everyone the same resources; there will be differences in how it distributes income and wealth.

#		Ron	Sal	Tom	Total
1	Utilitarian	\$1100	\$1100	\$3000	\$5200
2	Strict equality of resources	\$1000	\$1000	\$1000	\$3000
3	Difference Principle	\$1200	\$1300	\$1500	\$4000

Table 6.6: Utilitarianism, strict equality, and the difference principle.

Table 6.6 shows the differences between utilitarianism, strict equality, and the difference principle. Utilitarianism would require distribution #1 because it maximizes utility as measured by total financial resources of \$5200. Strict equality of resources would require distribution #2 because it gives everyone the same share of resources, even though everyone would be better off in either of the other distributions. Rawls's difference principle would require distribution #3 because the least favoured person, Ron, would be better off than in either of the other two distributions. Tom would do worse in #3 than he would in #1, but that does not matter to the difference principle, which focuses only on the position of the least favoured person.

Rawls's difference principle avoids many of the problems of other theories. It avoids the measurement and comparison problem by distributing easily measured resources like income and wealth. It avoids problems of expensive tastes and unjust preferences by distributing resources and not welfare. It avoids the levelling down objection because it permits inequalities of resources whenever doing so benefits the least favoured members of society. It partially avoids problems of diminished personal responsibility because it offers people incentives to contribute more to the production of goods and services. If someone's extra effort and productivity enlarges the total quantity of goods and services available for distribution, and if businesses must pay executives more than they do janitors to get executives to contribute more, then the difference principle will give them incentives in the form of larger shares. If offering people a production incentive leads to a larger economic pie, and thereby permits the least favoured to receive a larger slice, then the difference principle will endorse this. The difference principle will require a progressive tax system that permits only the level of income inequality necessary to help the least advantaged, and no more.

Some people object that Rawls's difference principle diminishes personal responsibility. It appears not to hold people responsible for their choices. For example, an able-bodied person could choose to become a beach bum, contribute nothing to the productive activities of society, and still receive the minimum income and wealth distributed by the difference principle. This goes against the considered moral judgment of many people who believe that people should have to take more personal responsibility for their lives than the difference principle requires.

A possible alternative is a starting-gate theory of equality of resources. Instead of continually transferring resources to those who squander them or who choose not to cooperate in productive activities, the theory of initial equality of resources would ensure only that people had the same starting point in life. **Initial equality of resources** says that a distribution of rights and responsibilities is just if, and only if, it is the result of people's free choices after everyone starts life with strictly equal distribution of resources. This suggestion would, for example, justify a heavy inheritance tax. The problem with this suggestion is that how a person's life turns out is only partly dependent on the choices they make with their initial resources. Sometimes how things go will also depend on brute luck. Recessions may cause investments to go bad, changing technology may make skills and training redundant, or poor health may lead to financial ruin. A theory of justice that holds people responsible under these conditions may be guilty of moral arbitrariness.

**CHAPTER 6**

There are many different interpretations of what it means to treat people as moral equals, and thus many different considerations that weigh for and against levels of income inequality. Each interpretation has its strengths and weaknesses in facing problems of moral arbitrariness, measuring contributions, measuring welfare, dealing with expensive or unjust preferences, avoiding levelling down, and allocating personal responsibility. Decision-makers must bear in mind these sorts of considerations when they are struggling to make fair and just decisions.

**SUMMARY**

1. Decision-makers must treat people fairly, which means treating everyone as moral equals.
2. Treating people as moral equals does not mean treating them all the same. Justice permits treating people differently, as long as it is not for morally arbitrary reasons like their race or gender.
3. Decision-makers must pay attention to three types of justice: retributive, compensatory, and distributive. Issues of distributive justice can become very complex.
4. The moral equality of persons requires giving everyone an equal opportunity to compete for economic resources. Equality of opportunity, though, may mean more than just removing legal impediments based on race or gender. It may also mean compensating for skill deficiencies caused by factors beyond a person's control and for fixing structural barriers such as lack of childcare facilities.
5. Equality of opportunity to compete for positions leaves open the question of determining fair compensation for positions. Matching compensation to marginal contribution is difficult because of the complex way in which specialized positions divide labour in a firm.
6. The moral equality of persons requires equal respect for their self-ownership rights. Some people argue that self-ownership leads to unrestricted private property rights and to free exchange in a capitalist market system. However, it is difficult to account for the initial acquisition of idealized property rights, and the history of actual, present-day property rights includes conquest, theft, and unconscionable contracts.
7. The moral equality of persons requires equal consideration of their welfare interests. However, weighting everyone's interests equally in a utilitarian calculation creates an unattractive theory of distributive justice. It implies unfair distributions because people have very different ways of converting resources into welfare.
8. As a theory of justice, the equal satisfaction of welfare interests has difficulty with the interpersonal comparison of preferences, with discounting unfairly expensive tastes, and with avoiding the reduction of everyone's welfare to the lowest level in the name of equality.



**FAIRNESS AND DISTRIBUTIVE JUSTICE**

9. Understanding distributive justice as equalizing resources rather than equalizing welfare avoids the problem of expensive, champagne tastes. However, strict equality of resources still cannot avoid the problems of levelling down for the sake of equality and of failing to require people to take personal responsibility for their productive contributions.
10. Rawls's difference principle calls for strict equality of resources unless an unequal distribution benefits the least well-off in society. The difference principle avoids the levelling down objection, and uses incentives to increase people's productive contributions.
11. However, the difference principle still gives a minimum income to beach bums who choose not to contribute to society, and gives no extra shares to people who, for reasons of brute bad luck, require more than a minimum share of resources to lead a comfortable life.

**ONLINE LEARNING RESOURCES**

You will find a collection of learning resources associated with this chapter on the book's website: <http://sites.broadviewpress.com/businessethics/>. Working through this material will help you understand and remember important concepts that we have discussed, and will help you apply them to issues in business ethics.

**STUDY QUESTIONS**

Answering the following questions will help you to understand the ethical theory in this chapter and will help you to create a set of review notes on the textbook.

1. Why does the moral equality of persons sometimes require that people be treated differently by just institutions?
2. Why does the same reasoning that leads to formal equality of opportunity apparently also lead to fair and to structural equality of opportunity?
3. Why is it difficult to determine the marginal contribution of each worker in Adam Smith's pin factory?
4. How does equal respect for self-ownership rights account for the initial acquisition of property rights in things?
5. What are the difficulties with the libertarian account of the initial acquisition of property rights in things?
6. How can utilitarianism claim to give equal consideration to everyone's welfare interests?
7. How can an indirect utilitarian theory of justice claim to entail an equal distribution of resources?
8. What goes wrong with the indirect utilitarian argument for an equal distribution of resources?

## CHAPTER 6

9. What are the problems with equality of welfare as a theory of distributive justice?
10. What are the problems of strict equality of resources as a theory of distributive justice?
11. How does Rawls's difference principle answer the problem of expensive tastes, the problem of levelling down for the sake of achieving equality, and the problem of taking personal responsibility?
12. What are the problems with Rawls's difference principle as a way of treating everyone as moral equals?

## DECISION QUESTIONS

The whole point of learning ethical theory is to understand and ask questions like the following when you are analyzing an ethically problematic situation or case.

- Will the decision treat everyone with equal moral respect and consideration?
- Will the decision treat people differently for morally arbitrary reasons?
- Does anyone deserve praise or blame in the case?
- Should anyone receive reward or punishment?
- Does anyone deserve compensation for a harm, rights violation, or injustice?
- Will the decision distribute benefits and burdens fairly?
- Does the decision promote equality of opportunity?
- Does the decision respect property rights and contracts?
- Does the decision help the least advantaged?
- Would a decision to promote distributive justice lead to entitlement loss or to overall utility loss?

## CASE STUDY

Analyze this case study using the ethical theory that you have learned so far. You will find a collection of learning materials applying to the case on the book's website: <http://sites.broadviewpress.com/businessethics/>. These materials will help you in your analysis.

### *How Should Faruq Vote on the Salary of the New CEO?*

Faruq Habib is a board member of the Foundation for International Development in the Americas (FIDA). FIDA is a very large, international, non-profit, non-government organization that funds local development groups in Central and South America. It raises these funds by seeking donations in Europe and North America. In his day job, Faruq is a human resources professional employed by a large multinational in Toronto. He has always been committed to international development work. Seven years ago, when he had just graduated from university, he spent two years working in Honduras with a

## FAIRNESS AND DISTRIBUTIVE JUSTICE

Peace-Corps-like organization called Professional Service Overseas. When FIDA asked him to join its board last year, Faruq felt much honoured, since FIDA is a well-respected organization that could have its pick of senior professionals and public figures for its board. His employers were also pleased, and have been very accommodating regarding the time-commitments of his FIDA work.

FIDA does not work directly with people, but instead funds the work of local, Spanish-, and Portuguese-speaking groups that provide aid to and that do advocacy work on behalf of local people. Poor people in these countries often ask for very little because years of poverty have severely lowered their expectations. FIDA's work has been very successful raising local standards of living, which people much appreciate after the fact. Unfortunately, local government officials and local agri-businesses do not always approve of FIDA's activities.

FIDA is in the process of hiring a new chief executive officer. The search committee has recommended Joan Rockingham, who is an almost ideal candidate. Joan has a tremendous record of accomplishment in raising funds for international development organizations. She has told the search committee that she thinks she can raise donations to FIDA by \$5,000,000.

Joan comes from a very well to do family, went to an expensive prep school, and then to Ivy League universities for her philosophy degree and for her MBA. Her study of political philosophy led her to reject living on her family's money, and to go into international development work. Nevertheless, she grew up with, and she still enjoys, all the finer things in life. Her family connections have always helped her with fund-raising.

The only problem with Joan's candidacy is that her asking salary is triple that of the outgoing executive director. FIDA is a global justice organization, and as such has a generally accepted, but unwritten, policy that the salary of the highest-paid member of the organization cannot be higher than three times the salary of the lowest paid members of the organization. Joan's asking salary is nine times the salary of the cleaning staff. The next best candidate, who is asking for the same salary as the previous CEO, is very competent and will be able to keep FIDA's work going at its current level.

Should Faruq vote to hire Joan?