

posed to search for a pattern; and the separate treatment of "from each according to his _____" treats production and distribution as two separate and independent issues. On an entitlement view these are *not* two separate questions. Whoever makes something, having bought or contracted for all other held resources used in the process (transferring some of his holdings for these cooperating factors), is entitled to it. The situation is *not* one of something's getting made, and there being an open question of who is to get it. Things come into the world already attached to people having entitlements over them. From the point of view of the historical entitlement conception of justice in holdings, those who start afresh to complete "to each according to his _____" treat objects as if they appeared from nowhere, out of nothing. A complete theory of justice might cover this limit case as well; perhaps here is a use for the usual conceptions of distributive justice.⁵

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

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

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

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

HOW LIBERTY UPSETS PATTERNS

It is not clear how those holding alternative conceptions of distributive justice can reject the entitlement conception of justice in holdings. For suppose a distribution favored by one of these non-entitlement conceptions is realized. Let us suppose it is your favorite one and let us call this distribution D_1 ; perhaps everyone has an equal share, perhaps shares vary in accordance with some dimen-

sion you treasure. Now suppose that Wilt Chamberlain is greatly in demand by basketball teams, being a great gate attraction. (Also suppose contracts run only for a year, with players being free agents.) He signs the following sort of contract with a team: In each home game, twenty-five cents from the price of each ticket of admission goes to him. (We ignore the question of whether he is "gouging" the owners, letting them look out for themselves.) The season starts, and people cheerfully attend his team's games; they buy their tickets, each time dropping a separate twenty-five cents of their admission price into a special box with Chamberlain's name on it. They are excited about seeing him play; it is worth the total admission price to them. Let us suppose that in one season one million persons attend his home games, and Wilt Chamberlain winds up with \$250,000, a much larger sum than the average income and larger even than anyone else has. Is he entitled to this income? Is this new distribution D_2 , unjust? If so, why? There is *no* question about whether each of the people was entitled to the control over the resources they held in D_1 ; because that was the distribution (your favorite) that (for the purposes of argument) we assumed was acceptable. Each of these persons *chose* to give twenty-five cents of their money to Chamberlain. They could have spent it on going to the movies, or on candy bars, or on copies of *Dissent* magazine, or of *Monthly Review*. But they all, at least one million of them, converged on giving it to Wilt Chamberlain in exchange for watching him play basketball. If D_1 was a just distribution, and people voluntarily moved from it to D_2 , transferring parts of their shares they were given under D_1 (what was it for if not to do something with?), isn't D_2 also just? If the people were entitled to dispose of the resources to which they were entitled (under D_1), didn't this include their being entitled to give it to, or exchange it with, Wilt Chamberlain? Can anyone else complain on grounds of justice? Each other person already has his legitimate share under D_1 . Under D_1 , there is nothing that anyone has that anyone else has a claim of justice against. After someone transfers something to Wilt Chamberlain, third parties *still* have their legitimate shares; *their* shares are not changed. By what process could such a transfer among two persons give rise to a legitimate claim of distributive justice on a portion of what was

transferred, by a third party who had no claim of justice on any holding of the others *before* the transfer? To cut off objections irrelevant here, we might imagine the exchanges occurring in a socialist society, after hours. After playing whatever basketball he does in his daily work, or doing whatever other daily work he does, Wilt Chamberlain decides to put in *overtime* to earn additional money. (First his work quota is set; he works time over that.) Or imagine it is a skilled juggler people like to see, who puts on shows after hours.

Why might someone work overtime in a society in which it is assumed their needs are satisfied? Perhaps because they care about things other than needs. I like to write in books that I read, and to have easy access to books for browsing at odd hours. It would be very pleasant and convenient to have the resources of Widener Library in my back yard. No society, I assume, will provide such resources close to each person who would like them as part of his regular allotment (under D_1). Thus, persons either must do without some extra things that they want, or be allowed to do something extra to get some of these things. On what basis could the inequalities that would eventually be forbidden? Notice also that small factories would spring up in a socialist society, unless forbidden. I melt down some of my personal possessions (under D_1) and build a machine out of the material. I offer you, and others, a philosophy lecture once a week in exchange for your cranking the

* Might not a transfer have instrumental effects on a third party, changing his feasible options? (But what if the two parties to the transfer independently had used their holdings in this fashion?) I discuss this question below, but note here that this question concedes the point for distributions of ultimate intrinsic noninstrumental goods (pure utility experiences, so to speak) that are transferable. It also might be objected that the transfer might make a third party more envious because it worsens his position relative to someone else. I find it incomprehensible how this can be thought to involve a claim of justice. On envy, see Chapter 8.

Here and elsewhere in this chapter, a theory which incorporates elements of pure procedural justice might find what I say acceptable, *if* kept in its proper place; that is, if background institutions exist to ensure the satisfaction of certain conditions on distributive shares. But if these institutions are not themselves the sum or invisible-hand result of people's voluntary (nonaggressive) actions, the constraints they impose require justification. At no point does *our* argument assume any background institutions more extensive than those of the minimal night-watchman state, a state limited to protecting persons against murder, assault, theft, fraud, and so forth.

handle on my machine, whose products I exchange for yet other things, and so on. (The raw materials used by the machine are given to me by others who possess them under D_1 , in exchange for hearing lectures.) Each person might participate to gain things over and above their allotment under D_1 . Some persons even might want to leave their job in socialist industry and work full time in this private sector. I shall say something more about these issues in the next chapter. Here I wish merely to note how private property even in means of production would occur in a socialist society that did not forbid people to use as they wished some of the resources they are given under the socialist distribution D_1 .⁶ The socialist society would have to forbid capitalist acts between consenting adults.

The general point illustrated by the Wilt Chamberlain example and the example of the entrepreneur in a socialist society is that no end-state principle or distributional patterned principle of justice can be continuously realized without continuous interference with people's lives. Any favored pattern would be transformed into one unfavored by the principle, by people choosing to act in various ways; for example, by people exchanging goods and services with other people, or giving things to other people, things the transferers are entitled to under the favored distributional pattern. To maintain a pattern one must either continually interfere to stop people from transferring resources as they wish to, or continually (or periodically) interfere to take from some persons resources that others for some reason chose to transfer to them. (But if some time limit is to be set on how long people may keep resources others voluntarily transfer to them, why let them keep these resources for *any* period of time? Why not have immediate confiscation?) It might be objected that all persons voluntarily will choose to refrain from actions which would upset the pattern. This presupposes unrealistically (1) that all will most want to maintain the pattern (are those who don't, to be "reeducated" or forced to undergo "self-criticism"?), (2) that each can gather enough information about his own actions and the ongoing activities of others to discover which of his actions will upset the pattern, and (3) that diverse and far-flung persons can coordinate their actions to dovetail into the pattern. Compare the manner in which the market is neutral among persons' desires, as it reflects and transmits

widely scattered information via prices, and coordinates persons' activities.

It puts things perhaps a bit too strongly to say that every patterned (or end-state) principle is liable to be thwarted by the voluntary actions of the individual parties transferring some of their shares they receive under the principle. For perhaps some *very* weak patterns are not so thwarted.* Any distributional pattern with any egalitarian component is overturnable by the voluntary actions of individual persons over time; as is every patterned condition with sufficient content so as actually to have been proposed as presenting the central core of distributive justice. Still, given the possibility that some weak conditions or patterns may not be unstable in this way, it would be better to formulate an explicit description of the kind of interesting and contentful patterns under discussion, and to prove a theorem about their instability. Since the weaker the patterning, the more likely it is that the entitlement system itself satisfies it, a plausible conjecture is that any patterning either is unstable or is satisfied by the entitlement system.

SEN'S ARGUMENT

Our conclusions are reinforced by considering a recent general argument of Amartya K. Sen.⁷ Suppose individual rights are interpreted as the right to choose which of two alternatives is to be

* Is the patterned principle stable that requires merely that a distribution be Pareto-optimal? One person might give another a gift or bequest that the second could exchange with a third to their mutual benefit. Before the second makes this exchange, there is not Pareto-optimality. Is a stable pattern presented by a principle choosing that among the Pareto-optimal positions that satisfies some further condition *C*? It may seem that there cannot be a counterexample, for won't any voluntary exchange made away from a situation show that the first situation wasn't Pareto-optimal? (Ignore the implausibility of this last claim for the case of bequests.) But principles are to be satisfied over time, during which new possibilities arise. A distribution that at one time satisfies the criterion of Pareto-optimality might not do so when some new possibilities arise (Wilt Chamberlain grows up and starts playing basketball); and though people's activities will tend to move then to a new Pareto-optimal position, *this*

more highly ranked in a social ordering of the alternatives. Add the weak condition that if one alternative unanimously is preferred to another then it is ranked higher by the social ordering. If there are two different individuals each with individual rights, interpreted as above, over different pairs of alternatives (having no members in common), then for some possible preference rankings of the alternatives by the individuals, there is no linear social ordering. For suppose that person *A* has the right to decide among (*X*, *Y*) and person *B* has the right to decide among (*Z*, *W*); and suppose their individual preferences are as follows (and that there are no other individuals). Person *A* prefers *W* to *X* to *Y* to *Z*, and person *B* prefers *Y* to *Z* to *W* to *X*. By the unanimity condition, in the social ordering *W* is preferred to *X* (since each individual prefers it to *X*), and *Y* is preferred to *Z* (since each individual prefers it to *Z*). Also in the social ordering, *X* is preferred to *Y*, by person *A*'s right of choice among these two alternatives. Combining these three binary rankings, we get *W* preferred to *X* preferred to *Y* preferred to *Z*, in the social ordering. However, by person *B*'s right of choice, *Z* must be preferred to *W* in the social ordering. There is no transitive social ordering satisfying all these conditions, and the social ordering, therefore, is nonlinear. Thus far, Sen.

The trouble stems from treating an individual's right to choose among alternatives as the right to determine the relative ordering of these alternatives within a social ordering. The alternative which has individuals rank *pairs* of alternatives, and separately rank the individual alternatives is no better; their ranking of pairs feeds into some method of amalgamating preferences to yield a social ordering of pairs; and the choice among the alternatives in the highest ranked pair in the social ordering is made by the individual with the right to decide between this pair. This system also has the result that an alternative may be selected although *everyone* prefers some other alternative; for example, *A* selects *X* over *Y*, where (*X*, *Y*) somehow is the highest ranked *pair* in the social or-

new one need not satisfy the contentful condition *C*. Continual interference will be needed to insure the continual satisfaction of *C*. (The theoretical possibility of a pattern's being maintained by some invisible-hand process that brings it back to an equilibrium that fits the pattern when deviations occur should be investigated.)