

JUSTICE AND THE MARKET SYSTEM

The concept of justice is relevant to business ethics primarily in terms of the distribution of benefits and burdens, although the justice of the economic system in which business activity takes place is also an important consideration in business ethics.

In particular, the justification of a free market system includes criticism and defenses of the system on the grounds of economic justice. Following are the four prominent theories of justice:

- **Aristotle's principle of proportionate equality.**
 - **John Mill's theory of justice based on utility.**
 - **John Rawls's egalitarian theory of justice.**
 - **Robert Nozick's libertarian entitlement theory.**
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Aristotle's Analysis of Justice

- **In Book V of the Nocomachean Ethics, Aristotle distinguished universal justice and particular justice. Universal justice is the whole of virtue, while particular justice consists of taking only the proper share of some good or bearing a fair share of some burden. Aristotle divided particular justice into three distinct areas:**
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- **Distributive justice,**
- **Compensatory justice, and**
- **Retributive justice.**
- **Distributive justice deals with the distribution of benefits and burdens, mostly in the evaluation of social, political and economic institutions.**
- **Compensatory justice concerns the compensation of persons for wrongs done to them in voluntary relations such as contract breaches.**
- **And retributive justice involves the punishment of wrongdoers who have participated in voluntary relations such as criminal acts.**

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- **A just distribution can be one in which each person shares equally, but unequal sharing can also be considered just if the inequality is in accord with some principle of distribution. The moral equilibrium, or initial fair share of benefits and burdens, is upset when one person is made worse off by an accident where someone else is at fault or by a crime.**
 - **Compensation and punishment restore the moral equilibrium by returning the victim to his or her previous condition or by punishing the perpetrator for the crime.**
 - **Distributive justice is comparative. It considers not the absolute amount of benefits and burdens for each person, but each person's amount relative to that of others.**
 - **Compensatory and retributive justices are both non-comparative.**
 - **The amount of compensation or punishment is determined by the features of each case and not by a comparison with other cases.**
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- **Aristotle on distributive justice: Aristotle's principle of justice is a moderate egalitarian position in which like cases should be treated alike unless there is some morally relevant difference between the cases. Aristotle adds that the difference in each person's share of a good must be proportional to his or her share of the relevant difference.**
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- **This principle of proportionate equality is expressed by Aristotle in an arithmetic ratio in which two peoples' share of some good ought to be in proportion to their share of some relevant difference.**
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- **Examples of such relevant differences are ability, effort, accomplishment, contribution, and need. The value of Aristotle's principles lies in its insistence that different treatments be justified by some relevant differences and that differences in treatment be in proportion to the relevant differences. The principle does not define these relevant differences nor does it resolve differences when they conflict.**
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Mill's theory of justice.

- **Mill believed that all persons possess a presumptive right to equal treatment unless the inequalities are justified by a social need. Impartiality (a part of justice closely related to equality) is an obligation that is part of the more general obligation to give everyone his or her right. Justice obliges individuals to treat others according to their rights, unless utility dictates otherwise.**
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- **This obligation is implicit in the meaning of utility. Equality alone is not enough to account for justice, however, and so another criterion, such as utility, becomes necessary. Mill ultimately holds that equality is a part of utility although it can be overridden by other utility considerations.**
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- **Two arguments can be offered in support of this view regarding the convergence of utility and justice.**
 - **A system that maximizes utility tends toward equality in distribution (and thus toward the convergence of utility and justice) because of diminishing marginal utility, which is to say that the amount of utility received from a good decrease as the consumption of the good increases.**
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- **For example, the first few dollars of income satisfy basic needs with a great increase in utility, while succeeding dollars satisfy lesser needs and bring less utility.**
 - **A system that maximizes utility also tends to reward people in proportion to such factors as their ability, effort, contribution or accomplishment, because rewarding in this way encourages people to develop their abilities and to contribute more to the welfare of society.**
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The Egalitarian Theory of John Rawls

- (John Rawls, *A Theory of Justice*, Harvard University Press, 1971.)
- The contemporary American philosopher John Rawls has developed an egalitarian theory of justice that embodies the Kantian conception of equality and offers an alternative to utilitarianism. Rawls's theory focuses on social justice, which he regards as a feature of a well-ordered society.

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- **In such a society, free and equal persons are able to pursue their interests in harmony because of institutions that assign rights and duties and distribute the benefits and burdens of mutual cooperation. Rawls's aim is not to develop the institutions of a well-ordered society but to determine the principles that would be used to evaluate the possibilities.**
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- **The principles of justice. Rawls acknowledges three principles of justice-**
 - **the principle of equal liberty,**
 - **the difference principle,**
 - **and the principle of equal opportunity.**
 - **The principle of equal liberty holds that each person has an equal right to the most extensive set of basic liberties that are compatible with a system of liberty for all.**
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- **The difference principle allows an exception to the principle of equal liberty if some unequal arrangement benefits the least well-off person. That is, an unequal allocation is considered just if the worst-off person is better off with the new distribution than the worst-off person under any other distribution.**
 - **The principle of equal opportunity provides that all public offices and employment positions be made available to everyone. Society should strive to offer all of its members an equal opportunity to fill positions through the elimination of differences caused by accidents of birth or social condition. Natural differences should be used for the benefit of all.**
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- **The basis for the first principle is that an equal share is the most that any person could reasonably expect considering the requirement for unanimous agreement in the original position. The second principle recognizes that a rational, impartial person would make an exception to the first principle and accept less than an equal share if everyone would be better off as a result of the inequality.**
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- **Rawls's concern for the least advantaged is due to maximin, which is a rule of rational choice drawn from game theory according to which it is rational to maximize the minimum outcome when choosing between different alternatives. However, maximin is not the only rational choice of a person behind the veil of ignorance.**
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- **One might use the principle of maximum average utility and assume some risk to increase his or her chances of becoming better off. Whether Rawls's theory of justice is superior to utilitarianism depends, therefore, on the acceptability of maximin as a rule of rational choice.**
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original position



Utility and the Market System

- **The market system is characterized by**
 - **private ownership of resources;**
 - **voluntary exchange**
 - **the profit motive.**
 - **The market system is justified by the utilitarian argument that it produces the highest level of welfare for society and by the rights based argument that it is the best protection for liberty, particularly with regard to private property.**
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- **Justice and rights pose a difficulty for utilitarianism, which would appear to favor any redistribution that increases total utility regardless of how it is accomplished. Thus, it is charged, utilitarianism places no value on equality and makes no allowance for justified unequal treatment.**
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- **Bentham responds to the apparent conflict between utility and justice by asserting that equal distributions generally produce more utility than unequal ones, and so our ordinary views of justice rarely conflict with the utilitarian principle. When they do, however, equality ought to be sacrificed.**
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Utility and Justice

- **Adam Smith's "invisible hand" argument. Adam Smith (1723-1790), in his work *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), explains how trading motivated by self-interest rather than altruism best promote an end (the welfare of society) which was no part of his intention". The argument, as it has been developed in neoclassical economics does not prove that free markets maximize utility, only that they are efficient.**
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THE ENTITLEMENT THEORY OF NOZICK

- (Robert Nozick, *Anarchy, State and Utopia*, New York: Basic Books. 1974).
 - The subject of justice in holdings consists of three major topics. The first is the original acquisition of holdings, the appropriation of unheld things. This includes the issues of how unheld things may come to be held, the process, or process, by which unheld things may come to be held, the things that may come to be held by these processes, the extent of what comes to be held by a particular process, and so on.
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- **If the world were wholly just, 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**
 - **No one is entitled to a holding except by (repeated) applications of 1 and 2.**
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- **A distribution is just if it arises from another just distribution by legitimate means. The legitimate means of moving from one distribution to another are specified by the principle of justice in transfer. The legitimate first “moves” are specified by the principle of justice in acquisition. Whatever arises from a just situation by just steps is it just. If some thing is justly acquired ,justly belongs to its owner. The means of change specified by the principle of justice in transfer preserve justice .**
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- **The fact that thief's victims voluntarily could have presented him with gifts does not entitle the thief to his ill-gotten gains. Justice in holdings is historical; it depends upon what actually has happened.**
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- **Not all-actual situations are generated in accordance with the two principles of justice in holdings:**
 - **(A) the principle of justice in acquisition and**
 - **(B) the principle of justice in transfer. 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.**
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- **None of these are permissible modes of transition from one situation to another. And some persons acquire holdings by means not sanctioned by the principle of justice in holdings; raises the third major topic under justice in holdings: (C)the rectification of injustice in holdings.**
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- **If past injustice has shaped present holdings in various ways, some identifiable and some not, what now, if anything, ought to be done to rectify these injustice? What obligations do the performers of injustice have toward those whose position is worse than it would have been had the injustice not been done? Or, than it would have been had compensation been paid promptly?**
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- **How, if at all, do things change if the beneficiaries and those made worse off are not the direct parties in the act of injustice, but, for example, their descendants? Is an injustice done to someone whose holding was it based upon an unrectified injustice? How far victims of injustice permissibly do in order to rectify the injustices being done to them, including the many injustices done by persons acting through their government?**
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- **The entitlement principles of justice in holdings that we have sketched are historical principles of justice. To better understand their precise character, we shall distinguish them from another subclass of the historical principles. Consider, as an example, the principle of distribution according to moral merit. This principle requires that total distributive shares vary directly with moral merit; no person should have a greater share than anyone should whose moral merit is greater.**
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- **The general outlines of the theory of justice in holdings are that the holdings of a persons are just if he is entitled to them by the principles of justice in acquisition and transfer, or by the principle of rectification of injustice (as specified by the first two principles).**
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- **If each person's holdings are just, then the total set (distribution) of holdings is just. To turn these general outlines into a specific theory we would have to specify the details of each of the three principles of justice in holdings: the principle of acquisition of holdings, the principle of transfer of holdings, and the principle of rectification of violations of the first principles.**
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- **Almost every suggested principle of distributive justice is patterned: to each according to his *moral merit, or needs*, or marginal product, or how hard he tries, or the weighted sum of the foregoing, and so on.**
 - **The principle of entitlement we have sketched is not patterned. There is no one natural dimension or weighted sum of combination of a small number of natural dimensions that yields the distributions.**
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