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INSTITUTIONAL FOUNDATIONS
FOR A JUST SOCIETY

by

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Institutional Foundations for a Just Society

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Abstract:

The author distinguishes between fundamental justice and incremental justice and argues that the Rawlsian, *ex ante*, concept of justice is the only concept of justice relevant to the design and evaluation of institutions. Unlike incremental justice for which a consensus as to what constitutes justice is generally not possible the conditions that satisfy the Rawlsian concept of justice are derived from the assumptions of rationality and aversion to large risks, and the postulate of fairness. A consensus occurs not fortuitously but inevitably. The paper develops eight principles of institutional design that contribute towards a just society and that follow logically from these assumptions and postulates. The paper argues that these principles are actually needed for social welfare maximization, so that justice is consistent with efficiency. The paper uses examples about the concept of exploitation, crime and punishment, labour market and social security, to illustrate how these principles can be applied.

1. Towards a definition of a Just Society

Man's quest for a "just" society is based on some notion of "fairness." While what is meant by "fair" may be open to debate, John Rawls' famous proposition serves as a good point of departure. He maintains that principles of justice should be those that "free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association." (Rawls, 1971, p. 11) He further proposed that such principles should be chosen "behind a veil of ignorance" about what initial position each individual would find himself, so that "no one is able to design principles to favour his particular condition." (p.12) It should be noted that the notion of fairness and the requirement of acceptability to free and rational persons without predetermined interest would imply *non-arbitrariness*. This would imply equal distribution of initial resource endowment and subsequent distribution of incomes according to merit or other allocation mechanism elected through social consent.¹ This basic principle of non-arbitrariness will be used time and again throughout this paper as a litmus test for justice or injustice.

I contend that such an "*ex ante*" definition of a just society is the only definition that is institution-relevant. From this definition we can deduce the institutional arrangements necessary to achieve a just society. The institutional arrangements thus derived are not only just, but also can be demonstrated to be efficient in the sense that it maximizes social welfare. Before we proceed further, we would make the following definitions and assumptions.

¹ Thus, voluntarily assumed risks from lottery-like arrangements are consistent with justice because they are not arbitrarily imposed.

Definition: A just society is defined as one such that its institutional arrangements are acceptable to free and rational persons with no predetermined interests.

Definition: It is postulated that free and rational persons with no predetermined interest have common and consistent ordering among alternative institutional arrangements. Social welfare is ex ante maximized when the most preferred institutional arrangements among all alternatives available is implemented².

Assumptions: Human beings are assumed to be rational utility maximizers and to be averse to large risks³. Human beings are assumed to be characterized by an aversion to pain and an affinity to pleasure. Human beings are also assumed to value freedom and autonomy.

2. Rawls vs Arrow

While Rawls defined justice in the *ex ante* sense, Kenneth Arrow(1950) attempted to define justice in the *ex post* sense⁴. He defines a "social welfare function" as "a process or

² Sen(1995) stated that "To try to make social welfare judgements without using any interpersonal comparison of utilities, and without using any nonutility information, is not a fruitful enterprise."(p.8) This would be true with *ex post* welfare for which conflicting interests is inevitable. With *ex ante* welfare, under the Rawlsian assumptions of identical initial positions and rationality, and assuming aversion to large risks and the desirability of fairness and autonomy, there is no conflicting *ex ante* interests.

³ This is a departure from the "maximin" "Rawlsian utility function" discussed in the literature. As pointed out by Arrow(1973, p.251) and noted by Posner(1981, p.100) the maximin principle that gives value only to the utility of the worst outcomes in the utility distribution implies strange results.

⁴ The distinction between *ex ante* and *ex post* judgements is related to but different from Sen's(1995) distinction between judgement over "decision mechanism" and "social welfare

rule which, for each set of individual orderings $R_1, \dots, R_n$ for alternative social states (one ordering for each individual), states a corresponding social ordering of alternative social states, R " (Arrow, 1950). Arrow made the distinction between *tastes* and *values*. The former reflects orderings of social states based on the direct consumption of the individual while the latter reflects also his general standards of equity. A just society should reflect the preferences of all individuals rather than those of one individual (*nondictatorial*) and should be consistent with "*citizens' sovereignty*" in the sense that the individuals in our society are free to choose among the alternative social states available even as their values change.

Under Arrow's approach, social welfare is a function of the configuration of individual welfares or values. To search for a just society is then to search for the set of realized individual utilities ($U_1, \dots, U_n$) such that "social welfare" is maximized. Using such an *ex post* approach, Arrow derived the famous "Possibility Theorem": *if we exclude the possibility of interpersonal comparisons of utility, then the only methods of passing from individual tastes to social preferences which will be satisfactory and which will be defined for a wide range of sets of individual orderings are either imposed or dictatorial* (Arrow, 1950, in *Social Choice and Justice*, p. 24).

To make the distinction between *ex ante* and *ex post* clearer, consider a society with two individuals A and B. Under the *ex post* approach, we would be interested in the configuration of realized welfare or value judgements of the two persons--the former leading

judgements." The *ex ante* approach and judgement over "decision mechanisms" are common in that they are not concerned with realized utilities or welfare. They are different in that the *ex ante* approach is concerned with expected utilities, while Sen's discussion about decision mechanisms is concerned with the satisfaction of formal axioms such as consistency.

to the Bergsonian social welfare function, the latter leading to an Arrow-type social welfare function. Suppose three alternative social states are possible so that in the first state, $U_A = 100$, and $U_B = 20$; in the second state, $U_A = 50$, and $U_B = 50$; while in the third state $U_A = 20$, and $U_B = 100$. Arrow would try to look for a mechanism to determine the social ordering among the three social states. Justice is served when social welfare thus defined is maximized.

Under the *ex ante* approach we would not be interested in any of these outcomes at all. Instead, we ask A and B to forget about their identities and look at alternative institutional arrangements under which they would live. We would look for those arrangements that are most acceptable to both A and B if they have no idea which welfare or social position they would assume. We would not need to and should not worry utility outcomes. According to Rawls, under this assumption a universal concept of justice exists. This is criticized by Arrow as not having not much practical relevance because different individuals in fact have different information and different backgrounds:

To the extent that individuals are really individual, each an autonomous end in himself, to that extent they must be somewhat mysterious and inaccessible to one another. There cannot be any rule that is completely acceptable to all. There must be, or so it now seems to me, the possibility of unadjudicable conflict, which may show itself logically as paradoxes in the process of social decision making. (Arrow, 1973, p.263)

Kenneth Arrow's contention that most practical decisions are in fact made incrementally in a historical context by real people with different backgrounds is well taken. However, if we are looking for the set of *institutions* that is consistent with the concept of justice it seems that the *ex ante* approach is inevitable. Having defined what I call the Rawlsian, institution-relevant *fundamental justice* we note that there is another concept, that of "*incremental justice*", which has to do with value judgements made about changes in the social state given the existing institutions. The latter, however, falls outside the scope of this paper.

3. Optimal Institutional Arrangements

We can instil more specific meanings behind Rawlsian *ex ante* justice. Let us consider a hypothetical world in which a mechanism for randomly picking one member to serve as a slave for the rest is instituted. To the extent that everyone has equal chance to be picked as the slave the mechanism can be said to be "fair." Yet we would not call this a just society because someone is victimized *arbitrarily* against his consent.

For the same reasons, if a mechanism is instituted such that everyone has the same chance to be picked to have all of his wealth redistributed among the rest of the population, the society cannot be said to be a just society. Take a still less extreme example--the case of everyone being subjected to the same chance of being picked to have one per cent of his wealth redistributed among the rest of the population. We still would not call it a just society.

Note that in each of these examples, one person loses while other people gain in the

random process. In the traditional sense of the Pareto principle, we cannot say that the random mechanism is Pareto-deteriorating. However, in the *ex ante* sense, to the extent that everyone abhors the mechanism, introducing the mechanism is obviously Pareto-deteriorating. Eliminating such a mechanism when it exists is not only just but also Pareto-improving(*efficient*⁵). It should be noted that in the above examples the risks are not borne voluntarily.

Definition: *Risks that are thrust upon individuals and cannot be avoided are called residual risks.*

Proposition One: *The Principle of Residual Risk Minimization is a necessary condition to a just society. A just society must minimize "residual" or unwanted risk that causes arbitrary welfare redistribution among its members.*

The concept of justice, then, stands in opposition to arbitrariness. Apart from being imposed institutionally, "arbitrariness" may also come about as a result of the randomness of natural processes("acts of God"). Such randomness may occur to a person before birth through genetical differences or after birth through all kinds of "accidents," both favourable and unfavourable. If we are all put behind a "veil of ignorance", and if we all want to maximize our expected welfare, we would seek a mechanism whereby the risks imposed by the natural random process can be minimized. The *Principle of Insurance* provides exactly such a mechanism. Through such a mechanism the effects of unhappy events are diffused

⁵ This is defined as "Pareto risk efficiency" in Ho(1981) in contradistinction to Pareto efficiency which is defined in respect of *ex post* utilities of different individuals.

so that the sufferings of individuals who are hit by misfortunes are reduced. In the real world insurance is often available in the market place. When, however, private insurance will not cover certain individuals mandatory or state-provided insurance will be necessary.

Proposition Two: *When the arbitrariness inherent in residual risks cannot be avoided through social action, insurance mechanisms that reduce the impact of arbitrary welfare assignment that occurs as acts of God or acts of men through a mechanism of insurance make the society more just.*

Apart from residual risks, unequal opportunities are also arbitrary and are therefore unjust. Unequal opportunities prevent people from competing on an equal basis. In the job market this results in less competent people getting the jobs at the expense of more competent people. In the engineering works market this results in weaker contenders getting the contracts at the expense of stronger contenders. This is clearly inefficient. The *Principle of Equal Opportunities*, which is obviously fundamental to justice, once again is consistent with efficiency.

Proposition Three: *A just society should abide by the Principle of Equal Opportunities. This implies absence of discrimination based on race, sex, religion, or other irrelevant considerations. This also implies that newborns should have equal opportunity to develop their potential, i.e., "equality of life chances."*

Proposition Four: *Pure redistribution that blunts the principle of merit is unjust unless the degree of redistribution is acceptable to all behind a veil of ignorance.*

In order for institutional arrangements to be acceptable to free and rational persons with no predetermined interests, so that a society can be called just it must also have just laws, effective law enforcement, and just punishments. Just laws are proscriptive in a way that is agreeable to all members of society "behind the veil of ignorance" about where they would belong in society. They specify what behaviours are unacceptable and need to be punished. Just laws must also be made known to and easily understood by people. If they are known to some people but not to others offenders may be arbitrarily victimized because they happen not to be aware of the laws. They must minimize any arbitrariness both in design and in implementation. In other words they should not be enforced randomly or selectively.

Proposition Five: *A just society need to have laws that clearly and unambiguously define what behaviours are lawful and what behaviours are unlawful, and that are agreeable to all members of the society if they were behind a veil of ignorance about where they would belong.*

Just laws need to be complemented with just punishments. Following the requirement of non-arbitrariness, just punishments must be commensurate with the nature and severity of the offence; they must not produce "spill-over" punishment on innocent people(explained below); and they must be well defined and precise so that the relative and absolute level of severity of each punishment is clear to the judge, which is necessary if the judge is to determine what is the appropriate punishment in each case.

Proposition Six: *A just society need to have just punishment to complement the just laws.*

All of the above have to do with arbitrariness externally imposed from the environment or internally given by virtue of inborn differences. There is still another aspect of arbitrariness that arises from the *interaction* of inborn characteristics and the environment. This has to do with differences in tastes and differences in attitudes towards risk. Assuming that we are all behind a veil of ignorance and do not know what kind of tastes we have, a just society would respect free choice about lifestyle and would minimize victimization due to peoples' different tastes and different attitudes towards risk. A just society should also strive to reduce opportunities for law offences (such as corruption) that attract risk-loving people to commit the offences and then punish them severely. In other words, a society that provides a 90 per cent success rate for an attractive (tempting) criminal offence and hands out very stiff punishment is considered less just than a society that offers a 1 per cent success rate for the same criminal offence and hands out a less stiff punishment.

Proposition Seven: *A just society should not discriminate against people because they happen to have different tastes or different attitudes towards risk.*

Proposition Eight: *Given the same deterrence effect, improving the chances of catching and convicting a law offender while reducing the severity of the penalty will make the society more just.*

4. Application I: The Concept of Exploitation and Equality of Opportunity

Karl Marx in his Capital propounded a theory of surplus value and argued that a capitalist society is unjust because capitalists expropriate value created by labour. The reason

why they could do this, according to him, lies in private ownership of capital. According to our analysis, and accepting his theory of surplus value of labour for the moment for the sake of argument, if private ownership of capital were arbitrary his argument will be valid. If, however, capital is not arbitrarily assigned to people, and everyone has the same opportunity to accumulate capital and run a business in a free and open market, then Marx's theory of exploitation would be invalid. Rather than ascribing exploitation to the ownership of capital, our theory of justice would imply that exploitation should be ascribed to unequal opportunities. Those who through no merit of their own enjoy more or better opportunities than others are the exploiters. Those who through no fault of their own suffer from a lack of or diminished opportunities are the exploited.

It may be argued that some people are born to belong to the capitalist class, while others are born to belong to the labouring class. Equal opportunities, it is held, does not exist in the capitalist society. This may well be the case, but if this is the case, injustice is still attributeable to unequal opportunities rather than to the ownership of capital.

Completely equal opportunities for all is very difficult to achieve, given the vested interests now prevalent in all real societies. However, following Rawls' dictum and forgetting our identities and our ownership or lack of wealth, equal opportunities would require at least the following conditions:

non-inheritance of ^{wealth} wealth, status, and power implying a 100 per cent inheritance tax and an absence of caste or class distinction for all new-borns;

- . equal opportunities for nurture and for education for all children;
- . freedom to participate in all markets as suppliers or as consumers;
- . face non-discriminatory laws and rules that apply equally to everyone.

These conditions are to ensure that everyone have the same *initial conditions* to start their lives and to face the same *rules of the game* throughout their lives. The concern for unequal inheritance is shared by many famous economists and intellectuals, including John Maynard Keynes:

Since the end of the nineteenth century significant progress towards the removal of very great disparities of wealth and income has been achieved through the instrument of direct taxation--income tax and surtax and death duties...[Carrying this process much further has been deterred] mainly, I think, by the belief that the growth of capital depends upon the strength of the motive towards individual saving and that for a large proportion of this growth we are dependent on the savings of the rich out of their superfluity.....[U]p to the point where full employment prevails, the growth of capital depends not at all on a low propensity to consume but is, on the contrary, held back by it.....[I]n as much as an increase in the habitual propensity to consume [caused by a fiscal policy of heavy death duties] will in general...serve to increase at the same time the inducement to invest, the inference commonly drawn is the exact opposite of the truth..... This particularly affects our attitude towards death duties; for there are certain justifications for inequality of incomes which do not apply

equally to inequality of inheritances(Keynes, 1936, pp.372-374).

The elimination of inheritance to many is a radical idea. Some may think that being allowed to accumulate and to leave bequests will not only satisfy an inherent human instinct but will also provide an important motivation for people to invest and to work. The desire to accumulate a bequest for children, however, should be reduced if parents are assured that their children will not be disadvantaged because no one is enjoying a headstart over others. The concern about blunting an important drive that is potentially important for human progress may also be misplaced, to the extent that historically many men and women of achievement made their contribution entirely out of their quest for expanding human knowledge, a desire for creativity, and an urge to overcome nature's constraints to human freedom. Musicians like Mozart and Beethoven, scientists like Newton and Einstein, mathematicians like Euclid and Von Nuemann, artists like Van Gogh and Leonardo da Vinci, even entrepreneurs like Bill Gates and Alfred Nobel, make their achievements not because they have children to whom they want to leave a huge bequest. Indeed, if there is the assurance that one's children have equal life chances compared to others people may be free to pursue their own interest, there may be many more Mozarts, more Edisons, and more Einsteins. The distinction between social classes will disappear. Society will become more harmonious. Fewer people will become criminals.

Institutionally provided "equal opportunities for nurture and for education" does not imply the elimination of parental responsibilities for loving care. Parents can continue to give all the love they can, but they will not be inhibited by the need to leave a bequest for their children in pursuit of their own lifegoals.

5. Application II: Crime and Punishment

Applying the principle of non-arbitrariness to the study of crime and punishment, we can say that crimes are unjust, and that laws, judiciary, and punishments that deter crimes contribute towards establishing a just society. Crimes are unjust because they arbitrarily redistribute welfare and increase residual risks for everyone. Laws, judiciary, and punishments that deter crimes make a society more just because they reduce residual risks.

Applying the principle of non-arbitrariness to the study of crime and punishment, there is a case for the judicious application of corporal punishment. Unlike imprisonment which tends to have arbitrary spillover effects on innocent people, corporal punishment is essentially personal. Prison terms take parents away from their children, husbands away from their wives, sons and daughters away from their parents. Prison terms take away the opportunity for the offender to earn an income, and impose the burden of feeding, accommodating, and caring for the offender on society.

To the extent that the offender's identity is revealed he/she and his/her family members are often disgraced and discriminated by others. This disgrace or discrimination is over and above the punishment handed out by the judge. The degree to which a person hurts from the disgrace depends on his psychology, which varies from person to person thus rendering the "extra-punishment" arbitrary. Our theory of justice suggests that an offender's identity should not be disclosed, but the severity of the punishment should be adjusted to a level high enough for it to serve as a deterrent. Formal, judicially given punishment should shoulder all the responsibility to serve as a deterrent and should be as severe as necessary

for effectiveness. Informal, non-judicially given punishment like disgrace or punishment should not be used as a deterrent--not because the latter is ineffective, but because the latter is inherently arbitrary⁶.

In societies that place value on human dignity and morality, corporal punishment is often considered uncivilised and cruel. There is also the concern that if corporal punishment has to be commensurate with the severity of the crime, excessive use of violence against a human being will sometimes be inevitable. Actually, corporal punishment is not necessarily less cruel than imprisonment. The psychological damage of long prison terms is not adequately understood. What is worse, financial considerations mean that the administrations of most prisons cannot prevent an inmate to be bullied, mugged, molested, or even murdered by other inmates. This is certainly potentially more inhumane than judiciously applied corporal punishment. Moreover, the severity of corporal punishment does not have to be positively related to the physical damage or impact done by a cane, a whip, or other penal gadgets. It can be positively related to the number of times the punishment is applied over an extended period of time. Thus, for example, a minor theft may warrant two whips. A more serious one or a repeated offence may warrant two whips per week for four weeks. A robbery may warrant four whips per day for a month.

⁶ There was a case in Hong Kong several years ago wherein a university student was convicted for shoplifting. The formal punishment was modest, but the act became front-page headline news in several local newspapers. The poor girl, unable to face the disgrace, committed suicide.

The case for corporal punishment based on justice grounds is that much stronger considering that the cost to different individuals for the same prison term may well be quite different. A single parent who has a two-year old at home and has a regular job may find his and his family's life shattered by a 6-month prison term and the loss of his job. Someone else who is single and has never had a job over the last ten years may find the 6-month prison term "a piece of cake." The abhorrence for physical pain, on the other hand, is universal.

6. Application III: Labour Market and Social Security

In many countries there exists legislations that prohibit discrimination based on sex or race, discrimination against people with certain disabilities, and discrimination against older workers. Using the *ex ante*, Rawlsian approach certainly discrimination against older workers belongs to a separate category. Behind a veil of ignorance, all individuals has the same chance to be a member of a given sex, race, or to be affected by a disability. If one belongs to a sex or to a particular race, one does not belong to another. Justice would require non-discriminatory employment practices. Old age, however, happens to everyone regardless of sex, race, or ability, even though there is a degree of variation in longevity. If jobs are scarce and promotion prospects are scarce, then mandatory retirement--which is considered a form of age discrimination, may increase the chances for everyone behind the veil of ignorance to get jobs and to be promoted. Thus mandatory retirement *may* be consistent with justice. However, mandatory retirement for a much more capable person in favour of a younger, far less capable person may not be in the social interest. A mechanism for dispensing with mandatory retirement under prespecified circumstances is not arbitrary

and thus may also be just.

In order to achieve non-discrimination in the labour market, institutional there has to be incentive for people not to discriminate. Women used to be and may still be discriminated against because the expected cost of hiring women or their productivity may be less favourable than men since they may become pregnant and may need maternity leave. Older people may be discriminated against if the cost of providing health insurance is higher for older workers or if firms are more likely to have to shoulder the cost of retirement benefits of older hires. Physically or mentally handicapped people may be less likely to be considered for work if employers find them generally less profitable to hire compared to other workers. Legislating against discrimination generally comes to no avail because in a market economy successfully surviving competition requires firms to be lean and to minimize cost. Imposing heavy penalties on some employers who are caught in a discriminatory act when competition force all employers to engage in discriminatory behaviour when they have the opportunity is unfair and unjust. This suggests that providing financial incentives that offset the inherent unattractiveness of women, the disabled, and older workers (other things being equal) is just. To the extent that firms are then able to compete on an equal footing independently of the age or sex composition of their employees this may also be efficient.

State-provided social security not only is important in reducing discrimination in the labour market, but is important in fostering fair competition according to merit among firms. In the People's Republic of China state and collective enterprises with a long history are now disadvantaged compared to newer private and foreign-funded enterprises because they are burdened with a heavy bill for retirees' benefits. As a result the principle of merit is

compromised. More fundamentally, state-provided social security is a direct application of the insurance principle, providing a safety net where private insurance fails. However, social security should not be meant to be redistributive as this would blunt the working of the principle of merit⁷.

7. Conclusions

In the foregoing we have argued that the Rawlsian, *ex ante* concept of justice is the only concept of justice that is "institution-relevant," and have examined how principles of institution design can be derived and applied from this concept of justice. In concluding this paper, it is useful to emphasize that this concept of justice is itself derived from the assumptions of rationality and fairness. It is also useful to note that the theory is consistent with a large degree of autonomy at the individual level and with the libertarian ideal of a minimal state, in contrary to what some critics of the Rawlsian theory of justice believe⁸.

We maintain that the eight principles of just institutions are derived logically by deduction from the basic premises of fairness, rationality, and aversion to large risks. Without denying Arrow's point that real life persons have different backgrounds and are unlikely to have common views on what is just and what is not, when incremental changes

⁷ Redistribution is not impermissible in a just society. Some degree of redistribution should be agreeable to rational individuals behind a veil of ignorance. See Proposition Four.

⁸ Norzick(1974) represents one of the foremost libertarian critiques of Rawls. Norzick's position is correctly pointed out by Kukathas and Pettit(1990) as misrepresenting Rawls, even though Norzick provided "the outline of a libertarian alternative, but not to undermine Rawls's theory." (p.91)

to real life situations are under consideration, we maintain that there is a difference between *fundamental justice* and *incremental justice*. Rawlsian, fundamental justice does not require a coincidence in views as to what is just. Instead, the assumptions of rationality, fairness, and aversion to extreme risks *dictate* the principles of just institutions as described above.

We note also that the principles of just institutions are consistent with a high degree of autonomy. Indeed, to the extent that individuals are assumed to value freedom and autonomy institutions that limit freedom and autonomy unnecessarily will not have passed the Rawlsian test for justice. Of the eight principles described above, the principle of equal opportunity has been held to be inconsistent with autonomy (Fishkin, 1983). According to Fishin, there is a "trilemma" and inherent incompatibility among three important principles: the principle of merit, the principle of equality of life chances, and the principle of autonomy of the family. He cited the case of a society that is dominated by a warrior class and noted that "fair competition" according to the principle of merit would inevitably favour the children of the warrior class at the expense of others. Equality of life chances would appear, then, to require state interference into the rearing of children, which would mean a loss of family autonomy (pp.30-43). Without disputing the logic of Fishkin's discussion, it must be pointed out that the merit of the Rawlsian justice concept lies in providing an approach towards evaluating and designing institutions. Rather than defining "the" just society and distinguishing it from unjust ones, the Rawlsian approach offers a way to differentiate "Rawlsian improvement" from "Rawlsian deterioration" in the same way that the Pareto efficiency concept allows us to tell "Pareto improvement" from "Pareto deterioration." Application of the Rawlsian justice concept does not, therefore, require perfect equality of life chances. Eliminating inheritance of wealth, status, or political power, state provision of

resources for nourishing and educating children, fair and open competition and a healthy safety net provided through a carefully designed social security system will have gone a long way towards establishing a just society.

References

Arrow, Kenneth(1950) "A Difficulty in the Concept of Social Welfare," Journal of Political Economy, 58: 328-346, reprinted in Social Choice and Justice, Cambridge: The Belknap Press of Harvard University Press.

Arrow, Kenneth(1973) "Some Ordinalist-Utilitarian Notes on Rawls's Theory of Justice," Journal of Philosophy(70): 245-263.

Fishkin, James S.(1983) Justice, Equal Opportunity, and the Family, New Haven: Yale University Press.

Ho, Lok Sang(1981) Value Capture: An Analysis of Policy Alternatives, University of Toronto Ph.D. dissertation.

Keynes, John Maynard(1936) The General Theory of Employment, Interest, and Money, London: Macmillan.

Kukathas, Chandran and Philip Pettit(1990) Rawls: A Theory of Justice and its Critics, Polity Press in association with Blackwell Publishers(Oxford).

Marx, K.(1867) reprinted 1962, Capital, Moscow.

Nozick, Robert(1974) Anarchy, State, and Utopia, New York: Basic Books.

Posner, Richard A.(1980) The Economics of Justice, Cambridge: Harvard University Press.

Rawls, John(1971) A Theory of Justice, Cambridge: Harvard University Press.

Sen, Amartya(1995) "Rationality and Social Choice," American Economic Review, Vol. 85,
no.1, pp.1-24.