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**Ľuboš Blaha**

# **SPÄŤ K MARXOVI?**

(sociálny štát, ekonomická demokracia  
a teórie spravodlivosti)



VEDA

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*„... nie je žiaden dôvod na to, aby extrémne rozdiely v nadaní, zdraví, intelektu či pracovných schopnostiach viedli k vytvoreniu takých štandardov a životných šanci, ktoré by odlišovali jedných od druhých.“*

Alva Myrdalová

*„Kapitalizmus voľného trhu zaisťuje len formálnu rovnosť a odmieta tak férovú hodnotu rovnakých politických slobôd, ako aj férovú rovnosť príležitostí. Zameriava sa len na ekonomickú efektívnosť a ekonomický rast...“*

John Rawls

*„Sociálny štát je dieťaťom politiky, a tak to bude aj v budúcnosti.“*

Gøsta Esping-Andersen

*„Kooperatívne podniky sú dôkazom, že kapitalista sa stal ako funkcionár výroby rovnako zbytočným, ako on sám na vrchole svojho vývoja považoval za zbytočného veľkého pozemkového vlastníka.“*

Karl Marx

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# Justice as pure effort

## Summary

In my book, I have attempted to present the basic problems of the theories of justice, particularly those of Utilitarianism, Egalitarianism, Libertarianism, Communitarianism and neo-Marxism. I have focussed on John Rawls' "theory of justice as fairness" and neo-Marxist contributions to the issue of social justice (e.g. Rodney Peffer, Kai Nielsen, Allen Wood, John Roemer, etc.). Since neo-Marxism is often ignored in the Central European political and philosophical discourse, I have tried to prove that neo-Marxist concepts and arguments cannot be omitted from the general discussion about social justice. Thus, the title of my book is "Back to Marx?". Yet, apart from Marxist and neo-Marxist arguments, the book also discusses other issues, including the history and philosophy of Welfare State, empirical and theoretical aspects of economic democracy and cooperatives, the philosophical analysis of freedom, effectiveness, property, etc. The fundamental argumentation draws on the *anti-accidental theory of justice* as an alternative to Rawls' theory of justice. The core of the anti-accidental theory of justice lies in the concept of *pure effort*. In the summary, I would like to present my basic argumentation for this concept as used in chapters 3 and 7 of the book.

The summary introduces the concept of pure effort as it emerges from Rawls' concept of elimination of natural lottery. Since Rawls' theory of justice is defined in terms of egalitarianism, anti-perfectionism and anti-meritocracy, my argument leaves aside the details of his theory and instead focuses on his concept of elimination of natural lottery. With regard to the concept of pure effort, I concentrate on Rawls' notion of anti-meritocracy, i.e., elimination of natural lottery, which expresses the conviction that natural assets are not morally deserved and as such cannot serve as a gauge in a discussion about justice.<sup>1</sup> Thus, Rawls's theory uses the concept of the veil of ignorance, which

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<sup>1</sup> See RAWLS, J.: *Teorie spravedlnosti*. Victoria Publishing, Praha 1994, p. 55. One of the greatest critics of the idea of natural lottery was R. Nozick, who accused Rawls of considering individual endowments to be collective ownership. Rawls strongly objected saying

in the contractualist model blinds individuals to the knowledge and awareness of their actual situation such as skills, wealth, etc. The “veil of ignorance” is instrumental in creating conditions of formal equality and impartiality, which constitute the basis of his theory of justice. However, in my view, Rawls’ inconsistent use of the element of natural lottery in his arguments significantly affects his ultimate formulation of the principles of justice.

Here it is important to emphasise that I borrow the concept of “natural lottery” from Rawls’ theory and employ it in a broader sense than offered by its usual, literal interpretation. By “natural lottery” I do not mean merely the assets resulting from natural, or, let us say, genetic coincidence, but also those resulting from a wider social coincidence. Thus, as discussed here, the term “natural lottery” includes all phenomena connected with distribution for which individuals cannot be held accountable because they are essentially the results of coincidence.

## 1. The Concept of Effort

First, it is important to concentrate on the category of primary goods. This category is a substantial starting point of Rawls’ contractualist conception; Rawlsian individuals, in their original position, without primary goods, would lack motivation in their decision-making as well as the object that should be distributed as a result of their decision. As we know, they find themselves behind the veil of ignorance, which deprives them of any knowledge of their situation, wealth or their related preferences. As such, they should be able to decide about the fair constellation of society without any bias. However, if they do not know anything about themselves, they do not know what they should desire and what the object of their interest should be. Hence, Rawls uses the idea of primary goods, which has contributed to a radical change in political philosophy. Until then, when discussing the issues of allocation

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that while this is not by any means the case he does believe that the theory of justice should clearly address the issue of how society responds to the ownership of individual endowments and the subsequent process of distribution. Rawls even refused to question the idea that, in terms of morality, endowments cannot be viewed as deserts. In his opinion, the statement that deserts (in the sense of moral deserts) presuppose a degree of conscientious effort of will, or something intentionally or willingly done, while natural endowments are bestowed regardless of will, is evident moral truism in all reasonable moral doctrines. (See RAWLS, J.: *Justice as Fairness. Restatement*. Belknap Press of Harvard University Press, Cambridge, Massachusetts 2001, pp. 74-76).

and distribution of resources, political theorists had concentrated mainly on individuals' achievements either in the form of utility, or of welfare. This approach is called *welfarism*.<sup>2</sup> On the contrary, Rawls turned his attention to the *means* of achieving ultimate satisfaction. Rather than focusing his analysis on the end state, he concentrated on the basic preconditions for any achievement, and thus, in principle, on the concept of opportunities.<sup>3</sup>

Institutional justice, in Rawls' understanding, does not pertain to mere individual desires, preferences or interests; it pertains to the most general preconditions for any purposeful human activity. According to Rawls, such preconditions are liberties, wealth and self-respect (or the social basis for self-respect).<sup>4</sup> The primary good of self-respect plays a conclusive role in Rawls' conception, as its fulfilment is provided by the principles of justice in general. The questions of liberty and wealth are solved, respectively, by the following two principles of justice. One sets equal liberties for everyone; the other defines fair equality of opportunities and of tolerated inequalities in incomes and wealth, if they are to be of the greatest possible benefit to the least-advantaged members of society (the difference principle).

As we can see, primary goods play a fundamental role in Rawls's theory. However, is Rawls' employment of primary goods consistent with his own preconditions and presumptions? At first glance this does not seem to be the case, at least in one instance. The concept of primary goods clashes with Rawls' presumption of elimination of natural lottery, mentioned earlier in connection with his concept of anti-meritocracy. As we know, Rawls argues that natural assets and inborn endowments of individuals are the result of genetic and social coincidence. Rawls mentions natural lottery to emphasise that no one can be held morally accountable for the fact that nature did not endow them with enough talent or abilities or that they were not born into a favourable background; no one morally deserves to inherit a large fortune such as money, land, real estate... Thus, the distribution of the primary goods, which is a mere consequence of our birth, carries no moral weight or no sign of justice, being a product of coincidence and not of individual responsibility.

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<sup>2</sup> See ROEMER, J.: *Theories of Distributive Justice*. Harvard University Press 1998, p. 127

<sup>3</sup> See SEN, A.: *Inequality Reexamined*. Oxford University Press, New York 1995, p. 33

<sup>4</sup> In a later work entitled *Reply to Alexander and Musgrave*, Rawls included in primary goods the concept of leisure time, which, however - like that of self-respect - did not find an explicit expression in his principles of justice. (See RAWLS, J.: *Collected Papers*. Harvard University Press, Cambridge 2001; see also PEFFER, R.G.: *Marxism, Morality and Social Justice*. Princeton University Press, New Jersey 1990, p.131, 364)



Although we may agree with Rawls' assertion that we have no moral responsibility for our natural endowments because they are not the result of our choice but rather of coincidence, whether there is such a thing as freely chosen effort of an individual is questionable. (One person, for instance, freely chooses hard work to achieve their goals while another person freely chooses idleness and passivity. Is there any moral responsibility for these decisions?) According to B. Barry, since even what outwardly seems our own effort is nothing but a result of genetic coincidence, of social influences or of cultural background, there is no case for moral responsibility. If we apply Rawls' argument of elimination of natural lottery consistently, according to Barry, we cannot at all talk about individual deserts for these will always flow naturally from undeserved endowments of an individual regardless of their own will.

However, if we interpret Rawls in such a strictly determinist manner, then it is not clear why the Rawlsian *maximandum* is an index of primary goods and not of achievements, that is, of the degree of fulfilment of life plans. Primary goods are only the means, or so to say, opportunities to achieve personal desires or life-plan fulfilment. However, if individuals, according to the logic of elimination of natural lottery, do not carry moral responsibility for how they utilize the primary goods, then why should any consideration of justice take interest in the means of achieving life goals?

For the sake of justice we should rather ask about achievements, and accordingly concentrate on welfarist concepts such as utility, happiness and welfare. Thus, we should not appeal to a fair approach to opportunities, but rather to a fair distribution of achievements. This implies that if Rawls wants to be consistent in discussing primary goods, he should admit that individuals have at least partial moral responsibility for the effort they make to fulfil their life plans.<sup>5</sup>

<sup>5</sup> See ROEMER, J.: *Theories of Distributive Justice*. Harvard University Press 1998, p. 172-173. In this paper I disagree with Barry's deterministic interpretation of natural lottery only with respect to the concept of pure effort of individuals. Rawls neglects his concept of natural lottery also in dealing with the issue of one's choice of life plan. Yet, according to Marxist M. Fisk, this liberal premise results from the very narrow atomistic psychology, by which a person freely chooses their projection of life. Fisk and the majority of Communitarians and neo-Marxists argue, on the contrary, that the life plan is chosen by an individual according to their dispositions and other aspects that determine their character. These aspects are morally arbitrary, so the idea of natural lottery may apply here as well. (See FISK, M.: *History and Reason in Rawls' Moral Theory*. In: DANIELS, N. (ed.): *Reading Rawls. Critical Studies of a Theory of Justice*. Basic Books, Inc., Publishers, New York, p. 71)

Rawls's theory brings a wealth of evidence to illustrate his emphasis on individual responsibility for how individuals use the primary goods at their disposal. One could even say that he does not regard individual responsibility as problematic at all, so in this respect his concept of primary goods is adequate. However, as I would like to point out, by his attitude Rawls neglects a wide range of problems. I would like to focus on two basic issues: First, Rawls ignores the problem of the inequity of possibilities and opportunities of people in their use of primary goods, and thus cannot adequately apply the idea of elimination of natural lottery; second, he wholly disregards a phenomenon which could be termed "individual effort", and which in my opinion plays a key role in developing the idea of elimination of natural lottery.<sup>6</sup>

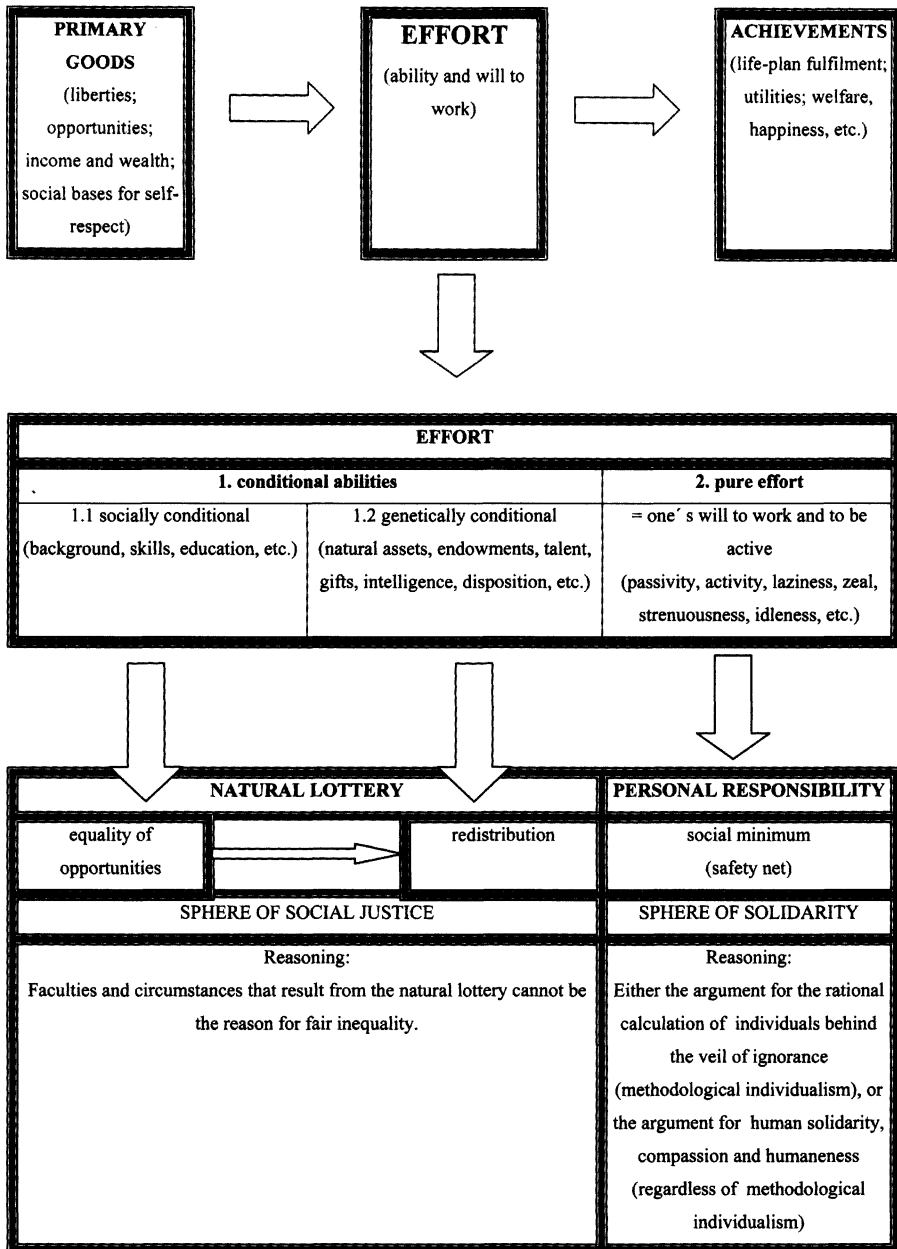
First and foremost, it is necessary to answer a question that Rawls left open. The question is: Where is the hypothetical border at which the effort of an individual is the result of natural lottery, i.e., the result of social, cultural and genetic influences (let us term this *conditional effort*), and, conversely, the border at which the effort of individual begins producing its own value (let us call this *pure effort*)? Let me start with an example. While it is easy for a gifted poet to write a poem or for a gifted business person to generate profit, it takes extreme effort for an individual without artistic endowment to write a single line or for a person without a business bent to earn a cent on their investment. Obviously, both cases illustrate *conditional effort*, for it does not result from the decision of an individual to actively engage in some purposeful activity, but rather from their abilities, which are the result of their genetic endowments or social circumstances, i.e., natural lottery. However, if we take the idea of elimination of natural lottery seriously, individual endowments cannot be sufficient moral reasons for social inequality, and in such case we simply cannot speak of moral responsibility of an individual.

Now let me present the problem in a scheme and view the idea from a different perspective (see Table 1). When we study the amount of effort exerted by an individual as a result of their abilities in order to achieve their goals, we are in fact considering a virtual space located between the presence of primary goods and the final state of achievement, which can be termed the *effort* of an individual. This area is subdivided into conditional abilities of an individual and their pure effort. *Conditional effort* includes *socially* conditional abilities, e.g. education, background and/or upbringing; and *genetically* conditional

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<sup>6</sup> See for example SEN, A.: *Inequality Reexamined*. Oxford University Press, New York 1995, p. 149

**Table 1:** How far does natural lottery reach? (The concept of effort)



abilities, e.g. endowments, talent, gifts, intelligence and/or disposition. On the other hand, *pure effort* consists in the willingness of an individual to self-improve, or engage in some purposeful activity, and thus includes qualities such as passivity, activity, laziness, zeal, strenuousness, idleness, etc. I claim that while everyone has moral responsibility for their own *pure effort*, an individual cannot be held morally accountable for abilities that are conditional on moral coincidence (natural lottery), and that cannot be referred to when discussing justice. *Socially conditional* factors (education, background, upbringing) can be generally covered by the idea of equality of opportunities (for example equal access to education), but *genetically conditional* factors (talent, endowments) do not allow for the application of the concept of opportunities, and thus require the factor of redistribution or another principle of justice as we will see later.

While equal initial conditions for everyone (quality education, material background and opportunity for purposeful work) are necessary for social justice to be exercised, they by no means exhaust the concept. In the above case we apply the idea of elimination of natural lottery only in the sphere of primary goods. In other words, we deal with the fair distribution of basic preconditions for particular life-plan fulfilment, but neglect the question as to how individuals employ them. If someone proves to be more able or is luckier in “capitalising” on their fundamental preconditions (primary goods), is that the reason for moral justification of inequalities? According to Rawls the answer is yes. However, then we should ask: Why does the validity of the argument of elimination of natural lottery suddenly expire in Rawls’ logic? Indeed, we have seen that pure effort of an individual (i.e., their will to work) is the only thing that morally matters, or more precisely the only thing that should not be subject to natural lottery. If we want to follow the idea of elimination of natural lottery consistently, we should strictly distinguish between *pure effort* of individuals (personality traits such as laziness, strenuousness, passivity, activity) and *conditional abilities* of individuals (endowments, intelligence, education etc.).

## **2. Justice only for the talented?**

The issue of effort and responsibility, or the above-mentioned hypothetical space between primary goods and achievements is not problematic for Rawls. He concerns himself only with the distribution of primary goods and reserves the decision of how to use them for individuals. However, it is evident that

primary goods have only an instrumental value and not a value *per se*. They are important only because they offer opportunities to achieve things that really matter, i.e., the needs and desires of individuals. By focusing solely on primary goods, Rawls stops short of a set of phenomena we could call “liberal justice of opportunities.”

As we know from Rawls’ second principle of justice, the distribution of primary goods (in this case of wealth and incomes) is fair if equal opportunity is guaranteed for everyone. In the second principle of justice, Rawls gives the idea of equality of opportunities a more tangible form when he talks about fair opportunity for education, offices and work positions. However, as pointed out by A. Sen, Rawls’ use of elimination of natural lottery is completely out of question. When Rawls states that everyone should have an opportunity for any office or position, he speaks of typical liberal equality of opportunities, which means that though everyone has a formal (even fair) possibility to enter a competition for any position, only the best, the most intelligent, and the luckiest will succeed.

Rawls does not confine himself only to the notion of “careers open to talent” (the emphasis on this kind of equality was adequate historically, when the system of aristocratic privileges and limitations was in fashion; presently we can consider this equality automatically, without any supporting argument<sup>7</sup>) and speaks about a more extensive equality of chances (mainly equal access to education). Nevertheless, this can only be termed the formal equality of opportunities. If the idea of elimination of natural lottery were valid, there would be no moral reason why less able and less talented (though equally hard-working) individuals should lose out only because nature did not endow them with enough talent or abilities to perform specific functions regardless of their equal access to education. If Rawls had developed the idea of elimination of natural lottery in a truly consistent way, he would have attained some kind

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<sup>7</sup> In the past, critics of the limited concept of equality of opportunities used to apply the term “the *formal equality of opportunities*” to the very concept of “careers open to talent.” In my considerations I find the concept of “careers open to talent” self-evident (in meaningful deontological moral argument there is no way to justify aristocratic privileges) and I reserve the term “the formal equality of opportunities” for the concept of *equality of chances*. Today, it is unnecessary to emphasise the factor of “careers open to talent” as it is the inherent presumption of the concept of equality of opportunities. While in the case of “careers open to talent” we can talk about meritocracy, in the case of equality of chances I have in mind *modified meritocracy*, because it arises from the state’s interventions in the interest of the fulfilment of equal access to education, etc. In the case of *real equality of opportunities* (see Table 2) we can talk about the negation of the principles of meritocracy.

of *positive discrimination*, because only in this way can we render the idea that individual natural assets are no moral matter as relevant.<sup>8</sup>

However, in this case Rawls rather preferred the principle of greater effectiveness to that of elimination of natural lottery. Undoubtedly, his attitude was correct in this respect - indeed, we do not place the most significant positions in the hands of less able and less intelligent individuals who would not be able to perform their duties successfully.<sup>9</sup> What is rather surprising is that Rawls ignored the issue altogether, for if we incorporate the aspect of greater effectiveness into our discussion of equality of opportunities, we still have to bear in mind that it is effectiveness that we are talking about and not justice. At the same time, we have to insist on keeping a balance between these two values (justice and effectiveness).<sup>10</sup> Thus, it seems reasonable to defend the idea of positive discrimination for the sake of justice while seeking due balance between positive discrimination and proper job performance (see Table 2) and not to require completely random distribution of functions or positions, even though this would probably be the only consistent fulfilment of the idea of elimination of natural lottery. In line with the concept of elimination of natural lottery defending the idea of positive discrimination appears reasonable, but

<sup>8</sup> For more detail see SEN, A.: *Inequality Reexamined*. Oxford University Press, New York 1995, p. 145-147. Neo-Marxist G.A. Cohen criticizes Rawls in a similar way. (For more detail see ROEMER, J.: *Theories of Distributive Justice*. Harvard University Press 1998, p. 184-185)



<sup>9</sup> We should remind, in line with M. Walzer, that at present many positions require only minimal qualifications, so most vacancies can be filled regardless of the qualification/educational background. Thus, this problem is not crucial to the theory of justice. (See closer WALZER, M.: *Spheres of Justice. A Defense of Pluralism and Equality*. Basic Books, Inc., Publishers, New York 1983, p. 135-136)

<sup>10</sup> As shown further, it could be argued that, in terms of fair distribution of opportunities, I take into consideration the value of effectiveness, which is excluded from the discussions about fair distribution of material resources. This might indicate some inconsistency. However, as I would like to note, I clearly and purposely distinguish between the significance of effectiveness in the sphere of material resources and its significance in the sphere of opportunities. Similar to Marx in certain interpretations, I draw on the value of self-actualisation, which to me is the essence of the concept of needs as well as that of social justice. While filling positions based on mere positive discrimination is not in the interest of individuals with regard to their self-actualisation needs (it is not in the objective interest of self-actualisation or any other needs of an individual to occupy position or take an office which is beyond their capacity), in the sphere of economic distribution, this provision is not valid and there is no reason to yield to the value of effectiveness, if we have a reasonable assumption that the value of effectiveness can interfere with the consistent understanding of social justice.

it is also necessary to seek due balance between positive discrimination and effective management and good job performance.

Thus, *comprehensive equality of opportunities* constitutes a balance between the *real* equality of opportunities (positive discrimination) and *formal* equality of opportunities (the equality of chances). It is not the objective of political philosophy (at least on this level of abstraction) to outline this balance, as well as it is not the objective of political philosophy to outline, for example, “the greatest benefit to the least-advantaged members of society” in Rawls’ difference principle.<sup>11</sup> Specification of this balance depends on the shared understandings of a particular society. The essence of my moral reflections lies in the fact that we should bring the phenomenon of natural lottery into the discussion of equality of opportunities while insisting on a certain degree of positive discrimination - it is the only way to ensure fair equality of opportunities. This is the essence of the concept of comprehensive equality of opportunities that I offer as an alternative to the traditional understanding. To leave out the issue of positive discrimination means to give up on the development of the idea of elimination of natural lottery (authored, paradoxically by Rawls, who should therefore fully understand its meaning).

**Table 2:** Rawls’s second principle of justice (a) fair equality of opportunities (redefinition)

JUSTICE	EFFECTIVENESS
Distribution regardless of genetically and/or socially conditional abilities	Distribution according to genetically conditional abilities, but regardless of socially conditional abilities
	
Positive discrimination (negation of meritocracy)	The equality of chances (modified meritocracy)
<b>Real equality of opportunities</b>	<b>Formal equality of opportunities</b>
<b>COMPREHENSIVE EQUALITY OF OPPORTUNITIES</b>	

<sup>11</sup> I am grateful to Prof. F. Novosád and Prof. M. Kusý for their pointing to my insufficient specification of the balance between the real and formal equality of opportunities.

### 3. Redefinition of the Difference Principle

Let me continue in the brief excursion into Rawls' second principle of justice. If formal equality of opportunities cannot help to provide justice, the subsequent difference principle does, in Rawls' opinion, assure that inequality of ability will be mirrored in income inequalities only on the condition that these are of the greatest benefit to the least-advantaged members of society. Thus, the difference principle requires redistribution, however, redistribution regardless of whether or not the disadvantaged position is the consequence of the failure of one's *conditional effort* or whether it is the consequence of non-use of their potential *pure effort*. This means that redistribution is exercised regardless of whether the person is not able or intelligent enough or whether they are lazy and idle. Rawls did not analytically discern the category of effort. He arrived at the difference principle only through the application of elimination of natural lottery to primary goods (through the use of the veil of ignorance). Hence, he could not extend his understanding of the principle of social justice beyond the difference principle. Nor could he make distinction between fair distribution in favour of rectifying economic inequalities and the requirement of social minimum. Finally, he could not arrive at the argument that would reach beyond the utilitarian calculus of rational individuals in an uncertain situation.

I will attempt here to analyse in more detail the concept of effort as outlined earlier. As we can see, the difference principle only acts as a safety net for the people who cannot (or do not want to) "turn their opportunities into cash". The difference principle requires the greatest benefit for the least advantaged from tolerated inequality, but is not strict in its requirements mitigating this inequality. Though Rawls appeals for the reduction of economic inequalities (at least up to the point where it does not jeopardize self-respect of the least-advantaged), the wording of his difference principle implies the requirement of social minimum.<sup>12</sup> In the case of individuals who do not wish to

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<sup>12</sup> Moreover, this requirement is not strictly stated either. Rawls assumes that the acceptance of economic inequality is also the way of maintaining a minimum acceptable level of productivity in poor societies. On the contrary, achieving the greatest benefit for the least-advantaged members of society does not necessarily lead to a dignified income for all. All it depends on is the level of wealth in society. The advantaged persons can always claim that if more of their wealth were redistributed in favour of the disadvantaged, productivity would suffer. In this light it seems that Rawls' difference principle is of questionable benefit for the disadvantaged.



make any effort and voluntarily choose idleness over labour (absence of pure effort), we, of course, can talk about the moral responsibility of their choice. And in keeping with basic intuition of justice, they deserve nothing more than a guaranteed social minimum safety net. In such a case perhaps we cannot find better justification of redistribution within methodological individualism than Rawls's rational calculus of a participant in the contractualist model in an uncertain situation. Such a rational individual does not distinguish between *socially conditional effort* and *pure effort*, and thus chooses social minimum merely for the sake of security.<sup>13</sup>

However, how should we treat those who wish to work and do make an effort, but are not successful for reasons beyond their control? How should we treat those who are not that fortunate? Or those who do not possess the endowments or talent to create things valued and appreciated by others in the market? How should we treat those who are not intelligent enough to achieve success? How should we treat those who are disabled or otherwise indisposed? Imagine that all these people possess an honest zeal for work. Although we give them the same quantity of primary goods (to speak metaphorically), it is difficult to expect that they can exploit this opportunity to the same extent as a healthy, intelligent and skilful individual with a good background and a great deal of luck. To provide these people with mere opportunity is not enough, especially in a market environment.

Alva Myrdal puts the basic idea of elimination of natural lottery in these terms:

*"...there is no reason that extreme differences in endowments, in health, in intellect, or in work capacity should lead to an assignment of standards and life chances that differentiate some from others."*<sup>14</sup>

If we consider the idea of elimination of natural lottery relevant, we cannot make an individual who is confined to a wheelchair accountable for the fact that they cannot provide for themselves as efficiently as a healthy individual.

<sup>13</sup> One of the most reliable means of solving this problem of humanity is through guaranteeing basic income for everyone – a suggestion analysed in detail by Van Parijs. Although I have some reservations about this concept, I find it very impressive. (See closer WRIGHT, E.O. et al.: *The Debate on Classes*. VERSO, London, New York 1998, p. 238-240; see also VAN PARIJS, P., HRUBEC, M., BRABEC, M. et al.: *Všeobecný základní příjem*. FILOSOFIA, Praha 2007)

<sup>14</sup> HECLO, H., MADSEN, H.: *Policy and Politics in Sweden. Principled Pragmatism*. Temple University Press, Philadelphia 1987, p.175

Moreover, the same logic is valid also in less drastic cases: we cannot hold an individual accountable for the fact that they were not endowed by nature with a certain amount of intelligence, abilities, talent or gifts to provide themselves and their family with a dignified standard of living. To brush aside the problem of such individuals by pointing to formal equality of opportunities means to dodge consequent solution of the issue of social justice, i.e., the idea of elimination of natural lottery. To cover this problem with the difference principle means to ignore the difference between those who do not want (*pure effort*) and those who cannot (*conditional effort*). This problem is not only theoretical but also practical. With regard to those who do not want to work, we cannot arrive at a requirement of equalizing economic inequalities, if our considerations are based on meaningful arguments, since, in such a case, the idea of elimination of natural lottery is not valid. However, with regard to those who do want but cannot or are not able to do something (for more precision we can use the category of *conditional effort*), for the sake of justice it is necessary to require equalization of economic inequalities. Hence, it is not enough to merely guarantee social minimum and consider the issue of justice only in terms of benefits and utilitarian calculus of the parties to a hypothetical social contract.

Table 1 illustrates the above arguments more clearly. While in the area of *conditional effort* we find ourselves in the sphere of social justice (because we use the idea of elimination of natural lottery), in the area of *pure effort* we find ourselves in the sphere of personal responsibility of an individual. Thus, in the case of *conditional effort* we can require equalizing mechanisms of justice, but in the case of *pure effort* we can, at most, appeal for social minimum, and eventually for a guaranteed minimal income for everyone.

The argument in the domain of personal responsibility can either stem from methodological individualism (e.g. the Rawlsian model or the use of maximin or insurance strategy in another rational choice model), or from considerations of natural human solidarity, moral duty to help those who suffer, and eventually to appeal to human compassion or idea of humanity, i.e., the idea that no man or woman deserves to live as an animal. However, in the sphere of personal responsibility we do not operate with the idea of justice, but rather with the ideas of humanity and natural human solidarity. It is true that justice implies equality, but it is very difficult to support the idea that those who do *not* make an effort have the same entitlements as those who do. Rather, justice implies the idea of *deserved equality*, suggesting that it is necessary to provide equality for people whose inequality is the consequence of circumstances for which they cannot be held accountable.

Naturally, we cannot consider it fair if individuals suffer from extreme scarcity of resources while others live in luxury, even if the disadvantaged are responsible for their conditions (i.e., those voluntarily idle to give an extreme example). On the other hand, the ultimate requirement of social justice is not the same income both for the zealous and for the idle, but only social assistance to provide a deficient person with a minimum dignified standard of living. However, such social assistance or social minimum cannot be a sufficient criterion in the sphere of justice as specified in Table 1. In this sphere the requirement of rectifying the inequalities is strict.

In the sphere of social justice as illustrated in Table 1, we have a double solution. If we consider *socially conditional* abilities of individuals, we can eliminate the problem by consistent implementation of the concept of comprehensive equality of opportunities which is, as can be seen in Table 2, a combination of real and formal equality of opportunities. If this principle is fulfilled (it is necessary to emphasize that *only if* this principle is fulfilled), we can begin to distinguish between justified claims of those whose abilities are *genetically conditional* and those who are personally responsible for their activities. In the case of persons who are judged under the category of *genetically conditional* effort (this includes almost everyone except a few pathological slackers) justice requires rectification of inequalities and implementation of equality. In the case of those from the category of *pure effort*, justice at most requires social assistance, or a guaranteed social minimum.

As we can see, Rawls' neglect of the issue of effort has consequences not only on the level of argument (it is practically impossible to depart from the utilitarian-like argument of mutual benefits, offered by Rawls), but also on the level of results (it is impossible to distinguish between entitlements of active persons and those of idle persons). However, Rawls' most serious problem is in that he failed to consistently apply his idea of elimination of natural lottery to his difference principle for which he admits the inequality in distribution of incomes and wealth in favour of the higher overall effectiveness for the benefit of the less advantaged.

Following the issue of distribution of primary goods, we should make provisions for the fact that the needs of people do not differ only in terms of their life plans, but mainly in terms of unequal abilities of an individual. We can agree with Sen that the needs of a disabled person are surely more costly than those of a healthy person. This does not have to mean that fair distribution is such that allocates the largest amount to the mentally affected just because their needs are often most difficult to meet. All it means is that strict equality in distribution of primary goods is insufficient, and also that instead of

inequality in favour of the most able, we should rather consider reallocating resources in favour of the less able. But Rawls states quite the opposite.

Rawls' solution presented in his difference principle lies in the idea of providing more able individuals (specifically those who are able to perform well in a market environment) with more resources while letting less able persons (i.e., persons who are in the least advantaged position in terms of opportunities and incomes) derive the greatest benefit from that. However, Rawls's idea is more tenable through effectiveness than through justice. Justice rather requires the relevant moral emphasis on the idea of elimination of natural lottery, thus allowing unequal distribution not in favour of the more able but, contrariwise, in favour of the disadvantaged. Those who are at a disadvantage have the entitlement for higher incomes and related guarantees on the grounds of their disabilities, i.e., either physical or mental or of those resulting from the absence of talent and endowments.<sup>15</sup> Inequalities in disposing of primary goods like opportunities, wealth and incomes are in this case tenable due to the more costly needs of, for example, the disabled and diseased individuals.<sup>16</sup>

If we reverse Rawls's difference principle in line with the above argument, we, too, will arrive at the requirement of fair inequalities in the distribution of primary goods (and subsequently incomes), however, with two fundamental changes: the first turning point vis-à-vis Rawls' difference principle is in the provision that an adequately higher income and more property is provided for the least-advantaged social groups (diseased, disabled, etc.); the second turning point vis-à-vis Rawls is in the proviso that this inequality is to be of

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<sup>15</sup> As I was rightly warned by E. Bárány, while disabilities require higher costs, lower abilities generate lower output but do not generate more extensive needs. I am grateful for this comment, which, of course, is adequate. In the case of lower abilities we cannot suppose more extensive needs than with the more endowed individuals, and hence it is impossible to justify the unequal lump-sum distribution in favour of the less advantaged. Thus, my formulation only pertains to the disabled; with the less able, we can only suppose the same level of needs as with the more able. So, in the latter case we can only draw on equalising their resources rather than exceeding the flat amount.

<sup>16</sup> If we accept the requirement of inequality regarding more costly needs of some individuals, we do not disturb the deontological space, because in this context the needs have the value *per se*. This is not consequentialism. On the other hand, if we argue in favour of inequalities for the more able in order to achieve more effective production, we use the pure consequentialist argument. If Rawls wants to remain in the domain of deontological theories, he should not resort to this kind of argument. However, his difference principle using the argument of effectiveness obviously moves away from the presumptions of deontological theories.

the greatest benefit to the most advantaged as well (and thus to the most able persons from a market point of view).

In his difference principle, Rawls' primary concern is effectiveness because he tolerates inequalities in favour of the more able to achieve the maximum. Only then does he concern himself with the way in which these inequalities will be harmonized with the idea of social justice (thus he talks about the subsequent provision of the greatest benefit from inequalities for the less advantaged). However, if justice is our primary concern (i.e., the elimination of unjust consequences of natural lottery), we first admit inequalities in favour of saturation of the needs of the least advantaged and only residually focus on effectiveness, i.e., on the question of to what extent would inequalities in favour of the less fortunate influence the overall effectiveness of society, and so also the benefit of the most advantaged. Hence the revised wording of the difference principle would be as follows:

Social and economic inequalities are to be allowed *only in favour of the saturation of more costly needs and life-plans of the least-advantaged members* of society, but these inequalities are to be of the greatest benefit *also to the most advantaged members of society*.

The basic problem is whether the emphasis is put on the value of justice or on the value of effectiveness. I believe that Rawls' approach achieves a certain balance, favouring effectiveness over justice. Conversely, my approach achieves balance via justice first and only then effectiveness (see Table 3). If we were to examine the principles of effectiveness in a broader sense of the word, Rawls' approach might prove adequate. However, if Rawls explicitly seeks the *optimum* principle of distributive justice, he should naturally emphasize justice over effectiveness.

Thus, in line with Sen's concept of *functioning* we can claim that it is equally necessary to consider the *abilities* of an individual (effort) as it is through these abilities that opportunities are transformed into achievements. In the reverse case liberal justice would only be a kind of justice for the talented, able and lucky individuals and not justice for all. Hence, consistent application of Rawls' idea of elimination of natural lottery presupposes that reflections on social justice take account of individuals' abilities and effort as well as of personal responsibility for their skills and choice of goals.

In general, the concept of social justice, which takes serious account of the idea of elimination of natural lottery, requires rectification of all socio-economic inequalities that are not the consequence of moral responsibility

**Table 3:** Rawls' second principle of justice, (b) difference principle (redefinition)

Rawls' Difference Principle		Justice-based Difference Principle	
1. Effectiveness	2. Justice	1. Justice	2. Effectiveness
Inequality of income and wealth in favour of the more able in the market	The greatest benefit to the least-advantaged members of society	Inequality of income and wealth in favour of the less advantaged in the market	The greatest benefit also to the most advantaged
Original proposition: <i>"Social and economic inequalities are to be arranged so that ... they are to be of the greatest benefit to the least-advantaged members of society."</i> <sup>17</sup>		Amended proposition: Social and economic inequalities are to be allowed only in favour of saturation of more costly needs and life-plans of the least-advantaged members of society, but these inequalities are to be of the greatest benefit to the most advantaged members of society as well.	

of an individual for their effort. Thus, it requires positive discrimination in favour of the less able and the disabled in the first sphere of opportunities and the highest material equality in the second sphere of wealth and incomes. The inequality in redistribution is to be tolerated only in favour of the least advantaged and in meeting of their more costly needs. If we extend the concept of social justice by external considerations on effectiveness, we can find balance between positive discrimination and effective management of society, and secondly we can subordinate the idea of highest material equality to effective production in a way to make social redistribution economically viable.

The concept as presented is valid on the condition that Rawls' general premise is valid, i.e., that the original distribution is provided by market mechanism and only subsequently by redistribution on the basis of social justice. However, the concept of pure effort can be used also more plausibly, if the market distribution in the production process (specifically, in the labour market) is replaced by the principle of deservingness based on pure effort. This concept, which is the essence of alternative criteria of justice, will be developed in the following section of the summary.

<sup>17</sup> RAWLS, J.: *Politický liberalizmus*. SLOVACONTACT, Prešov 1995, p. 5

#### 4. Criteria of deservingness

I will begin with the question of deservingness, which is, along with needs, the fundamental criterion for theories of justice. There is no doubt that the question of deserts is a key component of any theory of justice. In general, no theory of justice can evade the problem of individual rewards, and if a theory does evade it, then it does so because such a theory solves the problem of rewarding via spontaneous social mechanism presently found in the market. Thus, the question of deserts is present in all theories of justice, though sometimes only implicitly. Namely, if we conceive the idea of deserts more broadly, they will not be confined only to moral desert, but will incorporate any matrix of individual rewards based on the performance of an individual. Any reward of individual performance is the criterion of deservingness and thus at least an implicit principle of justice.<sup>18</sup>

With regard to the concept of deserts, it is necessary to emphasize that deservingness never occurs automatically, but always depends on some co-operative scheme or more precisely on the institutional basis of a particular society. If this basis is modelled purely on market relations, we arrive at the concept of deserts based on market rewards. If this basis is modelled on other relations (e.g. inherited privileges and feudal relations), we come to a different concept of deserts (e.g. aristocratic moral deserts). The concept of deserts is never neutral and always presupposes some more or less “fair” scheme of cooperation.<sup>19</sup> Hence we cannot understand deserts as immune to questions of fair distribution and fair specification of the fundamental institutional basis, as defined by Rawls. This is one of the reasons why Rawls chooses the category of legitimate expectations instead of the category of deserts, since deserts cannot be specified regardless of the character of institutional basis. The category of deserts presupposes that a person is entitled or has an automatic right to anything that they have achieved through their ability to utilize for their own

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<sup>18</sup> My understanding of the concept of deserts differs from that presented by Walzer in his *Spheres of Justice*. Walzer is concerned with the deserts only in the sphere of recognition or in the sphere of offices. As outlined earlier, my concept is broader because I include in the concept of desert any matrix of individual reward based on the performance of an individual. However, Walzer’s analysis of the deserts deserves attention. (See WALZER, M.: *Spheres of Justice. A Defense of Pluralism and Equality*. Basic Books, Inc., Publishers, New York 1983, pp. 129-165 and 259-268)

<sup>19</sup> See RAWLS, J.: *Distributive Justice*. In: PHELPS, E.S. (ed.): *Economic Justice*. Penguin Books Ltd., Baltimore 1973, p. 344. See also SANDEL, M. J.: *Liberalism and the Limits of Justice*. Cambridge University Press, Cambridge 1982, p. 75-76

purpose the rules and laws of the cooperative scheme in which they exist. The concept of legitimate expectations presupposes that an individual may receive their legitimate reward to which they are entitled only if the cooperative scheme is specified in a fair way. In a word, nobody has automatic right to the rules that would make their abilities advantageous for themselves.<sup>20</sup> To quote G. Dench together with Z. Bauman:

*“The idea that the desert and only the desert must be rewarded can be easily transformed into the self-celebrating privilege through which the powerful and successful can legitimise their large benefits from the social resources.”*<sup>21</sup>

A theory of justice can stem from deservingness as the prime principle (e.g. MacIntyre) or the complementary principle (e.g. Joel Feinberg) or it can refuse deservingness altogether for the sake of a different criterion (e.g. Rawls). However, the question of deserts cannot be ignored by any relevant consideration of justice. The theories based on deserts as the prime criterion of justice usually define distributive justice in a classic Justinian way: “*sum cuique tribuere*” (give each man their own).<sup>22</sup> However, how do we recognize what justly belongs to a person? How do we determine what a person deserves? How do we define a desert?

<sup>20</sup> See RAWLS, J.: *Justice as Fairness. Restatement*. The Belknap Press of Harvard University Press, Cambridge, Massachusetts 2001, p. 78. See also RAWLS, J.: *Teorie spravdnosti*. Victoria Publishing, Praha 1994, p. 71-72. See also SANDEL, M. J.: *Liberalism and the Limits of Justice*. Cambridge University Press, Cambridge 1982, p. 72. This is one of the reasons why Rawls refuses the concept of deserts in general. Rawls lists further reasons for refusing the concept of deserts: 1. the impossibility of the realization of the criterion “to each according to their deserts”; 2. the immorality of this criterion due to the idea of elimination of natural lottery; 3. the immorality of this criterion due to the assumption that the concept of needs better represents the idea of justice than the concept of deserts. (For more detail see RAWLS, J.: *Teorie spravdnosti*. Victoria Publishing, Praha 1994, p. 186-188)

<sup>21</sup> BAUMAN, Z.: *Komunita*. Vydavateľstvo Spolku slovenských spisovateľov, spol. s r.o., Bratislava 2006, p.48. Libertarians such as Nozick, Feinberg or Sterba tried to replace the category of desert with the category of entitlements. If the category of deserts immediately raises questions about moral relevance, such questions do not emerge when talking about the entitlements. However, by replacing the category these authors could not find legitimization for market distributions from the moral point of view and merely dodged the moral aspect. (See NIELSEN, K.: *Equality and Liberty. A Defense of Radical Egalitarianism*. Rowman & Allanheld, New Jersey 1985, p. 111)

<sup>22</sup> See NIELSEN, K.: *Equality and Liberty. A Defense of Radical Egalitarianism*. Rowman & Allanheld, New Jersey 1985, p.11



In order to explain the concept of desert, let me remind that the basic criteria of deserts in the broadest sense of the word generally include: first, *moral deserts* as defined by social practice and consensus (such treatment of the concept is offered by some Communitarians, e.g. MacIntyre); second, *market deserts*, as defined by good luck and chance in the environment of market mechanism as well as by ownership or entrepreneurial talent and abilities (a concept used by most Liberals); third, *labour deserts*, as defined by time usage on the production of a commodity item (Marx works with this concept in his model of socialism), and fourth, *pure effort*, as defined by the will to work and thus the strenuousness and activity (not by skills or endowments).<sup>23</sup> For a more transparent classification of various concepts of deserts see Table 4.

**Table 4:** Criteria of Deservingness

MORAL DESERTS	MARKET	LABOUR	PURE EFFORT
Distribution on the basis of socially recognized creditable activities, or virtues	Distribution on the basis of the market mechanism and moral arbitrariness	Distribution on the basis of labour contribution, or more precisely, skills	Distribution on the basis of pure effort exerted
The idea of elimination of natural lottery may or may not apply	The idea of the elimination of natural lottery does not apply	The idea of elimination of natural lottery applies only in the case of <i>socially conditional</i> skills	The idea of elimination of natural lottery applies in the cases of <i>socially</i> and <i>genetically conditional</i> abilities
COMMUNITARIANISM	LIBERALISM	MARXISM	

Common to the first three concepts is the assumption that extraordinary abilities should be adequately (i.e., more) rewarded. These abilities are recognized either as morally creditable activities (the virtues of individuals), or as the activities generated as worthwhile by market mechanisms, or as abilities

<sup>23</sup> In this case I agree with Sen that none of these criteria alone is sufficient for the concept of justice although Marx's criterion has gone furthest in recognizing deserts. (See SEN, A.: *On Economic Inequality*. Oxford University Press, New York 1997, p.104-106)

materialised through good labour performance. Thus, there are always abilities of individuals that are evaluated as relevant by some specific mechanism.

The fourth criterion of deservingness in a form of pure effort that I added to the traditional criteria does not stem from the concept of presupposed (innate or gained) ability of individual but from an individual's will exerted in the activity.<sup>24</sup> Thus, the focus of attention is not the ability (to perform an activity) but the willingness (to perform an activity). While the criterion of market or labour presupposes some "deservable" abilities that individuals possess mainly as a result of natural lottery (genetic or social), the criterion of pure effort does not consider abilities and thus consistently applies the idea of elimination of natural lottery. While the concepts of market and labour deserts clash with the idea of elimination of natural lottery, the criterion of moral deserts is unique because the clash may not occur. I will explain this briefly.

Of all contemporary authors it is mostly Communitarian A. MacIntyre who speaks in favour of the criterion "each according to their moral worth".<sup>25</sup> He believes that the concept of justice arises from the Aristotelian tradition of virtue. Deserts are recognized by the community, i.e., they are specified by the values and standards that are considered morally good and worthwhile by particular communities.<sup>26</sup>

We can question the concept of moral deserts in various ways. First of all, let us mention criticism by Libertarians. F. Hayek claims that a society that prescribes to people what is good and what is bad, how to behave and what is virtuous, cannot be considered free.<sup>27</sup> Yet, this kind of argument is not com-

<sup>24</sup> As pointed out by Prof. Novosád, it can be argued that even the will to work may result from an individual's genetic endowments. Some people are, let us say, more diligent than others by nature. However, this objection does not pertain to the sphere of irremovable endowments, but to the sphere of free will, which is not as genetically determined as natural intelligence or talent. The will to act or not to act in some way also under the assumption of various predispositions is generally a free decision of an individual and hence is not subject to natural lottery. In other words, even the laziest man by nature may decide to make an effort (even though this is harder for him than for an active individual). On the other hand, the person who lacks intelligence may repeatedly resolve to tackle a mathematical problem but their predispositions do not permit them to do so.

<sup>25</sup> See MACINTYRE, A.: *Zráta cnosti*. OIKOYMENH, Praha 2004, p.180, 225 a. i. See also FISCHER, P.: O spravedlnosti. In: VELEK, J.: *Spor o spravedlnost*. FILOSOFIA, Praha 1997, p. 69

<sup>26</sup> For more detail see BLAHA, L.: *Sociálna spravodlivosť a identita*. VEDA, Bratislava 2006, p. 32-34

<sup>27</sup> See HAYEK, F. A.: Rovnosť, hodnota a zásluha. In: KIS, J.: *Současná politická filosofie*. OIKOYMENH, Praha 1997, p.115

pletely correct. Every society unintentionally produces a set of values that are to be heeded. However, this does not mean automatically that such society is unfree. Hayek sees as a problem particularly in the circumstance that a specific set of values would serve as a criterion for rewards. But, what then should serve as the criterion of rewards? Should it be market mechanism? Ultimately, this mechanism itself is based on specific rules and implicit values, and thus, it, too, forces a person into certain standards of behaviour to be successful in the market. Is a free-market society freer than MacIntyre's hypothetical society?

The Libertarian author J. Narveson presents a more convincing argument. According to Narveson, the criterion of moral deserts leads rather to the defence of inequality and not to equality because people's deserts necessarily vary, and thus rewards according to the deserts lead to dramatic inequalities.<sup>28</sup> Of course, we cannot disagree with this opinion. None of the criteria of deservingness leads directly to egalitarian distribution. However, if the inequalities are based on individual moral attributes, can we call the inequalities unjust? Is such inequality a result of individual moral responsibility? Is such inequality a consequence of natural lottery?

We can state that the moral quality of an individual is the consequence of their own decision and activity for which the individual is morally responsible. In the first place we talk about the willingness, and not the ability, to behave according to moral standards.<sup>29</sup> If someone voluntarily chooses not to behave morally or behave against the favour of society, they cannot expect society to reward their behaviour. Hence, on this level of abstraction the assumption of inequality based on moral deserts of individuals is justifiable.

The problem lies elsewhere, on a lower level of abstraction. First, how can we be sure that society defines a set of virtues that can be considered truly moral? What if society defines a virtue based on some Darwinist criterion, which benefits the stronger? Or based on some aristocratic moral norms? Does this mean that if an individual does not adapt, their activity is therefore immoral and not "rewardable?" If we examine this problem theoretically, we can imagine unlimited and varied moral deserts. On the most abstract level

<sup>28</sup> See NARVESON, J.: Rovnost versus sloboda: prospěch, svoboda. In: *ibid*, p. 244

<sup>29</sup> In the case of unsuitable social conditions, naturally, there can be some educational failures, and the consequences of these failures can be immoral acts of individuals. However, in an ideal model of rewards based on moral deserts, ability is not the focus, but rather the willingness to subordinate moral norms and duties. Hence the idea of natural lottery in terms of ideal model is not violated.

of an ideal model, morality and virtue are positive phenomena, which do not conflict with the idea of elimination of natural lottery. However, if we imagine moral deservingness as a specific set of values recognized by a specific historic society (e.g. privileges for aristocrats), the idea of moral deservingness can conflict with the concept of elimination of natural lottery. Hence we cannot *a priori* tell whether the moral deservingness criterion is in accord or in contradiction with the idea of elimination of natural lottery. This is subject to specific application.

Second, how do we actually determine what is morally “deservable?” And how should we measure moral deservingness? Naturally, it is possible for society to define a concrete set of moral values for better or for worse. Let us assume for the moment that the values and virtues of the society in question are irrefutably good. Society members who behave according to the values will be rewarded more than those who do not behave according to rules and duties as defined. Even if we admit that this is largely feasible and measurable, the complex problem of social distribution is not solved. Since the set of values and virtues defined by society barely addresses all possible individual activities, the criterion of moral deserts cannot be a sufficient criterion of justice. At best we can use this as an additional criterion.

We can agree with M. Walzer who claims that it is impossible to truly and objectively reward an individual according to moral deserts. However, as he rightly continues, it is not impossible to try to reward them at least partially.<sup>30</sup> In line with Walzer, we can apply moral deserts in the sphere of recognition, as he defines it, rather than in the sphere of socio-economic distribution.<sup>31</sup> Individuals should be morally rewarded for valuable acts and activities. However, since it is impossible to measure the value of every act, this concept operates

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<sup>30</sup> See WALZER, M.: *Spheres of Justice. A Defense of Pluralism and Equality*. Basic Books, Inc., Publishers, New York 1983, p. 263

<sup>31</sup> As Walzer asserts, it could be emphasized that his fundamental idea in the definition of eleven spheres of social life that should be controlled through autonomous criteria of justice, has validity in my considerations as well. Indeed, the concept of pure effort that I defend in this essay is applicable only in the spheres of labour market and social policy of the state (in Walzer's terms there are the sphere of money and commodities and the sphere of security and welfare). Both are the subject of social justice, which is understood as morally justifiable distribution of material goods. Thus, the criterion of pure effort cannot pertain to spheres such as recognition, kinship or love, which are based on wholly different criteria, and which allow for morally arbitrary phenomena that are not in harmony with natural lottery. Thus, for instance, it is not a requirement of the concept of pure effort to reward/favour zealotry over talent in the sphere of sport or art. Ultimately, pure effort can be found morally justified only in the sphere of material rewards in labour performance.

rather in the sphere of social recognition, which does not require complex distribution. In the socio-economic sphere it can serve only as an additional principle of justice for rewarding such morally “deservable” activities as hard work in extreme conditions (mining, sewage treatment, refuse collection, rescue operations, etc.), or public service of high moral value (teaching, health care, science and research, etc.).<sup>32</sup> Yet, the concept of moral deserts cannot be used as a complex criterion of justice.

## 5. To each according to their pure effort

The most commonly cited deserts criterion (directly or indirectly) is market mechanism. Libertarian authors usually define it directly as the only adequate criterion of distribution. To them, only the market is able to define and evaluate the deserts of individuals.<sup>33</sup> Although Egalitarian Liberals do not consider the market as the criterion of justice, they accept the market as the precondition of their analyses thereby admitting that the original distribution will be performed through the market. Although they do not finish their analyses at this point, they implicitly work with the concept of market as a distributive criterion.<sup>34</sup>

Rawls, for instance, refuses to understand any concept of deserts as morally correct in terms of justice. However, he admits that the market mechanism does determine the distribution of incomes. Although Rawls considers the

<sup>32</sup> Perhaps, the best example of this principle is the ideology of labour inspired by the Russian Zionism and implemented in the Israeli kibbutz. Labour is the fundamental value of the kibbutz. The entire cooperative frame of communist communities derives from the same principle. People are rewarded on the basis of difficulty of their labour. In the kibbutz, manual hard work is rewarded with more prestige and other immaterial privileges. (See closer SPIRO, M.E.: *Kibbutz. Venture in Utopia*. Harvard University Press 1963, p. 11-12)

<sup>33</sup> See DWORKIN, R.: Liberalizmus. In: GÁL, E., NOVOSÁD, F. (ed.): *O slobode a spravodlivosti (Liberalizmus dnes)*, Archa, Bratislava 1993, p. 215

<sup>34</sup> I analytically distinguish between original distribution (labour market) and redistribution (social policy). In reality both processes operate simultaneously and market distribution is distorted by the redistributive policy of the state. Though employees receive gross wages as the output of market distribution, they actually receive only net wages which include redistributive measures of the state. I am grateful to M. Polák for his highlighting of this aspect of the problem. However, I am convinced that it is appropriate to analytically distinguish original distribution from redistribution, which is ordinary analytical practice in the scientific discipline of social policy. (Compare KREBS, V. a kol.: *Sociální politika*. ASPI, Praha 2005, p. 56)

market merely an effective mechanism of allocation and not a fair mechanism of distribution, he does not sacrifice the market mechanism (as a mechanism of allocation in terms) for the sake of justice. Thus he indirectly admits that distribution is tolerated on the basis of specific deserts as rewarded by the market mechanism. Hence in his theory Rawls indirectly makes allowances for the desert criterion because he does not offer any alternative desert criterion of original distribution than the market mechanism.

However, let us focus on Libertarians who find the market the only adequate criterion of rewards i.e., of deservingness. Defenders of the market claim that free market gives each person exactly what they deserve. They usually argue that every person has the potential to be successful in the market. If a person is intelligent enough, diligent and tenacious, the market will surely reward their endeavours. The market even motivates people to responsibility and honest work. It is almost certain that those who work hard will eventually become rich. That is at least the essence of the Horatio Alger myth often cited by Libertarians. Even the poorest worker has, according to the books by Horatio Alger, a chance to become rich and successful. If they seize their opportunity, one day they can achieve the “American dream.”<sup>35</sup>

Even if we admit that the market rewards hard and honest work of individuals who possess some ability (there is too much empirical evidence showing that it is not true and that the market does not automatically transform higher productivity of the worker into higher rewards, but let us here accept this as a hypothesis), it is still problematic as to whether the market can embody the concept of elimination of natural lottery. Even if the market rewarded only the more able and skilful, would it be fair? Do individuals deserve endowments and gifts which they possess only as a result of natural lottery? Do some people deserve better social background they were born into without even moving a finger? If we draw on the idea of elimination of natural lottery, we cannot hold individuals morally accountable for abilities that they have achieved by chance. This is not a matter of deserts but one of “arbitrariness.” Even if talent and intelligence automatically led to success and wealth in the market mechanism environment, we could not consider market distribution to be fair.

Ultimately, if the supporting argument for market distribution is the assumption that the market identifies and rewards true human abilities, talent, intelligence, endeavours, etc., then the defenders of the market mechanism, in

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<sup>35</sup> See PEEFFER, R.G.: *Marxism, Morality and Social Justice*. Princeton University Press, New Jersey 1990, p. 150-151

principle, have no reason to disagree with Marx's criterion "to each according to their labour, i.e., skills". The difference lies only in the fact that Marx did not think that the market adequately reflected such a criterion. He gave two reasons which can be considered morally correct. First, Marx eliminated from his considerations Libertarian "moral bonus" in the form of "good luck". Libertarians do not refer only to the abilities of individuals, but also to the good or bad luck that individuals experience in the market environment. In line with elimination of natural lottery, the concept of luck itself is a sufficient argument against market distribution of resources. Indeed, in deontological theory, luck is moral "arbitrariness" *ad definitionem* and such it is unjustifiable from the moral point of view.

Second, Marx rejected private ownership of the means of production and exploitation. The market environment together with the existence of private property leads to unfair inequality in the sphere of power, labour deserts and rewards (to interpret the concept of exploitation according to analytical neo-Marxists A. Wood, G.A. Cohen and J. Roemer). Individual ownership of the means of production leads to unequal power positions, illegitimate non-reciprocity in the working process and to unequal rewards with no moral justification.<sup>36</sup>

Thus, market distribution cannot be considered fair for four reasons which contradict the elimination of natural lottery: First, the market rewards *socially conditional abilities* of individual (education, family and material background, environment quality, etc.); second, the market rewards *genetically conditional abilities* (endowments, talent, intelligence, age, health, disabilities, etc.); third, the market rewards luck that cannot be justified from the moral point of view; fourth, the market in capitalist relations provides preferential treatment of the owners of means of production, enabling the exploitation of non-owners.<sup>37</sup>

The third criterion of deservingness often used in theories of justice is the

<sup>36</sup> See PEFFER, R.G.: *Marxism, Morality and Social Justice*. Princeton University Press, New Jersey 1990, s.147; see COHEN, G.A.: Karl Marx and the Withering Away of Social Science. In: COHEN, M., NAGEL, T., SCANLON, T. (ed.): *Marx, Justice and History*. Princeton University Press, Princeton, New Jersey 1980, s.140-155; see WRIGHT, E.O. et al.: *The Debate on Classes*. VERSO, London, New York 1998, p.11

<sup>37</sup> Two notes: First, the fourth reason does not have a direct connection with the concept of natural lottery, but it creates an unfair cooperative scheme that enables morally unjustifiable consequences. Second, the first reason is rooted mainly in the inequality of opportunities that could be eliminated in the market environment by the comprehensive idea of equality of opportunities as outlined above. However, the remaining two reasons are constituents of market distribution *ad definitionem*.

criterion of the labour, i.e., the skills. This criterion was used by Marx in his socialist criterion of justice.<sup>38</sup> However, in general, the labour criterion of deservingness was of no help in dealing with some of the objections as mentioned above. Namely, if we draw on the assumption that workers with greater ability, intelligence, endowments, gifts, etc., in a word, more productive workers, should receive higher rewards, we continue to contradict the moral message of the idea of elimination of natural lottery.

According to W.S. Vickrey, there is no reason from a moral point of view why a person, let us say, with a higher IQ or more endowments, should deserve higher rewards. Just as an individual does not morally deserve inherited property, so too, they have not morally deserves their inherited abilities. The difference between the two cases is only a technicality, not a moral issue. From a technical point of view it is possible to deprive an individual of undeserved property and redistribute it to attain a fairer distribution. However, according to Vickrey, it is not technically possible to redistribute endowments.<sup>39</sup> Although we can agree with this opinion, it is indeed technically possible to reward the labour of individuals regardless of their natural assets, or to redistribute the results of the original distribution in compliance with the concept of elimination of natural lottery. Thus, in my opinion, even the technical argument is not a reason for abandoning the project of social justice based on the idea of elimination of natural lottery.

Various neo-Marxists have come to the conclusion that Marx's criterion of labour leads to exploitation based on skills, which is morally unjustifiable. Especially E. Olin Wright and J. Roemer gave this argument enough credit.<sup>40</sup> It is not necessary to refer to it in detail because essentially they draw on reasons offered above in support of the argument for elimination of natural lottery. Ultimately, the abilities of individuals are not moral justification for unequal rewards based on performance, because if we consider the idea of elimination

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<sup>38</sup> See SEN, A.: *On Economic Inequality*. Oxford University Press, New York 1997, p. 87, 101

<sup>39</sup> See closer VICKREY, W.S.: Risk, Utility and Social Policy. In: PHELPS, E.S. (ed.): *Economic Justice*. Penguin Books Ltd., Baltimore 1973, p. 40-41

<sup>40</sup> See WRIGHT, E.O. et al.: *The Debate on Classes*. VERSO, London, New York 1998, p. 193-201. See also ROEMER, J.: *Theories of Distributive Justice*. Harvard University Press 1998, p. 250-252. Even if we admit that through consistent application of equality of opportunities we arrive at a state in which all individuals possess real chances to achieve adequate educational qualifications, the issue of genetic lottery is still not solved, preventing us from considering distribution based on the abilities as fair. (See SEN, A.: *On Economic Inequality*. Oxford University Press, New York 1997, p. 102-104)



of natural lottery to be relevant, individuals do not deserve their skills and abilities, or more precisely, they are not morally responsible for them.

Thus, as we can object, within his socialist criterion, Marx could not settle the problem that we term *genetically conditional abilities* of individuals. He even elevated skills and “abilities” to a criterion of justice. The only way how to deal with the criterion of labour in accordance with the idea of elimination of natural lottery is to include *pure effort* in the considerations of deserts, i.e., to emphasize the will of individual to work regardless of their skills and abilities. The following explains the shift: instead of “labour” we talk about “laboriousness”.<sup>41</sup> Thus, the important criterion of deservingness does not lie in abilities, but rather in *pure effort* of individuals. Hence, the criterion would not be summed as “to each according to their labour” but rather “to each according to their *pure effort*.” In my opinion it is completely possible to work with this criterion in moral theory. It is even plausible to claim that pure effort is the sole desert criterion of justice that consistently satisfies the provisions of the elimination of natural lottery.<sup>42</sup> Only in this way is it possible in the “desert-based” theory of justice to eliminate the phenomena identified by Roemer’s socialist exploitation, i.e., exploitation based on skills.

In accordance with the description of the category of effort that we previously offered, an individual will not be rewarded on the basis of their *genetically* or *socially* achieved abilities, but only on the basis of their will and willingness to labour and make an effort, i.e., on the basis of the characteristics such as activity, passivity, laziness, strenuousness or idleness. Thus *pure effort*

<sup>41</sup> The emphasis on laboriousness (or diligence) in considerations on distribution does not flow from the assumption that the laboriousness is a socially recognized desert. My argument is not a consequence of substantialism. Pure effort, i.e., laboriousness, is relevant in distribution due to the logic of natural lottery, i.e., the idea that individual is morally responsible only for what he can really influence. Thus, distribution based on pure effort does not draw on the understanding of effort as a value *per se* or laboriousness as a value *per se*. I thank E. Bárány for drawing attention to this problem.

<sup>42</sup> The criterion “to each according to their pure effort” on a practical level presumes that individuals are rewarded according to the time that they work regardless of the socially average time that is needed for the production of a commodity. However, this does not mean that the labour of active workers and the labour of idle workers is rewarded in equal measure. Nor does it mean that there are no differences between rewards for qualified versus unqualified labour. If someone makes an effort to improve their qualification, their higher reward is legitimate. The essence of justice is in accordance with the idea of natural lottery which means that the abilities and endowments of individuals would not be rewarded more. In this context I would like to emphasize the noteworthy considerations of J. Elster. (See ELSTER, J.: *Making Sense of Marx*. Cambridge University Press, New York 1991, p. 201-202)

is the only morally acceptable criterion of deservingness because it satisfies the provisions of elimination of natural lottery.

Rawls objects that if the system did not reward talent and gifts and wanted to tax those endowments progressively according to the principle of natural assets, the individuals in that system would conceal their endowments from others to avoid higher taxes.<sup>43</sup> Rawls' objection is not based on moral consideration but rather on the method which could lead to implementation of social justice. However, this objection need not be relevant if we presume that the criterion "to each according to their pure effort" is applied in the process of individual rewards and not subsequently in the process of redistributive politics of the state. In this case, an individual has no reason to conceal their talent because their reward is the consequence of their effort and they need not be afraid of any subsequent progressive taxation based on their natural assets. Thus, the case is not one of redistribution, but of labour reward.

There is a different problem before us, namely, a problem of work motivation. It can be claimed that individuals are not motivated in any production process to use their talent if they are not correspondingly rewarded for it. This objection is relevant. Hence, limited inequalities not in excess of the democratically developed proportions (such as, for example, the 1:4.5 proportion employed in the Spanish/Basque corporation Mondragon) could be a provisional solution to the problem. If we accept cooperatives as basic production cells of society, we can predict a long-standing strengthening of the spirit of cooperation among employees through consistent application of the "prisoner's dilemma". Furthermore, the more talented workers would have no interest in limiting the cooperative's production knowing they could increase output with their labour performance and benefit from the increased profit of a cooperative.

In this way, we can use as well the Communitarian considerations of organic solidarity and fellowship. A cooperative resembles a larger community in size and therefore enables the development of stronger relationships between individuals than typically occurs in alienated modern society often unsuitable for the cooperative environment. While the Communitarian concept of organic solidarity applied to modern society at large is unrealistic (in this case we can agree with Liberals), it is a significant phenomenon in cases when it is applied to small cooperatives. Indeed the model of cooperatives in complete

<sup>43</sup> See RAWLS, J.: *Justice as Fairness. Restatement*. The Belknap Press of Harvard University Press, Cambridge, Massachusetts 2001, p. 157

accordance with the idea of “economic democracy” presumes that the factory employees are at the same time factory owners. Their reward is a portion of overall factory profits. So, it is also in the interest of a talented individual to contribute as much as possible to increased production and profitability and thus increasing reward to its greatest potential.

To avoid misunderstanding, the criterion of pure effort does not mean that we should ignore achieved qualifications or education as we discuss rewards for human labour. If *comprehensive equality of opportunities* is realized, it is important to increase pure effort to achieve qualification and education, i.e., to be willing to engage in the educational process. Hence, pure effort in the educational process can function in accordance with social justice as reward for labour performance.

However, the criterion of pure effort alone is insufficient as a complex principle of justice. Indeed, it does not consider the more costly needs of disabled people in the sphere of *conditional abilities*, mainly biological *genetic conditional abilities* such as age, state of health, disabilities, pregnancy, etc. Thus, deservingness is not a sufficient criterion of justice, even in terms of pure effort. Therefore it is necessary to combine the concepts of deservingness and needs.<sup>44</sup>

Ultimately, unlike Rawls, I believe that the desert criterion is of use in the theory of social justice.<sup>45</sup> Rawls argues that the subjects of the contractualist model behind the veil of ignorance would refuse deservingness as a criterion of justice, because they have no knowledge of their abilities, and thus would not risk subjecting themselves to a situation when in reality the chosen desert criterion would disqualify them.<sup>46</sup> Although we can agree that Rawls’ subjects in his model would dismiss deservingness as *the only* criterion of justice, they would not dismiss it as one of the criteria of justice. If Rawls’ subjects could choose between the market mechanism as one of the criteria of individual rewards (being arbitrary and tolerating extensive inequalities), and pure effort (being the other criterion which reserves the individual the right of free choice to actively perform purposeful activities), I am convinced that they would

<sup>44</sup> See SEN, A.: *On Economic Inequality*. Oxford University Press, New York 1997, p.100

<sup>45</sup> See for instance NIELSEN, K.: *Equality and Liberty. A Defense of Radical Egalitarianism*. Rowman & Allanheld, New Jersey 1985, p. 108, 128-129. Nielsen finds fulfilment of equality of opportunities the necessary condition for any use of deserts, which can be agreed with.

<sup>46</sup> For more detail see SANDEL, M. J.: *Liberalism and the Limits of Justice*. Cambridge University Press, Cambridge 1982, p. 87

choose the latter option. However, they would not find pure effort sufficient in itself and therefore would combine it with the concept of needs.

In addition to the requirement of *comprehensive equality of opportunities* and the requirement of distribution based on needs and pure effort, we must discuss the requirement of “economic democracy”. In line with economic democracy, we can agree with a modification of Rawls’ theory offered by neo-Marxist R.G. Peffer in his theory of justice.<sup>47</sup> The requirement of economic democracy is a premise of justice in terms of power imbalance, since it eliminates exploitation. Economic democracy provides equal values of political liberties (as described by Rawls and various neo-Marxists) and is a premise of distribution based on pure effort. Indeed, the individual is not entitled to own the means of production used also by other individuals, regardless of the amount of pure effort exerted. Thus, social justice based on elimination of natural lottery rules out private ownership of the means of production. It admits collective ownership of the means of production in the form of economic democracy. The preferred form is cooperative ownership, i.e., cooperatives. In some cases of public interest it is possible to admit state or communal property. In the case of single producers, personal property of the means of production such that it does not require the participation of other work force is admitted. Thus, personal ownership of the means of production cannot grow to the point where it conflicts with pure effort.

Now, let me briefly consider the criterion of needs. With regard to this criterion it can be argued that too extensive an application of needs could render useless the principle of pure effort in the distribution of goods, because it is possible to distribute all goods on the basis of needs. However, there is no problem if we do not apply our understanding of needs so broadly, and if we do not confuse needs with ordinary human desires. In particular, here we understand needs as necessary goods required by particular society for pursuit of a dignified life, and refer only to those usually saturated by modern European welfare states via social policies, e.g. social assistance, housing policy, health care policy, education policy, pension policy, job and disability insurance, etc. These policies include basic physiological and social needs of individuals as well as more extensive needs of the disabled.

Regarding saturation of more costly needs as they emerge from individual biological *genetic conditional abilities*, we have a social policy obligation to

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<sup>47</sup> See PEFFER, R.G.: *Marxism, Morality and Social Justice*. Princeton University Press, New Jersey 1990, p. 404, 418-420

deal adequately with more extensive needs of the physically and mentally disabled individuals, pregnant women, the elderly, etc. At this juncture, we again refer only to the standard policy of welfare states, considered perhaps more broadly than appears in practice. Naturally, this is not a megalomaniac distribution based on needs, therefore allowing sufficient space for distribution based on pure effort. Thus, the following principles explain the *anti-accidental theory of justice* as outlined in my book:

firstly, to each according to their *needs*;  
secondly, to each according to their *pure effort*.

In conclusion, here follows just one illustration of my concept of justice. The attempt in this case is not to argue a position but to provide an example. A socially just society is an economic system based on plurality of cooperatives that fulfil the principle “to each according to their pure effort” within internal distribution rules.<sup>48</sup> The size and capacities of cooperatives are regulated by the state and are limited in such a way as to avoid unequal competition between cooperatives, if the market competition environment is accepted. In the case of market environment, the state performs additional regulative and economic tasks (for example in the areas of science, research and innovation), and provides public services, protection of democratic processes, human rights protection, and above all, distribution according to needs through an active policy of redistribution. Since the original distribution occurring as a result of pure effort in cooperatives, is not automatically in accordance with the intensity and extensive nature of individual needs, via its redistributive policy,

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<sup>48</sup> The question of measurability of pure effort offered by Prof. O. Krejčí, Prof. M. Kusý and Prof. M. Gburová is not the subject of this work because it is not possible to provide answers as such on this work’s level of abstraction. I can only offer a lay opinion as it emerges from the assumption of egalitarian distribution according to working hours yielding additional pay for workers who exert more effort in specific labour activities (personal extra pay based on the evaluation by a manager are standard in present-day companies; and a more objective definition is out of the realm of my model). The effort of the worker to improve their qualifications or education is also an example of pure effort, which will be reflected in higher reward. However, I admit that it is not always easy to distinguish between labour quality based on individual endowments and labour quality based on individual zealotness. In this context I can agree with the evaluation of E. Bárány that the criterion of pure effort is not fully practically realizable and it serves rather as a sign of a new moral problem. Thus, pure effort can be understood rather as a kind of ethical regulative ideal when considering distribution than as a technical manual for rewarding workers.

the state satisfies the more important principle of needs. Thus, the model of socially just society presupposes the extensive welfare state and basic production cells in the form of cooperatives.<sup>49</sup>

The model of social justice may or may not use the market mechanism for the optimal allocation of resources.<sup>50</sup> On this level of abstraction, it is not in the purview of moral and political philosophy to make judgements regarding an economically ideal method of resource allocation, and hence the issue of choice between market and planned economies remains open-ended.<sup>51</sup> If we adopt the market economy, we refer to “market socialism” in accordance with the visions of various analytic Marxists. On the other hand, if we adopt a planned economy, we refer to “non-market socialism.”<sup>52</sup> However, both models require pluralism, protection of human rights and respect for democratic mechanisms as a fundamental premise. Thus, we can term both models “democratic socialism”, and consider them morally attractive, technically plausible alternatives to present-day capitalist systems.

<sup>49</sup> I appreciate the point made by Prof. Kusý who drew my attention to the threat of too strong a government potentially capable of invading the personal space of individuals. I realize this threat but I suppose that it is at least theoretically possible to secure sufficient democratic control of the government within a more extensive model of democracy. In this way, I agree that it is impossible to completely eliminate the threat of abuse of state power. However, if the problem is recognized against the background of alternatives a new dimension is revealed. If our choices are between possibly flawed civic control of the democratic state, and market distribution with no democratic controls, the problem of abuse of power pales in comparison with the present form of capitalism. Naturally, the fundamental assumption of my consideration is the guarantee of the basic human rights and civil liberties. (See closer BLAHA, Ľ.: *Sociálna spravodlivosť a identita*. VEDA, 2006, p. 93-96)

<sup>50</sup> As is obvious within the context of the work, the principle of pure effort should replace that of the labour market; however, we should not automatically refuse market of goods and services. Functioning simultaneously within a market economy are several markets and this critique is aimed especially at the labour market. Indeed, the labour market does not function well within the frame of modern market economies. (For more detail see KREBS, V. a kol.: *Sociální politika*. ASPI, Praha 2005, p. 284-285) See also COHEN, G. A.: *Iluze liberální spravedlnosti*. FILOSOFIA, Praha 2006, p. 60-62

<sup>51</sup> In this case we can use an argument analogical argument to Rawls' in his consideration on the property system. (See RAWLS, J.: *Teorie spravedlnosti*. Victoria Publishing, Praha 1994, p. 161)

<sup>52</sup> For example, G. Sartori, a well-known Conservative theorist of democracy, finds market socialism a promising alternative to modern capitalism. (Compare SARTORI, G.: *Teória demokracie*. ARCHA, Bratislava 1993, p. 421-426). The issue of planning is very elegantly addressed by A. Heywood who relatively objectively points to the positive and negative aspects of the use of the central and indicative planning in economy. (For more detail see HEYWOOD, A.: *Politická teorie*. Eurolex Bohemia, Praha 2005, p. 278-284)

I am convinced that in this model we can find the conjunction of Egalitarian and neo-Marxist concepts of social justice. Here we can also find the answer to the question that opens the book: Back to Marx? I answered “Yes”, but not in the orthodox way. As I argued, the best way how to return to Marx is to use his concepts and theories for the development of a morally acceptable and technically feasible theory of justice.

Preklad: *Alexandra Hay*  
*Elena Klátiková*  
*Luboš Blaha*  
*Zuzana Šišková*

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