WE CANNOT KNOW why the world suffers. But we can know how the world decides that suffering shall come to some persons and not to others. While the world permits sufferers to be chosen, something beyond their agony is earned, something even beyond the satisfaction of the world's needs and desires. For it is in the choosing that enduring societies preserve or destroy those values that suffering and necessity expose. In this way societies are defined, for it is by the values that are foregone no less than by those that are preserved at tremendous cost that we know a society's character.

In the essay that follows, we study scarcities which make particularly painful choices necessary. These choices are sometimes tragic and sometimes not. We will attempt no simple definition to separate the difficult choice from the tragic, or the trivial from the difficult. We will instead, use examples of choices we believe to be tragic in particular societies and speak of their characteristics. Soon enough the reader will come to recognize those choices which in his society are tragic.

There are difficulties in this approach. Examples too often are taken to imply prescription or solution, and we have few prescriptions and no solutions. More important, the use of examples may lead the reader to conclude that what we mean by tragic is subjective to each individual, that tragic choices are those that each of us finds appalling. Instead, we intend to discuss the tragedies of cultures; it is the values accepted by a society as fundamental that mark some choices as tragic. The critic of social values may object strongly to decisions his society finds quite acceptable, and readily approve of other choices that his society must make and yet cannot stomach; moreover, he may be right. But it is not with him or with our own imperatives

that we are concerned; it is rather with those choices which the society finds intolerable.

Tragic choices come about in this way. Though scarcity can often be avoided for some goods by making them available without cost to everyone, it cannot be evaded for all goods. In the distribution of scarce goods society has to decide which methods of allotment to use, and of course each of these methods—markets, political allocations, lotteries, and so forth—may be modified, or combined with another. The distribution of some goods entails great suffering or death. When attention is riveted on such distributions they arouse emotions of compassion, outrage, and terror.[1] It is then that conflicts are laid bare between on the one hand, those values by which society determined the beneficiaries of the distributions, and (with nature) the perimeters of scarcity, and on the other hand, those humanistic moral values which prize life and well-being.

In such conflicts, at such junctures, societies confront the tragic choice. They must attempt to make allocations in ways that preserve the moral foundations of social collaboration. If this is successfully done, the tragic choice is transformed into an allocation which does not appear to implicate moral contradictions. Morally debasing outcomes are averted. But unless the values held in tension have changed, the illusion that denies their conflict gives way and the transformation will have only been a postponement. When emotions are again focused on the tragic choice, action will again be required. "We have a prospect of insuperable moral difficulty, a nightmare of justice in which the assertion of any right involves a further wrong, in which fate is set against fate in an intolerable necessary sequence of violence."[2]

Thus the detail of the pattern of tragic choices is movement. In them society confronts the grave and constant in human suffering. Action in the context of necessary scarcity brings ultimate values, the values by which a society defines itself, into conflict. We ask, "What course without evils?"[3] but we know that no true answer will give us comfort. As one critic has put it, "Basic to the tragic form is its recognition of the inevitability of paradox, of unresolved tensions and ambiguities, of opposites in precarious balance. Like the arch, tragedy never rests."[4]

Tragic choices show two kinds of moving progressions. First, there is society's oscillation between the two sorts of decisions it must make about the scarce good. It must decide how much of it will be produced, within the limits set by natural scarcity, and also who shall get what is made. In this book the former decision is called a first-order determination and the latter a second-order determination or decision. Secondly, there is the motion that is composed of the succession of decision, rationalization, and violence as quiet replaces anxiety and is replaced by it when society evades, confronts, and remakes the tragic choice.

These two movements, and the concepts they entail, are the patterns within which the various methods of allocation operate. In any particular example, such methods and movements form the plot and story line of the tragic choice. Since they are therefore fundamental to the analysis of this book, which focuses principally on the methods of allocation, we may properly devote some preliminary attention to their further description.

The first movement, as we have said, traces the interplay between two different levels of allocation. First-order determinations define the global setting, whether existentially imposed, as in a condition of absolute natural scarcity, or, as is the more common case, one chosen on the basis of relative priorities within the larger context of ultimate natural scarcities, for instance, a population-restrictive policy which sets acceptable rates of procreation in a society. Second-order determinations allocate the available resources as defined by the first order, for instance, who may have children, how many, when, and so forth. Unless imposed by absolute natural scarcity, all first-order determinations contradict the postulate that a particular good is priceless. And all second-order determinations,

unless they are supported by a totally dominant conception of appropriate distribution—of hierarchy and equality—mar some distributional ideals of the society.

These two kinds of determination are found in any allocation. Typically, in the nontragic choice, they are united, made by the same institution and in the same way. The economist's classical market serves to determine how many ships and how much sealing wax will be produced, as well as who shall have how much of each. The decision, arrived at through a political process, to award medical licenses to persons who meet certain set standards—which can be modified so that a particular number is achieved—serves both to decide how many doctors there will be and who they will be.

It is characteristic of tragic decisions, however, that first- and second-order determinations are made separately. This allows for the more complex mixtures of allocation approaches which are brought to bear on the tragic choice, and it permits a society to cleave to a different mixture of values at each order. Indeed, when the first-order determination of a tragic choice appears to be no more than a dependent function of the second order, it will usually be the case that the connection is illusory, serving to obscure the fact of tragic scarcity and—while the illusion lasts—evading the tragic choice. Thus we comfort ourselves in the belief that our society does not establish an acceptable number of auto deaths, but that this figure results from thousands of independent, atomistic actions.

Of course there is considerable fluidity between the two kinds of determinations. It is all very well to decide that families must average no more than 2.1 children, and to devise methods for allocating the right to have them, but unless the first-order result, the figure of 2.1, has been arrived at by reference to some external absolute—a religious command, for example—the costs entailed in achieving the second-order decisions are bound to influence the first-order determination, and 2.1 may give way to 2.3 or 1.8.

This fluid relationship accounts for the paradoxical fact that

societies often refuse to permit the production of the full amount of the scarce resource that could be made available without creating other unacceptable scarcities. Assume, for example, that a society could without difficulty withstand a procreation rate which yielded an average of 2.5 children per family, but that such a determination made for some very difficult second-order choices; however, setting the first-order figure so that a 2.0 per family number is derived, avoids these choices. It is quite plausible that such a society would revise downward the first-order determination in order to smooth second-order decisions and thereby lessen their costs.

The division between first and second order, and the interplay between them, helps explain behavior in many tragic situations. We often move in what appear to be erratic jumps, valuing life at a rather low level in some circumstances at the first order and at a high level in other situations. But if one realizes that at very high and very low first-order levels, relatively easy second-order choices are possible, while this is not so at intermediate levels, then the discontinuity becomes explicable. Of course this does not fully explain the differences in the value we place on life in different situations; why, for instance, the United States will spend a million dollars to rescue a single, downed balloonist but will not appropriate a similar sum to provide shore patrols. These differences depend in part also on the second movement which characterizes tragic choices, the progression from attempt to desperate attempt to avoid tragedy that forms the sequence of decision in the tragic context.

Such a progression seeks to change our perception of the particular tragic dilemma. By making the result seem necessary, unavoidable, rather than chosen, it attempts to convert what is tragically chosen into what is merely a fatal misfortune. But usually this will be no more than a subterfuge, for, although scarcity is a fact, a particular first-order decision is seldom necessary in any strict sense. True, there are instances of such absolute necessity like the triage decisions required by a plague

or a famine. If artificial kidneys required the use of some unsynthesizable element of which there was only a small amount, then societies could only make so many artificial kidneys regardless of the resources they were willing to divert to that end. A determination to produce that number which exhausted the rare element might still not achieve a sufficiency that would permit us to treat all patients suffering from renal failure. But such natural scarcity is not often the limiting fact. More frequently scarcity—and the necessity of picking sufferers it imposes—even if absolute at a particular moment in time (as with the number of physicians capable of performing a kidney transplant), is not absolute over time. More commonly still, scarcity is not the result of any absolute lack of a resource but rather of the decision by society that it is not prepared to forgo other goods and benefits in a number sufficient to remove the scarcity.

This last situation poses the most difficult choices since responsibility is not, in such a case, as easily evaded. Scarcity in general remains a fact of life, but in the particular tragic situation, scarcity and suffering are not merely imposed: The society incurs them by its own decision or, at the least, society finally wills to accept them as "properly pertaining to the nature of things, including [society's] own deepest nature."[5] It is then that we observe most dramatically the second movement we described, the progression from decision to rationalization to violence which in succeeding cycles characterizes the development of the tragic choice, the flight which evidences the attempt to transform a tragic dilemma into a situation in which the conflict of values is not exposed and which the society will not find tragic.

The attempt depends upon, and presupposes, for its plausibility, the fact that at the fringes of virtually all tragic situations are decisions which are not viewed as tragic. It does not appear to be tragic in the United States to fail to provide dialysis for a person in whom such treatment is unlikely to work. Nor is it tragic to draft young men in wartime while exempting very old

men when it is believed that the young make much better soldiers. Both these decisions determine who is given a greater chance to live. Yet neither seems to implicate a conflict in American values; it would be otherwise if the kidney were given to a wealthy recipient rather than to a poorer patient on the ground that the kidney was more likely to work in a wealthier man because he could afford to rest, have private nurses, and so forth.

Whether the decision is perceived as tragic—whether it evokes ruth and arouses terror and outrage even when basic values are, in fact, placed in conflict—is a function of what methods are used to cope with the fatal scarcity. If the tragic decision is justified by an explanation which does not implicate moral conflict, then the violence which follows will not give rise to tragedy—for a time. But "whatever subtleties this clever age invents,"[6] unless the society changes its values, the sequence must be repeated whenever the explanation is intensely questioned or when fresh life-taking decisions are made.

The extent to which such methods succeed in an ameliorative role, even for a time, depends on how they accommodate cultural values. In the examples given, the American respect for efficiency seemed for a moment to be the effective factor which enabled a movement away from a tragic outcome. And this was so even though the principal humanistic value at stake was, as it is in every tragic situation, life, or its correlative, well-being. (In fact, societies are often able to avert tragic outcomes because many different values are placed on life, and the absolute value which a humanistic society accords to life does not determine its value in a particular situation.) But we saw quickly enough that the movement could not permanently be accomplished by the use of relative terms (such as efficiency) alone. Instead it is other kinds of values—notions of honesty and equality—which prove to be the crucial ones in the tragic context.

In the examples given above—the kidney and military service allocations—it seemed as if the value accorded efficiency

would give us a neutral criterion whose application would not direct attention to any inadequate first-order or improper second-order determinations, but would arouse no more than pity and sorrow for those who would suffer. Yet the criterion failed and the ameliorative quality ceased with it, when efficiency-guided distributions correlated with wealth difference.

We may conclude that it was not merely the esteem Americans accord efficiency which enabled us to choose an allocation method which averted tragic results. Rather it was the way in which reliance on efficiency tacitly placed two other values in support of the allocation, namely those of honesty and equal treatment. These values play a unique rôle in the making of tragic choices, for they are structural premises designed to moot, or at least set the terms of, any particular ordering of preferences. As such they animate both resolutions of tragic conflict and the attack on such resolutions.

As we shall see, a conception of equality (or its converse, of hierarchy) often may achieve such a consensus in a society that its invocation in justification of a particular allocation can be used to avert a tragic outcome. Yet because even this conception is held in tension with other, antagonistic conceptions of equality, the resolution gained is temporary and the city is under siege almost as soon as it has been subdued.

Honesty is also ambivalent. It has the remarkable quality that it is capable of being abandoned with regard to some questions without being destroyed everywhere. Thus it can often be of service to the tragic choice by being neglected—indeed the usefulness of some allocation methods depends almost entirely on the charade that they serve the purposes they say they do. But the trick of dishonesty depends on assumptions of honesty; when these are questioned, honesty serves as a powerful engine of attack on the allocation.

In the kidney example a tragic outcome was avoided because it was believed that treating differently patients in whom the kidney would work from those in whom it would not

amounted to treating people equally who were relevantly equal, and discriminating between those groups which were, relevantly, unequal. Furthermore, it was believed that the aim of the application of this distinction was to achieve maximum success from a limited number of artificial kidneys and not to serve other, covert purposes. When it became apparent that the rich were being separated out, whether or not this implied that decision makers had been dishonest about their motives, and even if such discrimination achieved maximum efficiency,[7] the discriminating criterion and therefore the allocation method became intolerable.

This particular conception of egalitarianism, which one might call a corrected egalitarianism, plays an unusually influential role in the American concept of equality.[8] It accepts the general premise of formal egalitarianism that discrimination is proper so long as likes are treated alike, but corrects the operation of this premise by rejecting it whenever methods applying it happen to produce results which correlate the permissible category of discrimination—health, for example—with an impermissible one, such as wealth or race. Every culture's concept of equality is an amalgam of such paradigms: Simple or naïve egalitarianism treats everyone alike and admits of no discrimination; laissez-faire egalitarianism requires equal opportunity to move within categories which may be properly the basis for discrimination, but begins in a context of variegated starting points, for instance, existing wealth distributions. Although no society could hold fully to one of these caricatures, concepts of equality do differ from society to society, in great measure as to which of these conceptions is most influential. Because allocations are taking place, the outcome of the tragic choice depends mainly on its relationship to a particular culture's notion of when it is right to accord some men a good and let others suffer, and sometimes die, without it; because most societies give precedence to some conceptions of equality, or hierarchy, over others, some such allocations can avoid tragedy at least for a time; but because no society adheres

wholly to one conception of equality, many allocations remain tragic or revert quickly to tragedy.

Thus notions of equality are not the structural values which ultimately prove decisive in fashioning methods to cope with tragic choices. They are relatively fixed standards which guide the popular perception of allocation methods and to which such methods stand in a certain relationship. Rather it is honesty whose many uses are of most aid in society's struggle with tragic choice.

Honesty is not merely the backdrop against which tragic decisions are made, though it is surely this, as one quickly sees when it is doubted. Honesty is also the light which colors society's perception of the allocations achieved by such decisions. Evasion, disguise, temporizing, deception are all ways by which artfully chosen allocation methods can avoid the appearance of failing to reconcile values in conflict. Indeed, how could this not be so if society must confront suffering without being willing to discard its values every time it cannot uphold them? Averting the eyes enables us to save some lives even when we will not save all.

Honesty is the most influential brace in the tragic equilibrium. Though subterfuge may bring us peace, for a while, it is honesty which causes the tragic choice to reappear. It is honesty which must be protected from those allocation methods which taint it, while using its legitimating prestige to deal with immediate problems, because if altered, honesty loses its analytical power to deal with future problems quite unlike the ones we presently face and flatter ourselves that we understand. It is more than the instrument, it is measurement itself, for it is honesty which allows us to see clearly, and occasionally appreciate, the ways, some subtle and some not honest, by which societies must cope. We want to live, but we cannot. We want men to be equal, but they are not. We want suffering to end, but it will not. Honesty permits us to know what is to be accepted and, accepting, to reclaim our humanity and struggle against indignity.[9]

We stand in two relations to tragic choices. We are spectators, in anguish or disinterest. We are also participants in indirect and not so indirect ways. Usually we are more aware of our occasional role as direct participants, even perpetrators, than we are conscious of the many indirect ways in which the spectator becomes a part of the decision-making process. One purpose of this book is to acquaint spectators with those analytical perspectives which will enable us to appreciate the tragic struggle, the civilized and sometimes ennobling efforts by which a society preserves its traditions and values while replacing them to accommodate change and necessity.

Another purpose is to allow us, as citizens, to accept responsibility for tragic choices decided in our names. Then, as spectators, we can observe a culture, composed of ourselves, acting to save ultimate values from necessary desolation. "There is a magnificence [in these situations] in the power to rise, in the anguished acceptance that must always . . . precede the winning of dignity. For it is here before necessity that old morality is unmade and then remade into a new thing."[10]

The rest of this book concentrates on the processes of allocation. This is not an effort to offer solutions to particular problems, but rather, by looking at tragic situations, to illuminate the approaches we use to allocate both tragically scarce and trivially scarce resources.

We shall see what a market looks like, not when it is used to allocate cameras or fast cars, but when it is used to allocate a scarce life-saving resource. We will see what comes of using accountable political decisions not to distribute voting rights, but the right to have children. We shall ask how legal institutions, like juries, look when they are called upon to determine, not if a person is a petty thief and fit to be jailed for a year, but whether his life can be sacrificed because a certain number of victims must be found.[11] We shall consider what all these devices look like when each assigns tragic goods without benefit of that compensating diversity which ameliorates trivial allocations, namely, that other goods will be allocated through other

approaches, and thereby rough fairness will out.

By studying these approaches and institutions in tragic contexts, where they cannot work well, we may more easily see those intrinsic strengths and limitations which are concealed when we merely observe what such approaches do acceptably.[12]

We will quickly be immersed in the analyses of methods. Terms will be invented and common terms used in strange contexts. It is of course notorious that one can arrive at "an over-simplified metaphysics from the obsession with 'things' and their 'qualities' ";[13] analogous illusions tempt the lawyer and the economist who treat hearts and watches as goods. Also, there is the temptation to assume that an account of a phenomenon—here, a decision or allocation process—tells us why it exists, or, in a fundamental sense, explains it.[14] We do not offer such explanations. Instead, the analyses in this book are overlays, maps organizing a turbulent landscape. The shapes we impose are familiar, yet new profiles emerge. From their study we may learn to recognize the motive, elemental forces which restless tragedy serves.

2

PURE ALLOCATION APPROACHES

THE QUESTION of how allocation decisions are made in nontragic contexts by most societies, opens to view the special problems of decision-making devices in the tragic context. We shall begin by describing four general approaches to allocation. Each is, to some extent, a caricature of the actual processes used; but while the deviations from pure approaches in nontragic situations may often properly be ascribed to technical defects or to failings in the application of the particular approach, the failings of each of these approaches in the tragic context reflect basic features of the approaches themselves.

The Pure Market

At first glance, market mechanisms have strong appeal: The lack of overt coercion and the decentralized nature of market decisions act to absolve societies from responsibility for outcomes. Individuals appear to be the principal actors, and while society may be said to have set the stage, attention is riveted on individual choosers who, it is assumed, are acting to further their own goals. And yet we need only consider proposals such as: Everyone can be drafted to serve in wartime but anyone can buy his way out, or cancer chemotherapy will be auctioned to the highest bidder, to see how limited is the appeal of the market in a tragic situation. It is well to restate some of the reasons for these limitations in order to see what ameliorative modifications may be available.

For the market to achieve a first-order determination some cost figure for the resources required to produce the scarce good must be established by the market. Unless a market can, at a reasonable cost, be set up to determine these costs, the first-order determination will be made in a collective, nonmar-

ket way, thereby affecting critically the desirability of a market approach at the level of the second-order determinations. Much of the advantage of market procedures is unavailable to us if we cannot, for example, determine the social cost of one more newborn child simply by letting a market aggregate the individual costs to those of us already here.[1]

Another, more significant problem with market determinations we shall call the *costs of costing*. The difficulty described in the preceding paragraph arose because it is sometimes impossible for the market accurately to assign costs to certain goods and bads so that we can determine how many of each we wish. The present problem reflects, instead, the external costs—moralisms and the affront to values, for example—of market determinations that say or imply that the value of a life or of some precious activity integral to life is reducible to a money figure. Even if the first-order determination has been satisfactorily made through a collective, nonmarket decision, this difficulty remains, and limits the desirability of second-order market allocations. In effect, a market at the second order, because it requires that a price be used, brutally emphasizes the first-order decision's implicit rejection of the pricelessness of the good being allocated.

At least as important as a limitation of the market is its dependence on the existing distribution of wealth. This dependence is accentuated when the market is used to make only the second-order determinations; once the first-order determinations are made collectively, it is implausible to say that by using the market we have merely given a resource to those who are willing to give up what it takes to produce it. Instead we are openly testing relative desire and this test is necessarily warped if the measure of desire—a single dollar, for example—has a different importance for different choosers.

It is no use to reply that the market simply measures whether each individual believes that he will be better off with the goods he must forgo to outbid others, or without them and with the resource itself. And this is true even though there are

reasons supporting the reply, for the reasons are sufficiently intricate as to be generally inaccessible or so attenuated as to sound fishy.

To put it another way, when tragic choices are made through the pure market within an existing distribution of wealth, costs arise which are external to the immediate decision makers and are borne instead by the rest of us. These external costs may limit our willingness to permit a market: The social costs of indentured labor, for example, surely include one's outrage at inducing the poor to sell themselves, and this cost must be considered before the society allows peonage. The willingness of a poor man, confronting a tragic situation, to choose money rather than the tragically scarce resource always represents an unquiet indictment of society's distribution of wealth. That willingness, when it follows a first-order determination which has been made collectively, is a yet more insistent accusation; it presents the wrenching spectacle of a rich man and a poor man bidding against each other for life. Yet the degree of redistribution of wealth necessary to avoid such external costs would itself be too costly. It might require a virtual equivalence of wealth such that incentives to produce would not survive.

It would not be enough to allocate the scarce resource to the relatively poor bidder without requiring him to match the bid of his wealthy competitor; he must continue to be favored until he no longer needs and hence no longer prefers other goods more than the scarce resource. Otherwise the wealthier bidder will simply buy the resource from him instead of from the auctioneer. Such subsequent exchanges might be prohibited, but the need for prohibition only serves to emphasize that society—for its own reasons—is preventing all the bidding participants, including the poorest, from doing precisely as they wish—from accomplishing that rare feat, making what, but for the frustration and demoralization involved, would be a Pareto superior move.[2]

We are, in other words, dealing with situations in which we

are unwilling to bear either the external costs of a market allocation of the tragically scarce resource or the external costs of a wealth distribution sufficiently egalitarian to avoid such costs. We will have occasion later to discuss this problem of *merit wants.*[3] For the present it is enough to note that if the market is used to make the first-order *and* the second-order determinations, the conflict is to some degree hidden; if the latter only, the costs of the conflict are dramatically highlighted.

Finally, the market presumes that, in allocation decisions there are no valid reasons other than each individual's relative desire to obtain the scarce good or avoid the bad. Madame DeFarge and Madame Curie are on the same footing. Yet we may believe that there are external benefits to keeping Madame Curie in good health that the pure market cannot translate into incentives affecting her atomistic decision. Such external benefits (or costs) are in addition to those which arise because market choices are made on the basis of an existing distribution of wealth, and may therefore require modifications even in markets which are totally neutral with respect to wealth distribution.[4] Modifications designed not to equalize wealth but instead to influence individual choices, though technically feasible, raise the specter of a collectively imposed inegalitarianism. They proclaim the greater worth of Madame Curie to society.

We shall return to a discussion of these problems in Chapter 3 when we examine the modifications of the pure market by which it may be adapted to cope with the tragic situation.

The Accountable Political Approach

In many nontragic decisions we do not use markets, but allocate instead according to standards set up through a responsible political process. In wartime, the United States has decided in a centralized, political way not only how much gasoline should go to civilian use but also to what categories of people how much should go. The political decision was accountable, or

responsible, in the sense that an explanation for the standards was expected and was, in fact, given. Whenever we decide the number of people who may hold certain governmental positions and then allocate those positions according to examinations which reflect discernible standards, we are making both first- and second-order determinations in an accountable political way. It is just as much this sort of decision if the standards explicitly depend on preferences for particular groups, like veterans or the disabled. The political process has set guidelines for allocation and given reasons to justify both how many of certain goods or bads will be needed and who will get them.

Intertwined with tragic choices are many closely related allocations which can be made through accountable political processes, without involving tragedy.[5] The decision to give priority for the use of kidney machines to those who will most benefit medically was this kind of allocation. To many that decision involved no conflict and hence no sacrifice of basic values.[6] Similarly, the deferment and exemption system formerly employed by the selective service laws represents the same sort of political choice: When deferments or exemptions operate to exclude the aged, the seriously handicapped, or the very young, or perhaps even conscientious objectors, from military service, the criteria for discrimination are not the result of tragic choices. But when conscription operates, as it occasionally has, to exclude farmers, geniuses, or engineers from the risk of wartime death because they are felt to have a greater social utility at home, many would feel that that determination is the outcome of a tragic allocation. Just as the pure market was used to assign wartime service during the Civil War, such pure, responsible political devices have been used at different times in our history to make tragic choices.[7]

As we shall see, this approach has substantial defects when used in the tragic situation. We should like first to mention, however, two general defects of accountable political decision making which are not specific to tragic allocations.

The general shortcoming of responsible political decision making is that the process itself is easily overburdened. Even if one believes that any single allocation decision is best made through an accountable political determination, it is very unlikely that such a decision will also be well made if a hundred or a thousand other decisions are to be made by the same process. The choice of an allocation mechanism must be prefaced by the recognition that there are many other decisions to be made. Therefore one must determine the comparative advantage of using political devices. This problem though is not specific to tragic allocations.[8]

A second general difficulty with this approach results from its unaccomplishable need for information gathering. In part, this is a problem of centralization. If the object of political decision making is to allocate according to individual desires for a good, then the process requires learning a lot about many individuals. The same is true if the object is to allocate according to some measure of the social usefulness of each individual's having the good. The problem is the same whether we are allocating the right to have more shoes or more children, but it is especially relevant to tragic choices because the decentralization devices which we use in nontragic decisions to resolve this problem will prove unacceptable in the tragic context, for reasons which we shall discuss. (We may be content to have a local bureaucrat determine the relative usefulness of our having shoes, by reference to responsible, centrally made standards, but not tolerate that same person's deciding the relative usefulness of our survival.) Yet absent decentralization, it is virtually impossible to determine each individual's relative desire to survive. While the market finds it difficult to take into account the social utility of an allocation apart from individual expressions of desire, the political process, in a tragic context, is substantially handicapped in considering individual desires to determine social utility.

This problem of decentralization is principally a matter of the second-order determination. The first-order decision is not dependent on the same degree of specific knowledge of individual differences. So long as the accountable political decision makers have some measure of average desires for various goods and the average social utility of having more or less of each, they can make the first-order determination at a centralized level.

The political approach has special difficulties when it is employed to make tragic decisions. These are the problems of an exposed inegalitarianism and of exposed decisions against life, and they are the direct analogues of merit wants and costing of lives which were mentioned in the preceding section.

The very fact that the goods and bads involved in tragic allocations were often considered merit wants in the context of market choices suggests that their allocation in any way other than through simple egalitarianism poses difficulties.[9] In some instances the goods would not be merit goods were they allocated according to some other unequal distribution, different from the dominant wealth distribution. Then either an alternative market or a political allocation might avoid the conflict; a nontragic solution would exist. This is the case where such conventionally accepted standards as age and health are employed as means of allocating wartime service. But it is not the case where external costs attach whenever a nonequal distribution of certain goods or bads is made, and this is true whether the external costs are of the traditional sort or of the variety we have called moralisms.

If a society values simple equality as a fundamental standard, some goods or bads must be allocated on that basis. Yet unless simple egalitarianism is totally dominant, allocation according to its dictates will violate other deeply held conceptions of equality. A society which attempts to adhere to plural conceptions of equality—all held, as it were, in tension—must find any exposed allocation damaging. The goods and bads involved in tragic choices are, moreover, those very goods whose allocation, however done, is most destructive of some of the conflicting egalitarian values. Thus a society like ours may not give precedence to simple egalitarianism among conflicting concep-

tions of equality. Yet that same society may find it impossible to say that mathematicians may have more children than porters and justify this rule by reference to the relative value to society of the children of both groups. The assertion clearly contradicts the desire of that society to view mathematicians and porters simply as equals. As such, the allocation undermines all the institutions which depend on simple equality.

This does not mean that the problem must necessarily arise whenever life or death is being allocated. In some societies the greater importance of one category is fully acceptable and allocations consistent with that status evoke no fundamental conflicts. In other societies there is a trade-off, so that one category is preferred in some choices and discriminated against in others. But most of these situations occur in hierarchic societies where caste prescribes role,[10] and it is hard to see how a society that views its members as created equal can accept such trade-offs in tragic goods without dissonance.[11] It might be that allocations based on relative individual desires to have the good or to avoid the bad would not violate any of our conceptions of egalitarianism and would be acceptable in the United States. But even if that were the case, such judgments of individual desire are extremely hard for responsible political processes to make, while most markets which would make them begin from the inegalitarian premise of unequal distribution of wealth. Still, our intuitive notions that allocations based on individual desires, as against social utility, are more consistent with those conceptions of egalitarianism which are captured in the phrases "all men are created equal" and "to each according to his need" suggest ways in which markets and political processes may be modified to reduce the tragic character of some choices at the second-order level.

A final point should be emphasized. The problem of preferring one group to another may be compounded by the very fact that it is the political process that is being used. The inegalitarian choice is not just occurring either as the aggregate or the simple expression of individual choices, rather it is being made

by the whole society in its most responsible way. The state is declaring in unmistakable terms the greater importance of one category over another.

Allocation through responsible political processes does not avoid the market defect of directly valuing things; lives, for example, we prefer to think of as beyond price. When an accountable political process reaches the conclusion that convicts will be used in ultrahazardous industries, a destruction of our values has taken place distinct from any lack of egalitarianism in the determination. Such a second-order decision makes clear and unmistakable the first-order determination that certain lives are worth risking. If the political process refuses to provide a group such as the aged with hemodialysis, the clear assertion has been made that some lives are not worth saving. To the extent that our lives and institutions depend on the notion that life is beyond price, such a refusal to save lives is horribly costly. The offense can be limited by dramatic reaffirmations of the value of life in other contexts. A fortune may be spent to save the convict caught in a jailhouse fire. But for the society as a whole, to reconcile the two decisions rationally as well as emotionally is extraordinarily difficult, and the frequent result will be that the lower value becomes dominant, across the board.[12]

The analogous defect of the market—that once a price for a life in a given context is determined, it is hard not to have that price seem to represent the value of life in general—may be greater or less depending on how obviously lives are being costed. So for the political process, the offense may be greater or less depending on how obvious and exposed the political decision. This aspect was clearly intuited by Justice Potter Stewart in the Pentagon Papers Case when he noted from the bench the difficulties that "a judicial sentencing to death of a hundred people" for the sake of freedom of speech would imply, if secret news of troop convoys were publicly printed.[13]

Before we leave this first look at accountable political decision making, we should note that the crucial defects of such

decisions in tragic contexts are not as much in play at the first-order level of decision as they are at the second order. We have already mentioned why the problem of individual desires is not as severe. And the egalitarian ideal is not questioned by a decision which limits the total number of vaccine doses or infantry divisions. The second-order decision necessarily implied by the first-order determination may pit the egalitarian ideal against other values (life, honesty) or may bring different conceptions of egalitarianism into conflict with one another, but the first-order decision need not logically or, strangely enough, emotionally, require that egalitarianism be undermined. The relationship between the first-order determination and the costs of too clearly valuing the priceless is more complex. The first-order decision, by limiting population for example, necessarily prevents some people from procreating, and yet because another level of decision making must occur (one that can be made in a totally different way by different institutions) before someone is actually barred from having children, the conflict of values seems to be stayed until the second-order decision.

Consider the different attitude we all share toward the failure of Congress to pass truly effective safety legislation, as against the attitude we would have were it unwilling to appropriate funds for the rescue of a trapped hostage. Lives may be discarded in both examples, but the choice is less exposed in the first case and therefore less destructive of some of the basic values involved. To return to Justice Stewart, an absolute rule forbidding prior censorship which can be statistically shown to cost many hundreds of lives strikes us differently from a decision in a specific case to allow publication when we know that a hundred lives will be lost as a result.[14]

Certain general characteristics limit uses of the responsible political approach. To these are added the substantial shortcomings of that approach when applied to second-order tragic determinations. There may be societies that are capable of the detached rationality that would permit a legislature to authorize uncontrolled medical experimentation with the terminally ill, sterilization of the dull-witted, or the abandonment of vacationers lost at sea on the basis of a narrow cost-benefit analysis.[15] We are not such a society and therefore our political processes alone will not serve us in such dilemmas, tragic dramas unresolvable in a culture for whom scarcity is, for the present, neither a memory nor an expectation.

The Lottery

A third approach to decision making is the lottery, a choice not to choose. This approach mirrors a simple, sweeping conception of egalitarianism, since allocation by lot treats everyone within the eligible group in the same way. Either all have an equal chance at the pay-off or pay-offs are distributed in an equal amount to all group members. Exclusion from the eligible group represents a decision that the member is sufficiently, relevantly dissimilar to compel special treatment. The fewer relevant differences that are recognized, the greater is the likelihood of absurd or costly results from a second-order determination.

American egalitarianism is neither absolute nor simple, however, and it is not the only value at stake. Indeed, the agony of the tragic choice reflects precisely the conflict of discrete values to which we are committed. The lottery does not help us resolve the conflicts which inhere at the first-order decision level. At best, lot systems are only useful for second-order determinations, but there the lottery poses the problem that, despite the egalitarian basis of our society, we view people as different from one another. To the extent that such dissimilarities are perceived as compatible with other views about the general equality of man (and recognition of these differences is fundamental to some conceptions of egalitarianism),[16] a political decision may set limits on the lottery pool (for example, the exemption of the blind from wartime service). But such a two-stage combination of approaches does not succeed when the relevant dissimilarities are either inaccessible to political decision makers (ascertaining, for example, the rela-

tive desire to serve in the military) or where their recognition is perceived as violative of egalitarian ideals (the exemption from service of a gifted research biologist). In such cases, inclusion of relevantly dissimilar individuals in the pool can bring about absurd results. (The "dove" who is a highly educated musician may be sent to war, while the "hawk" who is a crack shot may remain at home.)

Absurd results confer political benefits, however, in that they confirm the incorruptibility of the decision process. In addition they reinforce those values which caused the society to wish to treat as similar individuals who, for other purposes, are obviously dissimilar. Moreover, to the extent lottery mechanisms treat as the same people who are relevantly in the same situation, and are generally so perceived, those choices are nontragic.

Nevertheless, lot systems, at the level of the second order, display defects that resemble those associated with markets and accountable political processes. In the market it was difficult to recognize those differences among individuals which were not expressed in atomistic choices. Conversely, the political process could not easily handle differences based on individual desires. Lotteries are blind to both sorts of differences. Randomness epitomizes a conception of egalitarianism that treats everyone alike. As such, it clashes with other conceptions, like "to each according to his need," which require differentiation.

In addition to the potentially high costs of randomness, lot systems usually dramatize the first-order determination. A lottery for the available artificial kidney machines brings into high relief the preliminary choice to provide an insufficient number of machines to serve everyone. This can be as destructive as giving an exact price to lives or judicially sentencing a hundred people to death for the sake of freedom of the press. Whether the cost of this spotlight effect can be overborne by the advantages which accrue to second-order lottery determinations will depend, of course, on what kind of first-order choice is involved. The decision that three survivors of a shipwreck must

be sacrificed to lighten the lifeboat is differently perceived, and differently taken, than would be the decision to send only thirty boats to Dunkirk.

A modification of lot systems that reduces this highlighting effect is a *first-come-first-served* method. Once the quantity of the tragically scarce resource is determined through a first-order decision, the second-order allocation consists simply in giving it out to all who ask for it as long as the supply lasts. This approach cannot be used where, as in childbearing, individuals can vary the time when they desire the resource. Additionally, it may be deeply inegalitarian if usable knowledge of the availability of the resource is unevenly distributed within the eligible group, particularly if the uneven distribution is linked to social or economic attributes.[17] But if such information is either broadly available or randomly distributed and the need for the resource is not triggered by the user, a first-come-first-served method approaches a pure lottery with the drawing made *ex machina*.

Like the pure lottery, however, first-come-first-served retains the defect that recipients treated as equals may in fact not be considered equals. Indeed, that defect may be more damaging because it will be hard to give effect to those differences which could be openly considered under a pure lottery. A pure lottery may exclude from the drawings for kidneys those who are substantially less likely to benefit from dialysis than the mass of would-be kidney recipients. But unless the likelihood of dialysis failure is so great as to warrant denial of the dialysis even when no better recipient is presently available, a first-come-first-served approach will make analogous exclusions extremely difficult. Should a second-rate recipient be excluded simply because we think it likely that a first-rater will come along later? Should a second-rate recipient be given the artificial kidney temporarily and then have it removed when a first-rater comes along? Either way, most of the benefits of first-come-first-served in de-emphasizing the first-order determination, to say nothing of avoiding hard second-order deci-

sions, would be lost.[18] The exclusions that are relatively easy to accommodate in the lottery are harder to build in as modifications to a first-come-first-served approach. It is little wonder, then, that when a first-come-first-served approach has been used, even those second-order allocations which were susceptible to an accountable political approach annexed to a lottery have been too costly to make, and scarce artificial kidneys have been given to recipients who benefitted very little from them.[19]

Pure lotteries, by contrast, can readily incorporate market or political modifications. More importantly, they can frequently be appended *faute de mieux* to market and political decision procedures when the limits of mindful choice are reached in a tragic situation (choosing a hostage, for example, from among children). The blind working of the lottery is the feature critical to such combinations. Preliminary exclusions can be made through other methods in order to eliminate the possibility of absurd or too expensive winners. Beyond that, blindness is employed to express our refusal to make distinctions to which tragic consequences must attach: It allows us to choose when we can no longer tolerate choice.[20]

Although the lottery method may be combined with other approaches to help cope with the tragic situation, lottery methods themselves, unlike political and market approaches, cannot be significantly modified to adjust to the varying features of the tragic choice. The blind element is necessary and, ultimately, irreducible. This is both the virtue and the shortcoming of the lottery.

The Customary or Evolutionary Approach

This is less an approach in the manner of the preceding three than an attitude which may be given effect by any of the other methods, or their combinations. The attitude consists of the avoidance of self-conscious choice: The method of choosing is not explicitly chosen and may not even be known by the mass

of the people. The actual allocations evolve in the society without any explicit selection.

The great advantage of this attitude is that so long as the belief in its society-intrinsic character holds, it seems to avoid the costs of fundamental values in conflict. We do not know for example that market incentives determine the production of children in America and these incentives are rarely perceived as having been set up or chosen for such a purpose; therefore the value conflicts typical of allocating the rights to have children at either the first- or second-order level are not precipitated. But the fact of the matter is that the costs of bringing up children, which have been unself-consciously assigned to some categories of parents but not to others, act as a real market control on procreation. The very rich bear somewhat greater per capita costs of rearing children than middle-income groups, but not to any degree proportionate to their greater wealth. The very poor, at least on some views of the matter, may actually have market incentives to create children.[21] That the resulting allocation may or may not be desired or desirable is less important than the fact that no explicit choice of it was made.

Some may argue that our determination of the number of children is essentially the result of a pure market, that we have internalized the cost of additional children to the parents and that individual families are deciding for themselves and for society the correct first-order determination, the total number of children the society will have. We may test this assertion in a simple, intuitive way. The question is, "Do we tolerate a range of procreation, say 1.8 to 2.3 per family, because we believe it to be the result of individual expressions, or have we intuitively determined that that range is what is appropriate, and accepted the systems of incentives which have evolved, because they bring it about?" Were it the first, we would be inclined to accept a change in the rate of procreation to 0.8 or to 6.3 per family; it would be the result of the aggregate of individual reactions to costs placed on them and we would have no pre-

determined correct level of procreation. The pure market would be taken to have indicated that *that* was the correct first-order decision. If instead, as we suggest would be the case, such a result would be taken to indicate that something had gone horribly wrong, we would have a strong indication that the second explanation was correct.

If the distribution of bearing and rearing children is, in part, a result of unchosen market pressures, our definition of *death* has resulted from unchosen nonmarket choices. For most of man's history death has been a simple notion, more an empirical observation than a concept. One could have, we suppose, tried to define what rule determined death, but the fact of the matter was that the definition used was essentially vague. The errors such a definition might engender were less important than that those errors could not be explicitly attributed to the conscious choice of a particular definition of death which would kill some who were still living.

The nonmarket customary approach often takes the form of moral suasion. This means of allocation is probably as significant in our current system of population control as the unchosen market incentives we have mentioned; at other times, it has served to allocate service in the military. In each case, the people who respond to moral suasion, the good citizens, are not necessarily those to whom we would consciously allocate fewer children or greater wartime risks; but the advantage, as with unchosen market incentives, lies less in how the allocation is made or in its results, than that it may appear not to have been made at all. Thus the possibly absurd outcomes may be less harmful than the deliberate, blind results of a lottery.

The precariousness of customary approaches should be obvious. Any loss of innocence not only destroys the value of the approach, but also suggests that we were kept innocent. As soon as people begin to realize that children are in fact allocated according to a complex system of moral suasion and market incentives and that this allocation operates to the benefit of some and to the detriment of others, criticism of the allocation

is inevitable, and the critics will rightly charge that the allocation could have been changed by state action. At this point a choice not to choose, a choice to remain as we are, becomes itself a clear decision and as such is subject to the same costs as chosen allocations. It was only our ignorance of the costly choices imbedded in the unchosen *status quo* that had materially reduced the price in ideals.

This problem may again be exemplified in the context of defining death. A new definition is proposed and is immediately attacked on the ground that, in a miniscule number of cases, the definition would doom people who could return to what all would accept as life. The change may even be taken to represent a decision to kill a few people in order to facilitate transplants. Then someone asks, "What is the present definition and how often does *it* doom people who are alive?" Ignorance or innocence is lost and we are now faced with the fact that, no matter how we choose, some living people will be killed as a result of our choice.[22]

This is not to say that we should not have emerged from naïvete to sophistication. Whether the Tree of Knowledge is the Tree of Life depends on whether, now that we are aware of what we are doing, we can do sufficiently better to make up for the costs of clearly choosing. But whether we can or not, we cannot turn back: We now know that either way, we are choosing to take some people's lives. We have moved beyond the customary situation.

We should distinguish one aspect of tragic choices that is often confused with the customary approach but is in fact quite different. We are very often, in tragic situations, faced with the choice between a device which allocates well, but whose flaws are also certain, and a device which does less well, but which is theoretically perfectible. In the context of jeopardizing lives, we may choose the perfectible approach even though it costs lives because it represents a less clear choice to sacrifice life. Whether we will do this or not depends on many factors, including the actual likelihood of the perfectibility, the com-

parative number of lives required by each device, and so forth. The common preference for such perfectible devices over more efficient but predictably flawed mechanisms will be discussed later in the context of the uses of *fault* language in tragic choices. We mention it here because, not infrequently, customary allocation devices are of the theoretically perfectible kind.

For instance, the success or failure of the traditional definition of death depended on the sensitive abilities of doctor and nurse. This possibility of perfectibility may be a valid reason for retaining what just came to be the allocation method, even when we are faced with an explicit choice. It is a reason, however, logically different from the observation that when we were ignorant that a choice was being made at all, we were avoiding some societal harms, quite apart from whether the nonchoice brought about theoretically perfectible or necessarily imperfect results.

The customary approach leaves us one other question. Should we sacrifice this approach, and its substantial benefits in preventing the tragic situation, by the mass distribution of disillusioning information? Should researchers point out that the failure to eliminate grade crossings is as certain a killing as the unwillingness to produce kidney machines?

Choice, however costly, is liberating and leads to progress; nonchoice allows those already in power to hide the allocations they favor. The failure to make society aware of its implicit choices will diminish, with each averting of the eyes, the values of openness and honesty. To this one might reply, "Man chooses badly, and what is left to evolve will better reflect the complexity of competing outcomes than the poor planning of policy makers who must schematize a dimly grasped reality."[23]

This conflict is by no means confined to tragic situations. It occurs when some argue for a gold standard and others for a rational monetary system. It occurs between those who urge relatively formalistic legal systems, which answer primarily to their own logical rules and aesthetics, and those who support more functional approaches to law. When the dilemma occurs

in the context of tragic choices, it is, however, especially difficult, for there, to one's doubts about man's ability to choose intelligently, one can add the very real costs entailed by the knowledge that a choice is being made.

Yet we are born to reason and any attempt to keep someone from pointing out the unchosen choices that are being made is bound to fail. At the same time, our vision is limited, and so at any time many unchosen choices will exist which have not yet been found out. As a result, there will always be customary resolutions waiting to be exposed and in whose existence some will take comfort.

Conclusion

In this chapter we have discussed four methods of allocation. The pure market attempts to resolve conflicts in tragic situations by according pre-eminence to individual expressions of wants. It fails because the summing up of such expressions fails to accommodate social goals and fails even to represent what individuals want. Its operation runs counter to some important conceptions of egalitarianism and it too clearly prices that to which we should like to ascribe infinite value.

An accountable political process does not succeed because it cannot readily give effect to individual desires. It is also flawed, as it straightforwardly involves the whole society, the state, in preferring some individuals to others and in choosing to discard what ideally we would assert to be inalienable.

Lotteries deify absolute equality, but in so doing offend other conceptions of egalitarianism and emphasize society's unwillingness to spend enough to treat everyone decently as well as alike.

The customary approach represents a totally different attitude. It is unconcerned with individual desires or collective optima in its allocations; it is concerned only with not choosing. This means that it may bring about results which are as mindless as those of lotteries or which are manipulable by those in

power. It avoids the costs of costing, but at the cost of honesty and openness. And honesty and openness are structural values which define a society at least as much as "the sanctity of life" and "all men are created equal." They are no more absolute than the other values. But a society consistently forgoes them only at great peril, for without them who is to say when or how any values are affirmed. Since honesty and openness are not absolute, the customary approach is not without merit, but it, too, ultimately, destroys some values to which we must cleave.

In coping with tragic situations we are not limited, however, to pure approaches. Both market and political decision processes may be significantly modified to counter their principal defects. Neither the lottery nor customary approaches are subject to much variation (except as one views their use in combination with other procedures as a variation). The next two chapters discuss those approaches which are amenable to major modifications, the market and the political processes.

3

MODIFIED POLITICAL DEVICES[1]

IT HAS BEEN the business of this book not to resolve tragic choices by means of discoveries of new methods, but to make it possible for us to get a clearer view of the state of affairs that troubles us. By complex mixtures of approaches, various societies attempt to avert tragic results, that is, results which imply the rejection of values which are proclaimed to be fundamental. These may succeed for a time. But it will become apparent that some sacrifice of values has taken place; fresh mixtures of methods will be tried, structured, as we have seen, by the shortcomings of the approaches they replace. It may not be so obvious that this will happen with the tragic situation in which the focus of attention has narrowed to the precise technological good at stake—iron lungs, say—and has ignored the rest of the family of such goods—cardiac shunts, marrow transplants, and the like—whose availability waxes and wanes as such attention changes its focus. This focus will not last, and even if it could, it could not withstand the stresses and assaults generated by the underlying, temporarily obscured, conflict of values. An awareness of the tragic facts will recur just as certainly as do the dilemmas of the draft or birth limitation. When we have observed this recurrence and continuity of tragedy, it becomes apparent that a special type of mixture is being used by societies over time, namely, the mixture or alternation of mixtures. Such a strategy of successive moves comprises an intricate game which better than any other method or set of methods reflects appreciation of the tragic choice.

It is the most subtle of methods because it depends on methodology being constantly replaced; yet alone among mixtures and methods, cycle strategy does not depend, for its success, on subterfuge. It may represent a forthright way of facing tragic choices since it accepts the fact that society faces

the paradox of being forced to choose among competing values in a general context in which none can, for long, be abandoned. The mode of change may, of course, be customary; it may involve subterfuges; and the very existence of cycles may not be recognized. But the admission that cycle strategy occurs is an admission that society is attempting to preserve essential yet conflicting values. This admission has the virtue of affirming honesty, a not insubstantial value in a society which must cope with change.

Why do approaches to tragic allocations change? Such changes are not mindlessly made; they have, in fact, represented quite rational responses preceded by discussions as rational as discussions termed rational usually are. The criticisms of the pre-existing system have described in generally accurate detail its fundamental flaws and have invoked the basic values which that system degrades. But the defenders of the pre-existing system are just as rational. They usually are penetrating in their recognition of the flaws inherent in the proposed reform. And when the reform is accepted and has become the vested method, it is eventually seen to display the very shortcomings which its critics had predicted (and to degrade those values they had sought to protect). Are these *mistakes?* If they are not, why do we move restlessly from one system which proves inadequate to another?

The answer is, we have come to think, that a society may limit the destructive impact of tragic choices by choosing to mix approaches over time. Endangered values are reaffirmed. The ultimate cost to other values is not immediately borne. Change itself brings two dividends, though all too often of an illusory kind we have associated with subterfuges. First, a reconceptualization of the problem arouses hope that its final price will not be exacted; the certainties of the discarded method are replaced. Second, the society is acting, and action has some palliative benefit since it too implies that necessity can somehow be evaded if only we try harder, plan better than those we

followed, avoid their mistakes, and so forth. More important, because more honest, the deep knowledge that change will come again carries with it the hope that values currently degraded will not for all that be abandoned.

That this notion of flux is intimately tied to the tragic circumstance can be seen from the contrasting relative stability of methods at the fringes of tragic choices. For instance, the first-order determination of the total number of soldiers needed or the market inducement of some volunteers or the responsible rejection of those below or above certain ages have all remained stable components of the conscription system. But, as we discussed above, virtually all the classical approaches to allocation have, in various mixtures, been tried as devices for resolving the tragic choice of forcing some men to fight while others are left safe at home. None of these mixtures has long survived the war for which it was to be a reform measure.

Moreover, what is stable and what is irreducibly tragic is also changeable. For example, conscientious objection to conscription was at one time not accepted but now seems a stable element in that system. Values, even fundamental values, evolve and change. What becomes stable, what remains stable, depends on the evolution of values in society.

We do not, of course, mean to suggest that any particular order of succession will occur. Nor are we saying anything much about the mechanism through which the changes come about. Indeed, a challenging empirical study worth a book of its own could be made of these matters. Perhaps changes come about because disfavored groups spurred by an awareness of their disfavor seek political power. Perhaps such changes occur because critics explicitly concerned with the values undermined by the previous system challenge that system and call on those disfavored by it to ally in overthrowing it. Many permutations are possible, and all are worth study. Similarly, one cannot say much about the lifespan of any given approach. Too

much depends on the relative strengths and needs for reaffirmance of particular values at particular times in a particular society.

Our story, of course, can have no happy ending, and so it is especially agreeable at this point to have drawn attention to the noble uses societies have made of classical allocation methods by rejecting each of them across time. Since the values endangered by any given approach vary, a society which wishes to reject none of them can, by moving, with desperate grace, from one approach to another, reaffirm the most threatened basic value and thereby seek to assure that its function as an underpinning of the society is not permanently lost.

We doubt whether there could be an open society whose values were sufficiently consistent to obviate the possibility that scarcity would bring about tragic choices. Morality—since the terms in which it is stated and by which it is understood must be grounded in culture and tradition—is not simply the aggregate demand of individuals atomistically wishing to do right. And therefore a moral society must depend on moral conflict as the basis for determining morality unless, of course, a lawgiver decrees inflexible rules, the obedience to which constitutes right and wrong. Then morality would not have to make sense. In such a totalitarian society there could be conflict, but no conflict of values. There could be pathos, but no tragedy.

But this is not the culture in which we live. Indeed, a culture such as ours which implicitly recognizes contradictions in its moral scheme by the use of a strategy of cycles has opted to remain sensitive to values it continues to cherish at the moment they are most frail, while being amenable to change, including moral change. The alternative, as we have seen, would be the final rejection of some fundamental values. We could simply discard those basic values which, with others, evoke the tragic dilemma. We could, at a cost, keep a slave army, forbid certain groups from procreating, or try, by the use of absolute worthiness language, permanently to hide the choices made, and so on. Perhaps we have even done so. It is doubtful, however, that

even if we did accept this sort of solution to some tragic choices we could do so as to many.

If we did, we would be a different society. Surely it is a fact that our society will be different from what it is presently. Yet we can hope that it will retain that diversity which entails tragedy. We do not live in the timeless days of a dog or sparrows. As we become aware of what we, as a society, are doing, we bear responsibility for those allocations that will be made as well as for what has been done in our names. If one understands more than before for having read this essay, one can still appreciate that tragic decisions need be made and are not the easier for the understanding.