

Hannah Arendt's analysis in "What Is Authority?" (Chapter Three of her *Between Past and Future*, New York: Penguin Books, 1954). Stanley Milgram's *Obedience to Authority* (New York: Harper Torchbooks, 1974) describes the Milgram experiments and contains a sophisticated philosophical analysis of the morality of obedience. See also Philip Zimbardo's *The Lucifer Effect* (New York: Random House, 2007), which contains similarly fascinating thoughts about the dangers of obedience.

Current work on authority and the democratic state can be found in William Edmundson's *Three Anarchical Fallacies* (Cambridge: Cambridge University Press, 1998), Christopher Morris's *An Essay on the Modern State* (Cambridge: Cambridge University Press, 1998), and Thomas Christiano's "Justice and Disagreement at the Foundation of Political Authority" (in the journal *Ethics*, Volume 110, October 1999) and his "The Authority of Democracy" (in the *Journal of Political Philosophy*, Volume 12, 2004). See also George Klosko's *Political Obligation* (New York: Oxford University Press, 2002), Cynthia Stark's "Hypothetical Consent and Justification" (in the *Journal of Philosophy*, Volume 97, 2002), and Allen Buchanan's "Political Legitimacy and Democracy" (in the journal *Ethics*, Volume 112, July 2002). Michael Huemer's *The Problem of Political Authority* (London: Palgrave Macmillan, 2013) contains several concise and compelling arguments against political authority while also laying out a fascinating vision of anarchist society.

## 5 Justice

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### 5.1 Our Concept of Justice

The term "justice" pervades our political environment. We refer to our legal system as our "justice system." The US government features a "Department of Justice." We call the officers of the US Supreme Court "justices." At many colleges and universities there are departments of "criminal justice." In the Netherlands, there is an "International Court of Justice." When police officers catch a criminal, we say that the latter has been "brought to justice." These examples may suggest that justice is exclusively a legal term; however, we also speak of justice more broadly. In many Western religions, for example, justice is listed among the most important personal virtues. And in the Judeo-Christian tradition in particular, God is portrayed as striking a delicate balance between justice and mercy. Perhaps somewhat puzzlingly, we also speak of "cosmic" and "poetic" justice, where both seem to involve cases where an agent's own bad deeds facilitate his or her downfall. And it is not uncommon to hear it said of a performer, such as an actor or a soloist, that he failed to "do justice" to a difficult role or piece of music.

What seems to underlie these disparate deployments of the term "justice" is the idea of people getting their due, or getting their "just deserts," whether in the form of a deserved punishment or reward. We might say, then, that justice prevails when individuals get what they are due. Accordingly, *we* enact justice, both individually and collectively, when we give others what is their due. To be sure, there may be special cases in which we are permitted to give to another *more* of a reward than she strictly deserves; and there are special cases where we would be justified in giving her *less* of a punishment than what she deserves. Still, it would be difficult to fathom a case in which it would be permitted to give *less* of a reward or *more* of a punishment than what is deserved. Justice requires us to distribute harms or burdens, but not in

excess of what is due. Still, when justice requires us to reward or benefit others, we may be strictly required only to not benefit them *less* than what is called for. There are cases in which justice may have to be balanced against other values, such as beneficence, mercy, generosity, and temperance. But one can admit this much without having to drastically amend our initial thought that justice is a matter of giving people what is their due.

It would be difficult to find anyone, philosopher or otherwise, who would strongly dispute this analysis of justice. This is a good indication that the above analysis is too simplistic. It might not be too far from the truth to say that part of what makes an idea philosophical is that there is some philosopher who stands ready to dispute it. Yet even simplistic analyses can provide a basis from which to begin forming philosophical ideas. The claim thus far is that justice prevails when people get what they are due. Hence, in order to think about justice, we must also think about what people deserve. One way to think about what people deserve is to think *expansively* about what makes a human being *worthy* of good (or bad) things. Another way to proceed is to think *constrainedly* about what people are owed. Unsurprisingly, the former approach treats justice as a very broad moral category, encompassing an entire conception of the good life for human beings. By contrast, the latter sees justice as primarily focused on how certain specific benefits and burdens are to be allotted. As it turns out, the expansive approach is common among philosophers writing outside of the liberal tradition within which we have been working, whereas the constrained view is common among liberal philosophers. But it is nonetheless important to explore the contrast between the two approaches.

### 5.1.1 *Expansive and Constrained Approaches*

The ancient Greek philosopher Plato devoted his magnum opus, *The Republic*, to the topic of justice. Central to that work is the abiding question “*How ought we to live?*” That’s surely a deep and important question. But it also is broad. Notice the ambiguity in the pronoun “we.” The question at once asks each individual how he or she should live, while also pressing the question to us collectively—how should *we* live (together)? Consider also the complexities surrounding the idea that we (individually and collectively) have a *life to be lived*. Our lives are of course multifaceted affairs, encompassing political, social, familial, personal, and even private aspects. The question “*How ought we to live?*” seemingly applies to all of these many dimensions. Accordingly, *The Republic* discusses a wide range of topics along the spectrum from the political to the personal and private—including government, law, money, war, education, religion, art, marriage, sex, and death—all in the service of examining the topic of justice.

Like many other philosophers throughout the history of the discipline, Plato adopts an expansive sense of justice. He takes justice to be the generic name for that which is good in human life. On his conception, the life of

justice is the morally best life, almost by definition; the just man simply is the morally best man. *The Republic* is Plato’s attempt to prove that the life of justice truly is the best kind of life; he aims in particular to defeat an opposing (and still popular) view according to which the really best life a man can live is one in which he enjoys the widespread *reputation* for being completely just, but in fact is ruthless, excessive, dishonest, and selfish.

As one should expect, Plato’s views are philosophically sophisticated. He seems ultimately to have thought that justice is not simply the amalgam of all the other good things that a human life can manifest, but the *proper organization* or *harmony* of those goods within a human life. Consequently, he held that justice resides in the *structure* of the good man’s soul. We need not get bogged down in the complications arising from Plato’s use of the term ‘soul’; suffice it to say that on Plato’s view justice is the result of the *proper ordering* of a man’s drives, ambitions, emotions, and rational faculties. To be slightly more precise, Plato held that a man is just when his inner life—his desires, emotions, ambitions, and beliefs—is ruled by reason. That is, the just man desires only what reason determines is desirable, he takes offense only at what reason declares offensive, and he pursues goals only when reason endorses them as worthy. The unjust man, by contrast, is one who is ruled by his non-rational elements, his desires and ambitions, regardless of their rationality. Accordingly, Plato likened injustice to internal civil war; it is the war of one’s drives and desires against one’s rationality. Hence Plato saw justice as the master, all-encompassing virtue. He held that, in justice, all of the other goods that a human life could manifest are unified and harmonized; a life that is just lacks nothing that could make it better. Consequently, an unjust life is necessarily morally incomplete, lacking, discordant, or defective in some fundamental respect.

It is this attention to the way in which various goods are organized that enables Plato to countenance a tight connection between our individual and collective lives. Plato argues that as justice in the individual consists in the proper ordering of his soul, the justice of a city consists in the proper ordering of its constituent parts, its social classes. More specifically, Plato argued that as the just man is one who is ruled by his rational faculties, the just city is one where the most rational citizens rule over the others. Hence *The Republic* famously endorses a highly stratified political order in which a small minority of wise philosophers rule as kings. *The Republic* is also renowned for its scathing criticisms of democracy, which Plato regards as the rule of the ignorant mob and thus fundamentally unjust.

Plato’s suggestion that justice demands that philosophers rule as kings has been subjected to a great deal of criticism and ridicule over the years. So for now we will leave aside our likely reactions to Plato’s positive political proposal (this will be discussed briefly later in this chapter, pp. 101–103). Instead, we should attend to one of the central philosophical underpinnings of Plato’s view. Notice that Plato regards justice in the individual and justice in the city as *one and the same* thing. In fact, he seems to have thought that

the just city is simply a larger manifestation of the justice in a single person. In Plato's view, the best man and the best city have the very same structure: reason rules all else. And in both cases, justice is the name for the culmination and unification of all of the other goods. We might say that, for Plato, justice provides the single and all-encompassing moral lens through which individual lives and political orders, among much else, are to be normatively evaluated.

The above provides only the slightest sketch of Plato's *Republic*, and so should not be regarded as anything beyond minimal. The main point in discussing Plato has been to give you a flavor of the expansive sense of justice that he employs. Again, this expansive approach to justice is to be contrasted with our contemporary approach, which tends to be far more constrained. To be sure, we too use the terms "just" and "unjust" to describe a variety of goods and bads. We speak of a "just man," a "just law," a "just cause," a "just war," and a "just society," among much else. And we even use the term in more extended senses than these, as is demonstrated by some of the examples with which this chapter began. But still our contemporary deployments of the concept of justice do not carry the copious scope of Plato's usage. We do not tend to speak of justice as the all-encompassing good of a human life; nor do we tend to think of justice as the master virtue or harmonizer of every other good. When we talk of a "just man," we typically ascribe to him the trait of fairness, impartiality, or evenhandedness in performing the duties of some assigned role; in calling him just, we do not mean to claim that his life is an overall or unmitigated moral success. Instead, we tend to think that justice is but one of the goods a human life can achieve. Hence we tend to think that a just man's life could nevertheless be defective in other moral respects; the just man might yet be unhappy, or stingy, or stubborn, or unkind, for example. To put the point in a different way, we tend to think that not *every* moral failing is an instance of injustice.

Moreover, unlike Plato, we tend not to think that the best person and the best society have the *very same property*. In fact, when morally assessing individuals, we employ normative concepts that are different from those we use when evaluating how things stand politically. When we morally assess an individual, we readily reach for normative concepts like kindness, honesty, courage, integrity, generosity, reliability, and the like. By contrast, we most naturally use the terms associated with justice when assessing political matters, such as laws, policies, official decrees, officials, governments, and states. That is, we primarily think of things like laws and political institutions as the items that can be just or unjust, and we tend to regard actions by governments or on behalf of states as manifesting justice and injustice. Consequently, as mentioned above, when we do call a *person* just, we are most often assessing her behavior within an assigned role, and frequently the role is one of social or political significance; she is just in virtue of her dutiful performance as a police officer, a judge, a citizen, a soldier, or a holder of political office.

A further contrast with Plato now comes into view. We tend to see a *fundamental* moral difference between individual lives and political systems. These are, in our contemporary view, two rather different subjects of moral evaluation. This is evident in the fact that there are some actions that we take to be permissible or even obligatory for individuals to enact that we nonetheless regard as morally impermissible for governments to perform. For an obvious example, consider cases of preferential treatment. When a government provides extra benefits or opportunities to some while denying them to others, we rightly criticize it as discrimination, bias, and perhaps oppression. Similarly, when a government official gives special beneficial treatment to her friends and family, we rightly criticize it as cronyism and nepotism. However, we also think that a parent who does *not* exhibit special regard for his own children and does not provide benefits distinctively for them is to be criticized for being uncaring, distant, and perhaps guilty of negligence. The same goes for spouses and friends; these are moral relations that *require* us to show partiality towards some and not others. The idea of an individual who nonetheless is fully impartial between her friends and strangers is barely intelligible; we would be inclined to say of such a person that she simply has no friends. Yet impartiality is precisely what is demanded of governments and those acting within official political roles.

Consider also that we tend to think that governments and states are permitted to act in ways that no individual person is allowed to act. For example, as we have discussed in earlier chapters, we generally believe that states can *punish* those who break its laws; furthermore, we allow that under certain conditions these punishments can be rather severe. We also hold that states can *force* citizens to do certain things, including fight in wars, pay taxes, and refrain from taking certain drugs, among much else. And we tend to think that states are permitted to hold people in jails and prisons, sometimes for life. These days, some even hold that, under special circumstances, governments are morally permitted to subject suspected terrorists to torture. We would *never* recognize in an individual the moral permission to do such things.

As a final contrast with Plato, notice that we find intuitive a distinction that Plato must find utterly alien, namely, the distinction between *what is good for a government to do* and *what a government is permitted to do*. We readily recognize that there are some *good* things that a government could do, but is not allowed to do. For example, suppose that our society would be morally far better were certain racist words never spoken. It seems obvious to us that the goodness of a society where those words are never uttered does not permit the government to criminalize the uttering of them. The question of what good things the state could bring about is distinct from that of what the state is *allowed* to do. Importantly, we tend to think that the latter is a question distinctively about *justice*. Although one might agree that a society where certain forms of racist speech were eradicated would be an overall good, one might still hold that no government is permitted to censor speech of that kind.

For someone who, like Plato, sees justice as the manifestation and harmonizing of all other goods, the very thought of there being goods that could be achieved only by injustice would sound incoherent. Yet to our modern ears, the thought sounds commonplace and obvious. Again, this is because we tend to hold a *constrained* view of justice. We are prone to think that justice is but one kind of good; more specifically, we see justice as a distinctively *political* good, and we see the evaluative terms *justice* and *injustice* to apply primarily to political matters. Fair enough. But we must ask, what kind of political good is justice?

### 5.1.2 *Justice as the First Virtue*

Plato saw justice as the master virtue governing the whole of individual and social life. Our competing, constrained, view is well captured by a slogan offered by the twentieth-century political philosopher John Rawls. Early in his magisterial book *A Theory of Justice*, Rawls claims that *justice is the first virtue of social institutions*. Slogans are often deceptively simple, so let's unpack this one.

The first thing to note about Rawls's slogan is that it further tightens the constrained view of justice. We said above that justice applies primarily to "political matters." That may be true, but it is a bit too vague. It simply prompts the question of which matters are the *political* ones. Rawls's slogan offers some assistance. It firmly identifies *social institutions* as the primary focus of justice. That is, it says that social institutions are the primary entities to which the evaluative terms "just" and "unjust" apply. Again, by contrast with Plato, the constrained view holds that the terms "justice" and "injustice" attach in the first instance to social institutions, rather than to souls and whole societies.

This institutional focus complements ideas developed in our first two chapters. Recall that we emphasized that the political world is an artifact of our own creation; even though we individually did not *found* the civic order within which we were born and presently live, we nonetheless sustain it. And within that order there are political institutions that shape and regulate our shared life. This shaping and regulating involves many kinds of action, but key among them are the establishment of rules and laws, defining institutional roles, identifying individual rights, liberties, and responsibilities, and, crucially, distributing the various benefits and burdens of social living. Again, as we have seen in previous chapters, these benefits and burdens are significant, and accordingly the regulation that is required in order for there to be a sustained and stable social order necessarily will involve *coercion*. Put otherwise, in order for there to be a social world of the kind with which we are familiar, there will have to be institutions that have the authority and power to force individuals to do things they otherwise might not do. To say that justice is primarily focused on social institutions is to say that when we are thinking about justice, we are thinking about the *proper* use of coercive force; we are thinking about what social institutions *are permitted to do* in the service of maintaining a stable social order.

Recall that in Chapter 4, on authority, we examined the problem of how relations of authority could exist among free and equal individuals. At the close of that discussion, it was proposed that a certain *deflated* conception of political authority could be justified. On this view, a liberal and constitutional democratic political order that stably secures a basic threshold of justice for its citizens and does not commit human rights abuses is politically authoritative. Let us suppose that this proposal succeeds. We can see now that even if relations of authority could be justified, there is an additional question regarding the *proper exercise* of coercive power on the part of the state. What are the proper limits of state power? For the sake of what ends may the state exercise its power? What are the things that the state is *required* to force people to do? What are the things that *no* state may (rightly) do? These are the questions that a theory of justice aims to answer.

Now let's identify what it means to say that justice is the *first virtue* of social institutions. The thought is twofold: First, the justice of a social institution is sufficient to render it morally acceptable, no matter what its other failings may be; second, injustice renders a social institution morally unacceptable no matter what other social or political goods it might realize. To say that justice is the *first* virtue of social institutions is not to say that it is the *master* virtue or the culmination of all other goods that social institutions may manifest; it is, rather, to say that justice is a necessary condition for the moral acceptability of a social institution. That is, without justice, a social institution must be regarded as morally unacceptable.

To get a better sense of the matter, imagine a society that realizes a number of important social goods—including, say, civil peace, stability, and efficiency—but nonetheless features powerful institutions that tightly control the speech and movement of its members; consequently, the society has no free press, and strictly forbids its people from traveling outside of the society. Or imagine another society that also realizes the social goods specified above, but has institutions that impose a dramatic class division according to which a small segment of the population lives in freedom and luxury while a large majority serves the few as slaves. These two societies are objectionable on a number of distinct grounds, but the one thing we are inclined to say about them both is that they are unacceptable simply due to the fact that their institutions are unjust. And we would want to go further to say that their injustice consists in the fact that the central institutions of the society fail to respect the freedom and equality of their members. This suffices to render the two societies morally unacceptable, despite the fact that peace, stability, and efficiency are undeniably good.

### 5.1.3 *The Circumstances of Justice*

We have said thus far that justice is the normative lens through which we evaluate social institutions. More specifically, we said that questions of justice are primarily questions concerning the proper exercise of the coercive power

the social institutions wield. That justice concerns the exercise of coercive political power suggests that in a world without coercion there would be no questions of justice. This is quite right. On the constrained approach, questions of justice arise precisely because we find ourselves living under circumstances in which coercive institutions are necessary. Specifying some of these circumstances will be helpful as we move forward.

To begin, it seems clear that in a world where basic resources required for life and welfare—food, shelter, materials for clothing, and so on—were overly abundant and easily accessed by all, there would be no need for coercive institutions, and thus no need for justice. The same holds in a world where such resources were exceedingly scarce or inaccessible. Accordingly, what is sometimes called a “moderate” scarcity of resources is one of the circumstances of our world that makes justice necessary. Put otherwise, it is because of moderate scarcity that there needs to be a *distribution* of resources, and thus there need to be institutions that manage the distributing. Similarly, were all individuals fully altruistic and perfectly good, there would be no need for institutional coercion—we would all simply do right by each other, and no one would need to be forced to do anything. Finally, that there’s room for reasoned disagreement among sincere persons of goodwill regarding the proper allocation and distribution of resources means that there needs to be a system of social institutions in place that can moderate such disagreements as well as enforce a scheme of distribution. Justice is the normative category we employ when evaluating the institutional distribution of resources.

In specifying these circumstances of justice, we are simply identifying those empirical conditions of our world that give rise to justice as a normative category. A world markedly different from our own—where there was no scarcity, perfect altruism, or complete unanimity, for instance—would recognize no such concept because there would be no need for it. This may seem an obvious point, but it assists us in noting that views about justice must adopt certain presuppositions in order to count as views *about justice*. For example, views that simply stipulate perfect altruism or full compliance with what morality demands may be pleasant to contemplate, but they are not views of justice. The same goes for views that begin by asserting an unlimited plentitude of resources or a systematic lack of neediness among persons; such views describe a world in which the concept of justice is wholly without purchase. Slightly more controversially, we could say that views that reject the very thought that resources need to be *distributed* rather than simply allotted by fortune and fate (sometimes called the “natural lottery”) are not views about justice either. Of course, views like the ones we have just mentioned are often proposed as if they were views about justice; yet we can see that they reject one or more of the circumstances of justice and thus are not views about justice at all.

Now we can see more clearly that the concept of justice goes hand in hand with the idea of a social and political world with which this book began. Where there is a large-scale social world, there is need for political

institutions like states. And where there are states, there will be coercive institutions charged with distributing the various benefits and burdens of shared social and political life. And where there are institutions that exercise coercive force with the aim of realizing and maintaining a certain social order, there will be a need for a conception of justice.

#### 5.1.4 *Justice and Equality*

Thus far, we have said that justice prevails when the state, through its institutions, *properly* exercises its coercive power; injustice consists in the *improper* exercise of such power. So now we must ask what renders an exercise of the state’s coercive power *proper*.

Again, philosophers throughout the history of the discipline have proposed a range of answers, many of which fall outside of the broadly liberal philosophical framework that we have been working within. For example, once again consider Plato. He apparently thought that society is just when it imposes a strict three-way class division between a ruling class, a warrior class, and a laboring class. An individual’s placement in a class is largely determined by the class of his or her parents. Further, Plato envisioned each of these classes as having a distinct set of functions and responsibilities within the society; he also thought that these different functions give rise to correspondingly different entitlements. Thus *The Republic* outlines different social rules for each class and specifies the different systems of education appropriate for each. Plato even proposes strict social regulation of sex, marriage, family life, and child-rearing. Infanticide is proposed as a fitting method for maintaining each class’s proper size. Ultimately, it could be said that Plato’s just city encompasses three distinct sub-societies, each with its own distinctive way of life, its own privileges, and its own laws. Again, according to Plato, justice is the proper ordering of the society’s three elements: the ruling class makes the rules, the warrior class enforces the rules and fights the wars, and the laboring class works and consumes.

Plato’s vision of the just society will no doubt strike you as deeply flawed. In fact, you are likely to condemn Plato’s proposal as a foolproof recipe for *injustice*. But why? What in it seems so objectionable? There are, to be sure, many defects worth discussing, not least of which is that Plato’s ideal society is profoundly non-democratic. (We will discuss democracy in Chapter 6.) For now, it seems that a basic defect in Plato’s vision is that it does not recognize the *equality* of its citizens. In fact, equality is denied in multiple ways. The citizens are organized from birth into distinct classes, and the classes themselves are subject to different laws. Moreover, different classes are educated and raised differently. They are thus unequal with respect to social entitlement and responsibility. Most obviously, the three-class system includes a distinct class of rulers, which means that the citizens are also unequal with respect to political standing and political power.

According to our contemporary sensibilities, these forms of inequality are blatantly inconsistent with justice. Going further, we can affirm that justice requires a kind of equality. We could even go further still and say that coercive political power is properly exercised only when that exercise is consistent with equality. To our ears, statements like these carry a kind of familiar and reassuring resonance. After all, the claim that there could be no justice where there is no equality could make for a stirring slogan. But equality is a multifaceted concept; thus, to affirm a close link between justice and equality is merely to utter a platitude until we specify what we mean by equality.

Sometimes when we speak of equality, we mean something like *equal treatment*, and by equal treatment we typically mean *sameness of treatment*. But it is obvious that there are many cases of distribution where sameness of treatment is not in line with what justice requires. Surely justice requires that criminals and their victims are treated differently; the former should be punished and the latter should be compensated. Similarly, with respect to cases involving achievement and effort, we would say that sameness of treatment is not what justice calls for. For example, the student who studies for the exam and answers every question correctly has earned an A, whereas the student who slacks off, does not study, and answers most questions incorrectly has not; they should get different grades. There are also cases in which distribution is supposed to track something like merit, and here sameness of treatment would also be unjust. The batter with the best batting average should get the award for best batter, and the student with the highest grade-point average should be named class valedictorian. To give everyone an award for best batting average or highest grade-point average would be a departure from justice (not to mention problematic on other grounds as well).

Some will point to considerations such as these as a way to oppose the thought that justice involves a kind of equality. But this conclusion is too hasty. The considerations above instead show that the kind of equality that justice calls for is *not* sameness of treatment, but equality in some other sense. What sense could this be?

Think again of Plato's conception of the just society. What we find objectionable about his proposal is not simply that people are treated differently, but rather that their differential treatment is based upon a system by which individuals at birth are assigned membership of one of three social classes that are hierarchically arranged. As was mentioned above, one's class membership determines how one will be raised and educated, which occupations one may pursue, whether one can marry and have children, whether one has any say in making laws and deciding social policy, and much else. Plato's view violates equality because it embraces a *social hierarchy* according to which some are granted special statuses, benefits, and entitlements that are denied to others, simply on the basis of birth.

We see, then, that equality can mean *anti-hierarchy*, the rejection of official *subordination*, or, positively, the demand for *sameness of status*. Equality in

this sense requires the rejection of special social entitlements and privileges granted solely on the basis of such things as rank, title, lineage, caste, and station; equality opposes "second-class citizenship," natural subordination, birth privilege, and royalty. Equality in this sense is hence consistent with there being differences in treatment; it allows that some benefits should be differentially distributed according to merit, effort, achievement, and desert. Equality is opposed to the idea that there are some people who are entitled to special social benefits or privileges simply in virtue of their family lineage or their socioeconomic status, for example. Thus, equality in the relevant sense requires not equal treatment, but *treatment as an equal*, or what is sometimes called *equal concern or regard*.

With this more nuanced understanding of equality on the table, we can gain some traction on the question we posed at the beginning of this section. Recall that we had identified justice as the *proper* exercise of the coercive power of the state's institutions. This then prompted the question of what makes the exercise of this coercive power *proper*. We can now say that the exercise of the state's institutional coercive power is proper when it is consistent with treating each and every citizen *as an equal*. This means that exercises of coercive power based upon invidious distinctions between citizens or appeals to systems of social hierarchy and birth privilege are unjust. Similarly, this means that social systems rooted in the premise that some people are naturally subordinate to others are unjust. Expanding slightly, we could say that justice requires that all citizens are subject to the same set of rules; a minimal condition for the justice of a system of coercive social institutions is *equality under the law*.

Although this helps us to get some sense of what justice is, everything we have said thus far has been really only preliminary. The claim that justice prevails when social institutions exercise coercive power only in ways that are consistent with treating everyone as an equal is an important truth. However, it does not say very much. The next question is obvious: What does it mean for the state and its social institutions to treat all citizens as equals?

### 5.1.5 Moving Ahead

It should be mentioned at this point that the territory we are about to explore is arguably the most active region within contemporary political philosophy. This is largely due to the staggering impact made upon the field by John Rawls and his 1971 book *A Theory of Justice*. It is no exaggeration to say that to this day political philosophers working on justice (among other topics) must position their views in relation to Rawls's. This is understandable, as Rawls's work is, for an uncommonly broad range of reasons, pioneering. *A Theory of Justice* has stimulated dozens of research trajectories regarding justice within political philosophy and related disciplines such as political science, economics, sociology, and law. So agenda-setting is

Rawls's work that many readers who are already familiar with political philosophy are likely to find it odd that this chapter thus far has not endeavored to summarize Rawls's theory of justice. As I said in the Preface, our task is not that of summarizing the great books in the field, but rather of beginning to think our way through central philosophical questions. Hence we will not endeavor to sketch Rawls's theory of justice, nor canvass the highlights of the enormous subsequent literature it has provoked. Our task is to examine some of the more influential approaches to justice. We cannot hope to cover all of the ground here; in fact, in the remainder of the chapter we can hope only to scratch the surface.

## 5.2 Conceptions of Justice

Let's step back a moment to take stock. We begin from the social and political context within which we find ourselves: States and their institutions exist for the sake of establishing and maintaining a social order among free and equal persons. A common and stable social world brings with it immense benefits to its citizens, but it also creates significant burdens. Given certain facts of our world—what above were called the *circumstances of justice*—the state's task requires that coercive force be applied in *distributing* these benefits and burdens. Justice prevails when that force is exercised and applied in ways that manifest equal regard for all citizens.

It should come as no surprise that philosophers who otherwise agree about this general picture of the social and political world, and much else that we have discussed thus far, nonetheless adopt different conceptions of justice. These different conceptions reflect different views regarding what it means for the state and its institutions to show "equal regard for all citizens." In this section, we will canvass a few of the leading ways to interpret this complex idea.

We can begin, however, by noting that two deeply intuitive but fundamentally opposed thoughts about "equal regard" present themselves almost immediately. One thought holds that, in order to show equal regard for all of its citizens, a state must see to it that they have *equal shares* of some good or resource. This approach would entail that whenever one encounters an *inequality* of shares of the relevant good or resource among a population of citizens, there is good reason to suspect that there is injustice. In other words, part of showing equal regard for all citizens is guaranteeing them an equal share of some to-be-specified good or resource. According to another intuitive thought, equal regard does not require that citizens be guaranteed an equal share of any good or resource; this approach holds instead that the government shows equal regard when it distributes the specified goods and resources according to processes that count each citizen as an equal. This approach could view even drastic disparities in shares of goods and resources as consistent with justice, provided that the unequal allocation is the product of a distributive process that recognizes the equality of each citizen.

Broadly speaking, we may call the first of these two intuitive interpretations of "equal regard" *egalitarianism*; the second may be referred to as *non-egalitarianism*. But it is important to remember that *both* views are committed to the idea that justice requires a kind of equal regard; that is, egalitarian and non-egalitarian views are both committed to equality. Egalitarians and non-egalitarians differ about what equal regard requires.

### 5.2.1 Minimalism

Let's begin with a formidable non-egalitarian view that we will call *minimalism*. On any of the views that we will be considering in the remainder of this chapter, justice is fundamentally concerned with discerning the proper constraints on the state's coercive force. Consequently, one intuitive way to think about justice is to see the state itself as among the primary sources of injustice. States are, after all, enormously powerful and, as history shows clearly, they are capable of the most horrendous injustices. It is all too easy to think of real-world cases in which modern states have oppressed, subjugated, enslaved, deprived, marginalized, exploited, tyrannized, denigrated, tortured, tormented, and slaughtered their own citizens. We also know very well that it is extremely difficult to *stop* states from committing such horrors once they have begun to do so. And, again, recent history provides ample instances in which the most brutal tyrannizing emerges out of the state's professed concern to further the general good of its people.

Moved by such considerations, the minimalist understands justice as primarily a matter of *constraining* the state's power over the individuals that compose its citizenry. To put the idea succinctly, the minimalist holds that the state shows its citizens equal regard, and thus satisfies the demands of justice, when it recognizes their equal right to maximal liberty. Importantly, this recognition requires not only that the state not interfere with individual liberty, the state must also provide to all equal and adequate protection of that liberty. This means that, according to the minimalist, justice demands that each individual citizen is provided the greatest sphere of noninterference and free choice possible, given that all citizens are entitled to an equally broad sphere. Citizens hence are left to their own devices to form and maintain social relations, to pursue whatever it is that they individually deem worthy (within the requirement to respect the rights of others), to expend their resources as they see fit (again within the same broad requirement to respect the rights of others), and to voluntarily enter into contracts and other agreements with each other.

Thus the just society is one where the state acts only when action is necessary in order to maintain a social order in which each can exercise his or her liberty. Given that the state's role is highly circumscribed, it is relatively easy to describe. The state must protect individual rights, and this requires that it support a police force and maintain a military sufficient to fight potential invaders, both internal and external. Free citizens must also

be able to hold property and to buy and sell their resources; this means that they must be able to enter into agreements and legally binding contracts. Thus, the state must establish and maintain legal and economic institutions, including markets of various kinds, which facilitate orderly trading and enforce property rights. As the exercise of liberty can occasion conflicts among individuals, the state must also provide for the impartial resolution of its citizens' disputes; consequently, it must provide for a functional system of law, conflict resolution, enforcement, retribution, and punishment.

Hardly anyone would dispute that the above are central functions of the state. The distinctive claim of the minimalist is that the state may do *no more* than these core tasks; it must instead get out of the way and allow for individuals to exercise their liberty however they see fit. The state, on this view, thus is seen as something like a combination of a night watchman and an umpire. Both images invoke the idea of an *impartial observer* who intervenes not for the sake of promoting some predetermined result, but only when rules have been broken and disputes have arisen that threaten the standing social order. Importantly, the minimalist is concerned to constrain what the state may do even to further the common good; she sees state action designed to promote goods beyond the equal protection of individual liberty as an instance of unjustified coercion. According to the minimalist, common goods that are not strictly necessary for protecting individual liberty—public parks, museums, and municipal waste disposal, and the like—are to be provided, if at all, through the voluntary contributions of those individuals who see value in such things. Hence the term *minimalism* seems apt.

The key to minimalism is the claim that equal regard—and hence justice—is essentially *backward-looking*; that is, minimalism is centrally the claim that the justice of a given distribution of social benefits and burdens across a population of citizens is primarily a matter of *how* that particular distribution came to be. For any such distribution, if it was produced by a series of voluntary exchanges among free individuals that involved no rights violations, then that distribution is consistent with justice. This is to say that when determining whether a given distribution of social benefits and burdens is just, one need not look to see *who has what*; one needs only to find out whether anyone's share was *wrongly acquired*. To put the point in a different way, the minimalist holds that there could be even dramatically *unequal* distributions of some good that are nonetheless not cases of *unequal regard*.

A simplistic example will help to bring this core aspect of minimalism into clearer focus. Imagine that Alex and Betty have divided a cake amongst themselves. For simplicity's sake, let us stipulate that prior to dividing it, neither had any greater claim to *ownership* of the cake than the other; they were, we shall presume, equally entitled to the cake. Now, after dividing it, Alex has only 10 percent of the cake, and Betty has the remaining 90 percent. Is this distribution consistent with justice? To be sure, we can say that the distribution is clearly *unequal*; Alex and Betty obviously do not have equal shares of the cake. But the minimalist will claim that the question of the

justice of the 10/90 split in shares of cake is simply the question of how it came to be. The minimalist will ask, did Betty *threaten* Alex into accepting a much smaller share? Did she *steal* any cake from Alex? Did Betty *deceive* or *manipulate* Alex in order to get a much greater share for herself? More generally, the minimalist will ask whether the 10/90 distribution is the product of any *wrongdoing* on Betty's part. If the answer is *no*, the minimalist is prepared to call the distribution of cake just.

It is easy to see how such a drastically unequal allotment of a common resource could be fully consistent with justice as the minimalist conceives of it. Consider: Perhaps Alex simply does not particularly like cake, and so is happy to have only a little. Or maybe Alex agreed to allow Betty to have an extra 40 percent of the whole cake in exchange for something that he values more than cake, like forty dollars of Betty's money. Perhaps they agreed to draw straws, and Alex drew short. Or it could be that Betty finds cake especially pleasing, and Alex knows this and enjoys furthering Betty's happiness. In all such cases, the resulting 10/90 distribution of shares of cake is the product of Alex's and Betty's *voluntary* choices; the minimalist contends that *any* allotment of cake amongst Alex and Betty that is produced in this way is a just distribution of cake.

Now, we might stipulate further that Betty is a particularly unpleasant person and there is some sense in which Alex *deserves* more cake than Betty. Or we could stipulate that Alex is much *hungrier* than Betty, and so might *want*, perhaps even *need*, more than 10 percent of the cake. We could similarly imagine that Alex is a connoisseur of desserts, and so would get far more *enjoyment* out of the cake than Betty would. But, on the minimalist view, none of these stipulations suffice to render the 10/90 split *unjust*. Again, that the distribution was produced in a way that involved no infringement on individual liberty is sufficient for the justice of the result.

As I said above, this is a highly simplified example. And it is worth repeating that the version of minimalism we are discussing presently is a view of justice for social institutions, not private exchanges of cake between individuals like Alex and Betty. Yet the point of the example of Alex and Betty should be clear. Minimalism holds that equal regard, and thus justice, requires that the state coerce *only when* coercion is necessary in order to preserve and protect the social and political conditions under which individuals can exercise their equal liberty. Once these conditions are secured by the state, what individuals choose, how they elect to exercise their liberty, and what distributions of benefits and burdens result are simply not matters of justice. To be sure, the minimalist can say that certain distributions of social benefits and burdens may be bad, lamentable, sad, tragic, inefficient, irrational, unfortunate, or even morally wrong without thereby being unjust. To repeat, according to the minimalist, justice concerns *only* the question of how a distribution came to be.

There is, of course, much more to say about minimalism, and current political philosophy is alive with debates between minimalists and their critics, as



well as among proponents of competing versions of minimalism. Before moving forward, we note briefly two of the central problems with minimalism.

The first problem we will consider emerges from the fact that minimalism presupposes a strictly negative conception of liberty. The minimalist holds that justice is a matter of protecting individual liberty, and liberty is fundamentally the absence of state interference with individual choice and action. Now recall the many difficulties that emerge from this simple-sounding conception of individual liberty. As was argued in Chapter 3, it is easy to imagine cases in which individuals are acting precisely as they choose, yet—perhaps due to ignorance, shortsightedness, foolishness, incompetence, or irrationality—nonetheless seem unfree. With slight modification, this point could be applied easily to the minimalist conception of justice. Think again of our cake example. Alex agrees to a 10/90 split, giving Betty a far greater share of the common resource. The minimalist holds that this allocation is fully compatible with justice, provided that it was arrived at without violating Alex's liberty. We can stipulate that in arriving at the 10/90 split, Betty did not in any way coerce Alex. Still, it could be the case that Alex entered the negotiations over the cake at a severe disadvantage relative to Betty. Perhaps Alex is ignorant of the kind of good that a cake is, or maybe he has an irrational fear of bargaining, or maybe Betty is an expert bargainer and Alex is wholly inexperienced, or perhaps Alex has been subjected for a long time to prevailing societal pressures that have convinced him that he is Betty's inferior, and thus less deserving than she. It is not difficult to imagine other ways in which Alex could be free from Betty's coercion, but nonetheless *vulnerable* to being taken advantage of by Betty. Thus the absence of coercion of Alex by Betty does not suffice to render Alex her equal; accordingly, the resulting allocation of cake might fail to manifest equal regard in any viable sense.

We can capture this point more generally by saying that, just as the negative conception of liberty seems insufficiently sensitive to the ways that *internal* obstacles can defeat an individual's liberty, the minimalist conception of justice is insufficiently sensitive to the ways in which individuals can be unequal and yet equally protected from unjustified coercion. Consequently, the minimalist's view of the just state as one that properly serves as a night watchman and an umpire looks inadequate for showing equal regard to all citizens.

Consider next a different kind of difficulty. In describing the cake example, we introduced a simplifying assumption that Alex and Betty had an equal entitlement to the cake that they were to distribute amongst themselves. Upon reflection, one might find this a strange stipulation. Cakes do not suddenly pop into existence, but must be *made* with ingredients and *baked* by someone; in any case, it is not clear precisely what one means by simply stipulating that Alex and Betty have an equal entitlement to the cake. In real-world contexts, of course, background information of the kind we have simplified away usually matters quite a great deal in determining who is entitled to what. Yet even allowing the simplifications, there still is a question of how minimalism can account for the *initial* acquisition of a good (like a cake).

Think of it this way: Minimalism offers an account of justice that seems most at home in contexts where property is to be *transferred* from one individual to another. It says, again, that the allocation resulting from the transfer of any good is consistent with justice if the process by which it was transferred involves no violations of anyone's liberty. The minimalist view hence presupposes a social world in which individuals already have entitlements to certain goods and resources, just as Betty and Alex are presumed to have *equal ownership* of the cake. But how did this ownership arise in the first place? The goods of the world did not suddenly pop into existence, already tagged with labels specifying who owns what. In fact, when you think about it, ownership as such—the very idea of property—is a surprisingly puzzling phenomenon. And it becomes all the more puzzling on the minimalist picture once we notice that our current system of ownership, including the rules by which we allocate and transfer property, is rooted in a series of actions that undeniably involved the violation of others' liberty. To be frank, many of the goods we purchase today are produced in a system of global slave labor, much of our country's infrastructure and industry were built under conditions of extreme domestic inequality and domestic slavery, and the geographical territory we occupy was initially acquired by means of genocide, violent conquest, and theft. No current allocation of any good, and no present-day transfer of property, is likely to be untainted by prior extreme violations of individual liberty. Minimalism thus might entail that the contemporary world of states is irremediably unjust. Perhaps it also entails the more striking conclusion that no one currently owns anything.

### 5.2.2 *Utilitarianism*

Utilitarianism is a moral theory that offers a unified account of the whole of morality, encompassing not only the morality of individual actions but also the morality of social and political institutions, including states; consequently, utilitarianism offers a distinctive conception of justice. To get a sense of this view of justice, one must first examine utilitarianism as a moral theory. So this is where we will begin.

Utilitarianism is a complex doctrine, and it comes in a staggering number of varieties. However, utilitarianism's core can be summarized as follows. Utilitarianism holds that whatever is to be morally evaluated—be it an action, a policy, a law, an institution, or what have you—is good just in the degree to which that thing produces pleasure and diminishes pain. For clarity's sake, let us stipulate that *happiness* is simply the presence of pleasure and the absence of pain; one is happy, then, to the degree that one experiences pleasure and is pain-free. Adding a little more detail, we can say that utilitarianism identifies happiness as the ultimate and intrinsic value, and then defines the goodness of an action (policy, law, institution) with the *quantity* of happiness it produces. The utilitarian then reasons that, as happiness is intrinsically good *no matter who is experiencing it*, the morally *best* action

(policy, law, institution) is that one which *maximizes* happiness for the population of individuals it affects. Hence the fundamental utilitarian moral principle, the “Greatest Happiness Principle,” says that we ought to act so as to produce the greatest happiness (defined as pleasure and the absence of pain) for the greatest number of people (all counted equally).

This is still far too coarse an account of utilitarian moral theory, but it suffices for our present purpose of examining the utilitarian conception of justice. To again put matters very roughly, utilitarianism holds that a social institution is just insofar as its actions and policies maximize overall pleasure (and minimize overall pain) in the population of its citizens. One can see from this that utilitarianism employs a distinctive interpretation of equal regard. In holding that pleasure is good (and pain is bad) no matter who happens to be experiencing it, it treats each individual’s happiness—more precisely, each person’s interest in experiencing pleasure and avoiding pain—as equally important, giving equal weight to each individual’s interests in the calculation of the overall goodness of a law, policy, or institution. That is, the utilitarian holds that justice requires that social institutions maximize the overall quantity of happiness for society, taken as a whole; accordingly, justice forbids acts that further happiness for only a small portion of the population while creating greater quantities of displeasure overall. Equal regard, then, is construed as an *equal weighting of interests*, which in turn is construed as *equality of input* into the calculation of overall happiness.

Though utilitarianism is committed to this sense of the equality of all citizens, it must be emphasized that it is a *maximization* doctrine; again, the Greatest Happiness Principle says that happiness must be *maximized*. And this is why utilitarianism is a non-egalitarian view. According to the utilitarian, justice does not *require* that anything be made equal or distributed in equal shares; rather, it demands that something (namely, overall happiness) be *maximized*. To be sure, there may be cases in which overall happiness is maximized when some good or benefit is distributed in equal shares to all citizens; utilitarians need not deny that. But in such cases, what makes the distribution *just* is not the equality of the shares, but the fact that this allocation is what maximizes overall happiness. Hence, according to the utilitarian, there may also be cases in which overall happiness is maximized when there is great *inequality* in the allocation of some good; in such cases, justice would require an unequal distribution.

Notice next an important contrast between utilitarianism and minimalism. Like the minimalist, the utilitarian cares about the processes by which any given allocation of social goods and burdens is produced; manifesting equal regard is primarily a matter of the procedure by which things are distributed. In this way, both views have a backward-looking view of equal regard. However, unlike the minimalist, this is not *all* that the utilitarian must consider. After all, the Greatest Happiness Principle calls for equal input into a process that is aimed at the *production* of happiness, and thus is fundamentally forward-looking. In assessing a social institution and the way

it allocates social benefits and burdens, the utilitarian must make sure that everyone’s interests were considered equally, and then look to see whether the resulting allocation in fact maximizes overall happiness.

It should come as no surprise that utilitarianism has been highly influential as a conception of justice. After all, its central message looks immanently plausible: Justice prevails when social institutions maximize happiness (and minimize unhappiness) across the population they serve. In addition to this undeniably reasonable moral doctrine, utilitarianism also embodies an attractive empirical stance. It says that the justice of a social institution or policy is simply a matter of the quantity of happiness it produces in the population it affects; consequently, utilitarianism makes justice wholly an empirical matter, something that can be investigated, even *measured*, by social scientific methods. In a way, utilitarianism makes doing justice easy. One needs only to develop a way of measuring individual levels of happiness, then one can compare the happiness produced by any given policy to alternative policy options, and the one that produces the most happiness is the one justice requires. As one might have already recognized, a good deal of current work in the discipline of Economics tends to presuppose some form of utilitarianism.

This is not to say that utilitarianism is without flaws. Indeed, it should be mentioned that utilitarianism is not only greatly influential, it is also hotly debated, and the philosophical back-and-forth between advocates and opponents of utilitarianism has been ongoing and vigorous for well over a century. Consequently, the catalogue of objections to utilitarianism (and utilitarian replies) is vast and continually expanding. Here we can only canvass a tiny segment of this territory by considering two difficulties confronting utilitarian conceptions of justice.

The first difficulty concerns individual liberty and entitlements, and one could imagine it being pressed by the minimalist (though others could press it as well). The utilitarian alleges that the maximization of overall happiness is *sufficient* for the justice of an institution, law, or policy. But one could conceive of circumstances in which the violation of some particular individual’s liberty might be conducive to that end. To employ a common example, imagine that Carl is a fervent proponent of an extremely unpopular political viewpoint, and his fervor leads him to express this view widely and often. Imagine that Carl’s view is so unpopular, and his fellow proponents are so small in number and so deeply reviled in society, that the suppression of the expression of his view would in fact serve to increase dramatically the overall level of happiness in the society. Here is a case in which not only *may* the state suppress Carl’s expression, it arguably *must* suppress it as a matter of justice. Or take another case in which you are in possession of a cake. Imagine further that your acquisition of the cake involved no wrongdoing whatsoever; you baked the cake from scratch using ingredients you produced yourself, and so on. Finally, let’s say that you enjoy cake quite a lot. But now imagine that your neighbor Fred *really* enjoys cake; in fact, we can say that Fred derives an *extraordinary* amount of happiness from eating

cakes. In fact, let's stipulate that Fred is unique in that he derives more happiness from eating cake than a few hundred cake-loving people derive from eating cake. We might say that, at least when it comes to cake, Fred is incredibly efficient at transferring a resource into happiness. The happiness that Fred would derive from eating your cake would far outweigh the displeasure you would experience from having your cake taken away from you. On the utilitarian conception of justice, then, it seems as if justice might require that Fred be given your cake.

The cases involving Carl and Fred may sound far-fetched. And perhaps they are. But the critical point being raised against the utilitarian conception of justice is a *conceptual* one; that the circumstances described in the cases are unlikely to actually arise does not change the fact that it seems as if the utilitarian must claim that justice requires something that intuitively seems *unjust*. In the case of Carl, it seems as if the utilitarian cannot recognize the importance of individual liberty; in the case involving Fred, it seems as if the utilitarian cannot duly acknowledge your *entitlement* to, or *ownership* of, the cake. In both cases, it looks as if utilitarianism fails to capture something essential to justice.

Consider a second kind of problem. The utilitarian regards justice strictly as a matter of the *overall* happiness that prevails in a society; to repeat, social institutions are just insofar as they effectively maximize the quantity of happiness in society. This means that the *sum* of happiness in a society is what matters for justice. This means that utilitarianism is insensitive to the *distribution* of happiness across the members of a population. So imagine again that there is a cake to be distributed among a group of people, and Fred, who is especially efficient at turning cake into happiness, is one of the members of the group. Let us next stipulate that of all the ways to allocate the cake, there are two that maximize happiness in the group; that is, there are two different ways of allocating the cake that produce the *same* and *highest* quantity of happiness. One such allocation gives Fred all of the cake, and none to the others. The second allocation is more equitable, giving everyone a roughly equal share. As we have stipulated that both allocations produce the same overall amount of happiness, the utilitarian must be indifferent between them; they are, according to the utilitarian, morally equivalent. Yet it is likely to strike you as intuitive that the more equitable distribution is *in some sense* morally better than the alternative, despite the fact that they produce identical quantities of happiness. In other words, we tend to think that the more equitable distribution has a moral value that is independent of the sum of happiness in the group. Seeing *all* value as simply a quantity of happiness, the utilitarian explicitly rejects this thought.

One way of encapsulating this second problem has been proposed by John Rawls, who claims that utilitarianism cannot take seriously the distinctness of individuals. In considering only the overall sum of happiness, the utilitarian is blind to the moral difference between making Fred extremely happy (and doing nothing for the others) and making everyone a little bit happier.

In other words, the individual drops out of the utilitarian picture, except as a site of some quantity of happiness. From this, we can see that the utilitarian retains part of what we found objectionable in Plato's view. Recall that we took issue with the very idea that justice in the city should be taken to be the *very same thing* as justice within the individual. We worried that any view that analogized individual morality and social justice risked losing sight of the special moral status of individuals. It looks as if utilitarianism is vulnerable in precisely this way.

### 5.2.3 Egalitarianism

We have considered two formidable non-egalitarian conceptions of justice. Let us turn now to egalitarianism. Recall that egalitarianism is the view that the state and its institutions show equal regard for all citizens when certain goods are distributed in equal shares among them. Put in a different way, egalitarianism is the view that the state treats us as equals when it ensures that each of us has an equal share of whatever it is that the state must allocate justly. We can say then that, unlike minimalism, which takes equal regard to be a backward-looking requirement, the egalitarian sees it as requiring equality as an *outcome*. Egalitarianism is in that sense like utilitarianism in being a *forward-looking* doctrine. However, an obvious contrast with utilitarianism is that egalitarianism does not require that some quantity of good be *maximized*, but instead that something must be distributed in shares that are *equal*.

Many of the complexities of egalitarianism are evident in the little that has been said. For example, as egalitarianism is committed to an equal distribution of shares of some good (or goods), there immediately arises the question of what good (or goods) is to be distributed. We can say, then, that in calling for equal shares, the egalitarian must answer the question "Equality of *what*?" That is, egalitarians must propose a view of what might be called the *currency* of justice, the item or entity that is to be equalized.

At first glance, there are two obvious candidates for the currency of egalitarian justice (though later in this chapter we will consider a third, pp. 120–123): welfare and resources. Of course, social institutions are *capable* only of distributing certain kinds of goods, including political rights and entitlements, and beneficial material instruments such as money, property, and wealth; they cannot *directly* distribute welfare. But this fact does not settle the "Equality of what?" question against welfare. Some have reasoned, intuitively, that the *value* of goods like rights and money lies in their contribution to individual well-being, or welfare. *Welfarist* egalitarians, then, hold that welfare is the currency of justice; they claim that justice requires that social institutions ensure that individuals enjoy equal shares of welfare. Inequality of welfare is thus unjust, and social institutions must distribute goods like rights and money so that each individual enjoys an equal level of welfare. Crucially, welfarism adopts from utilitarianism a hedonist conception of value; the welfarist seeks to equalize individual levels of some psychological state such as "satisfaction" or "pleasure."

The appeal of welfarism is clear. The view embraces many of the virtues of utilitarianism, while its egalitarian commitment seems to avoid some of utilitarianism's problems. But a serious difficulty is lurking. If welfarism claims that justice requires that social institutions ensure an equal level of welfare for all citizens, then those individuals who are hard to satisfy will be, *ipso facto*, entitled to greater shares of society's resources. To employ a vivid example common in the professional literature, consider Helen, an individual whose level of welfare plummets unless she is able to drink very expensive champagne at every meal. Welfarism holds that Helen is entitled to the supply of expensive champagne necessary to keep her level of welfare equal to everyone else's. Now contrast Helen with Irene, who gets adequate pleasure from the simplest things, and accordingly her overall level of welfare remains stable and high in the absence of expensive champagne. The welfarist must hold that Irene is entitled to far fewer social resources than is Helen, simply in virtue of the fact that she is easy to please. More specifically, the welfarist must conclude that Helen is entitled to a socially subsidized unending supply of expensive champagne, while Irene has no such entitlement. But that seems absurd and, moreover, not at all egalitarian.

This simple argument has led many egalitarians to abandon the idea that welfare is the currency of justice. Of these, some adopt a modified welfarist position, holding that justice requires equality, not of welfare, but of *opportunity* for welfare, or *access* to certain sources of it. But, alas, these views need to specify what the relevant sense of *opportunity* is in play, and, in the end, the opportunity-based welfarist views are hard to distinguish from welfarism's primary egalitarian competitor, *resourcism*. Resourcists hold that social institutions show equal regard for all citizens when they distribute an as yet to be specified collection of resources equally; for them, the currency of justice is resources of some kind. According to resourcism, then, welfare inequalities among individuals are not *in themselves* unjust; justice is consistent with significant disparities of welfare.

Now, it is clear that justice cannot require the equalization of shares of *every* resource. It would be implausible to say that justice calls for an equal distribution of resources like books, pick-up trucks, hot dogs, grand pianos, pencils, and apple trees. Although resourcists divide over the precise details, they all tend to hold that justice requires an equal distribution of what might be called *key social resources*; sometimes these are characterized as the central benefits that emerge from our ongoing social cooperation. The resourcist typically has in mind resources that tend to be useful to individuals as such, regardless of their particular pursuits or values. These are goods like basic political rights and liberties, the ability to participate in governance and political office, access to education, healthcare, and various public services, and economic resources like money, income, and wealth. More precisely, then, the resource egalitarian holds that justice demands that such resources be distributed equally among all citizens.

A complication instantly emerges. One could easily imagine instances where a certain degree of *inequality* in, for example, wealth, might be to the benefit of everyone. That is, we might envision circumstances in which the possibility of additional wealth would incentivize some to invest additional time and effort into the production of goods and services that improve *everybody's* share of wealth. In such a case, allowing for the inequality provides everyone with more wealth than they would have under strict equality. In order to accommodate the intuitive thought that such inequalities should be permitted, resource egalitarians often hold that equality in the distribution of key social resources is the *default* requirement for justice. This enables the resourcist to acknowledge that, in cases where it benefits *everyone*, inequality is permitted (and perhaps is required) by justice. Hence the resourcist can allow a certain level of economic inequality. However, establishing equality as the *default* is consistent with denying that inequality in basic rights and liberties is ever tolerable; the claim here is that, unlike certain economic inequalities, inequality of basic rights and liberties is *never* to the benefit of all.

Thus far, we have sketched in very broad strokes the basic commitments of egalitarianism. What has been said thus far is relatively uncontroversial among most egalitarians; to be sure, resourcists and opportunity-welfarists will disagree over some crucial details, but the general picture thus far should be satisfactory to them. Lest this give the impression that egalitarianism is a uniform philosophical program, we should next examine a major rift within the egalitarian ranks. This dispute concerns not the *currency* of egalitarian justice so much as its *point*. That is, egalitarians disagree strongly over *why* showing equal regard for all requires social institutions to distribute key social resources in equal shares (unless some non-equal allocation is better for everyone). There are many views in play; however, we will begin by considering only the two most influential. The first holds that the point of egalitarian justice is to make the distribution of key social resources track broader moral intuitions about personal responsibility; call this view *responsibilism*. The second holds that the point of egalitarianism is to secure the conditions under which citizens can participate politically as equals; call this view *democratic egalitarianism*. We will take these up in turn.

### 5.2.3.1 Responsibilism

The responsibilist holds that, in order to show equal regard for all citizens, social institutions must see to it that inequalities in key social resources are due to individual *choices* rather than advantageous (or disadvantageous) *circumstances*. Put otherwise, the responsibilist holds that, in order to be consistent with justice, inequalities must be the result of things for which individuals can be rightly held responsible; when an individual has less of some key social resource *due to no fault* of his or her own, that inequality is unjust.

The attraction of this view is not difficult to spot. Responsibilism hitches justice to the deep moral truth that each of us has a life to lead, and leading

a life involves *taking responsibility* for one's choices. The responsibilist then says that the state treats us as equals when it, first, recognizes that our lives are equally important, and, second, acknowledges that each person is responsible for his or her own life. Taking these together, we can say that the responsibilist holds that justice requires that each person must be provided an equal chance to *make something* of his or her life, but also must be allowed to live with the consequences of his or her life choices.

More detail is required. The most influential variety of responsibilism is called *luck egalitarianism*. Luck egalitarians hold that the best way to track individual responsibility is to make a distinction between what individuals *do* and what *befalls* them, between *choice* and *luck*. The luck-egalitarian claim, then, is that inequalities in key social resources are consistent with justice only when they are the products of individual choices and not bad (or good) luck. Consider an illustrative example. Imagine a society whose central institutions distribute key social resources on the basis of eye color, such that those with blue eyes are given greater shares than the others. On any plausible conception of justice, this arrangement would be unjust, and obviously so. The luck egalitarian gives a highly plausible account of the injustice in such an arrangement; she argues that eye color is a matter of luck, not individual choice, and is therefore an inappropriate basis upon which to allocate key social resources.

Now contrast this arrangement with one that affords certain key social resources, such as income and wealth, to individuals on the basis of hard work and effort. Under this scheme, those who work harder tend to get greater shares of various economic benefits than those who do not. The luck egalitarian, again, offers an intuitive account of why such inequality is consistent with justice. She says that the inequality resulting from individual differences in effort and ambition have their source in people's *choices*, and are thus permitted by egalitarian justice. Importantly, the luck egalitarian holds that permitting inequality of this kind is *required* if social institutions are going to manifest equal regard for all citizens. As we said above, showing equal regard in part requires that individuals be held responsible for their lives. This means that those who choose to work hard should be permitted to enjoy the extra benefits of having done so, while those who choose instead to take it easy should have less. Finally, think of a person who, due to a physical disability from birth, is unable to work. Here again luck egalitarianism seems to be able to deliver a sensible result. She can say that, as the disabled person's inability is not attributable to any failing on his part, he is nonetheless entitled to a share of social resources that compensate for the disability.

As these examples suggest, responsibilism—especially in its luck egalitarian formulation—is intuitive. Yet the core of the view invites significant difficulties. As was said above, responsibilism relies upon a distinction between what individuals do (and can be held responsible for) and what befalls them (and they cannot be held responsible for); the luck-egalitarian variant formulates this as a distinction between luck and choice. The trouble lies in the fact that this distinction is ultimately very difficult to draw with the required precision.

To see this, consider the simple example above. Whereas it seems obvious that eye color belongs on the “luck” side of the luck–choice distinction, it is not clear that hard work is exclusively a matter of choice. After all, it is plausible to think that the capacity for hard work is at least in part a matter of one's psychological makeup; one must have certain dispositions such as ambition, patience, and wherewithal to work hard toward some goal. And with respect to certain goals that one might strive to achieve, one might need a certain level of cognitive ability and raw talent in order to sustain one's effort. In other words, the capacity for hard work might depend in part upon individual traits that are the result of fortunate developmental or even genetic circumstances. Consequently, the hard worker might owe much more to good luck than it seems. Finally, it is plausible to think that, in many cases, a talent is the result of some combination of raw potential (luck) and the effort to develop it (choice). What then?

But even if we suppose that the distinction between what people do and what befalls them—between choice and luck—can be drawn decisively, there is another difficulty. The problem I have in mind was initially raised against luck egalitarianism by Elizabeth Anderson in her influential essay titled “What Is the Point of Equality?,” but her critique points to a flaw that is likely to be endemic to responsibilism as such. Recall that the luck–choice principle requires us to see those factors of an individual's life that affect his holdings but cannot be attributed to his choices as either good or bad luck. But consider the disabled person. It is obvious that justice requires that the state provide additional resources—for example access ramps to public buildings, accommodations in public transport vehicles, closed-captioned services, special healthcare provisions, and so on—to the disabled. But do we really want our conception of justice to officially be committed to saying that disability is a matter of bad luck?

Various disability communities have been working for decades to combat precisely this kind of condescending and pitying stigma. But even if it seems to you that disabilities *are* best treated as instances of misfortune, consider the analogous case of persons with unattractive physical features. Being ugly is a significant cause of social disadvantage; the physically unattractive tend to be paid less than their more appealing counterparts, have less-active social lives, and have a harder time finding suitable mates. Clearly, one's physical appearance isn't always a matter of choice. Does luck egalitarianism commit us to supporting—as a matter of justice—a program of publicly subsidized cosmetic surgery for those who are deemed to be physically unattractive? If so, do we really want our conception of justice to require the state and its institutions to be officially in the business of evaluating the attractiveness of its citizens? Wouldn't that be demeaning to us all?

### 5.2.3.2 *Democratic Egalitarianism*

Considerations of the kind that were just reviewed have led many egalitarians to reject responsibilism as an interpretation of the point of egalitarian

justice. Some have proposed an alternative known as *democratic egalitarianism*. The democratic egalitarian holds that the reason that the state and its central institutions must distribute key social resources equally (unless an unequal distribution is better for everyone) is that justice requires the state to establish, sustain, and, if possible, enhance the social conditions under which individuals can participate as equal democratic citizens. We might say that whereas responsibilists hitch justice to our broader conception of personal moral responsibility, the democratic egalitarians tie justice to our broader conception of democracy.

But what is this broader conception of democracy? For present purposes, we can say that in a democracy the major political institutions and policy decisions are in some way the result of the citizens' collective will. This means that in a democracy there must be channels and processes by which citizens can express and register their individual wills. And this in turn requires that a kind of *social equality* prevails among all citizens. In a democracy, then, citizens must be able to participate in the activities of political self-government *as equals*, and *on an equal footing*. Accordingly, differences of race, class, gender, religious affiliation, economic status, and so on must not be permitted to transfer into differences in political power. To put the point in a slogan, we can say that in a democracy there is no second-class citizenship.

A full discussion of democracy will be the focus of Chapter 6, but this sketch suffices to allow us to see the force of the democratic-egalitarian view. Consider the following. Many of the most intuitive cases of injustice—for example slavery, racial segregation, sexism, religious discrimination—centrally involve official or state-sanctioned relations of hierarchy, subordination, and oppression; such relations contravene democracy, thus the democratic egalitarian has a parsimonious account of their injustice. Next, return to our earlier example of the arrangement where the state allocated key resources on the basis of eye color; this order also involves a failure of the state to treat citizens as political equals, and is objectionable on democratic-egalitarian grounds. Lastly, the democratic egalitarian can make good sense of the requirements of justice regarding the disabled; unlike the luck egalitarian, the democratic egalitarian need not see disability as an unlucky affliction with horrible effects for which affected individuals must be socially compensated. The democratic egalitarian, rather, can see that justice calls for providing the disabled with additional resources because the state has the responsibility of ensuring that all citizens are able to participate in democracy as equal citizens. The democratic-egalitarian aim in such cases, then, is not to socially make up for the disability, but instead to ensure that the disability does not interfere with an individual's standing as a political equal among his or her fellow democratic citizens.

Pulling these ideas together, we see that the democratic egalitarian opposes all social inequalities that obstruct or dissolve the kind of social equality that is necessary for democratic collective self-government. Put otherwise, democratic egalitarianism requires the equal distribution of key social

resources—including political rights and entitlements, as well as material goods like wealth and income—unless there is an alternate distribution that *improves* or *enhances* relations of democratic equality among all citizens.

Democratic egalitarianism looks promising on several fronts. First, it has advantages over responsibilism in that it need not get bogged down in matters concerning the vexed distinctions between an individual's acts and his or her circumstances; it need not rely upon a shaky distinction between luck and choice. Second, democratic egalitarianism looks well attuned to modern-day sites of injustice. As we said above, it need not attempt to explain the injustice of, say, sexist discrimination by appeal to the fact that being a woman is a matter of (bad?) luck. Rather, it can say directly that such discrimination violates the kind of political equality required for democratic citizenship. Along the same lines, democratic egalitarianism can criticize the ways in which inequalities of money and class distort contemporary democracy. As we know all too well, money plays a role in democratic politics today that is objectionable; in a society where money can buy access to public officials and mass audiences—and consequently where those without large sums of money are routinely marginalized and shut out—it seems plausible to think that our conception of justice should be closely tied to our deeper democratic ideals.

But the democratic egalitarian's tight connection between justice and democracy also occasions significant difficulties. Here we will consider only three. The first is that the democratic egalitarian's identification of justice with the project of securing and deepening the egalitarian social relations requisite for democratic citizenship is not very informative until we know what democratic citizenship demands. Yet, as we will see in Chapter 6, democracy is a deeply contested ideal; consequently, there are several distinct conceptions of citizenship. The problem, then, is that the democratic egalitarian has analyzed one vexed conception (namely, justice) by appealing to another vexed conception (namely, democracy). Of course, the case for democratic egalitarianism seems powerful when we are considering the most noncontroversial instances of social injustice. Indeed, the democratic egalitarian appears to provide an intuitive account of the injustice of slavery, segregation, and other forms of discrimination. But the test of a conception of justice should be how well it guides our judgment in cases where it is unclear what justice requires. To say that justice requires in such cases whatever is necessary to foster proper relations of equal citizenship is simply to push the question of justice back on the question of what equal citizenship is all about. And that latter question is not easier to answer.

A related problem concerns the intuitive idea at the core of democratic egalitarianism that justice requires the elimination of social hierarchy, oppression, and subordination. Here we must ask, "What makes a social relation hierarchical and oppressive?" Surely, we would want to *explain* the badness of hierarchy and the evil of oppression by appealing to the concept of justice. It is tempting to say that hierarchy is the existence of an *unjust* difference in power, subordination is an *unjust* difference in status, and

oppression is the *unjust* exertion of power by one over another. But this kind of analysis is disallowed by democratic egalitarianism, as the democratic egalitarian explains injustice by appeal to concepts like hierarchy, oppression, and subordination.

A third difficulty concerns one of democratic egalitarianism's direct implications. To put it succinctly, if justice is concerned with establishing and sustaining relations of equality among citizens, then it looks as if democratic states have no duties of justice to those who are not citizens. We will have occasion at the end of this chapter to touch briefly upon questions concerning *global* justice, questions of what relatively wealthy and resource-rich states might as a matter of justice owe to less fortunate states and their citizens. However, at present the concern is slightly different. Modern democratic states are home to many individuals who are not citizens: permanent non-citizen residents, migrant workers, refugees, asylum-seekers, foreign students, employees of foreign corporations, and ambassadors, among many other residents who neither have nor want the privileges of democratic citizenship. Democratic egalitarianism entails that whatever duties democratic states owe to such non-citizens, they are not, strictly speaking, duties of *justice*. This is counterintuitive, as it is obvious that democratic states can enact policies and institutions concerning non-citizen populations that are *unjust*.

### 5.2.3.3 Capabilities

The problems we have canvassed with responsibilism and democratic egalitarianism have led theorists in recent decades to revisit the "Equality of what?" question. Recall that earlier we discussed two initial candidates for the *currency* of egalitarian justice, namely, welfare and resources. We saw that difficulties with welfarism led welfarists to identify *opportunity* for welfare (or *access* to social sources of welfare) as the proper metric of equality, and, as we said above, that modification seems to make welfarism into a kind of resourcism. (What, after all, is an *opportunity* for welfare but a resource of a certain kind?) A distinctive version of egalitarianism rejects the idea that key social resources are the appropriate currency of egalitarian justice, and therefore rejects both responsibilism and democratic egalitarianism. This alternative view, which is called the *capability approach*, begins with a powerful critique of resourcism. We begin by looking at this critique.

The capability theorist's criticism of resourcism begins by accepting the welfarist thought that resources are intrinsically *instrumental* goods, and that, consequently, the value of a resource lies exclusively in how it can be used to achieve well-being. But the capability theorist does not draw from this the welfarist conclusion that welfare must be the currency of justice; instead, the capability theorist observes that individuals differ in their ability to transfer resources into well-being. To see this, consider that two individuals with an equal share of key social resources might nonetheless be socially unequal if one of them is, for example, disabled. This inequality results from the fact

that a disabled person will need to devote a far greater share of her resources to meeting her basic subsistence needs than a nondisabled person. In turn, this means that the disabled person will have far fewer resources than the nondisabled person to devote to other projects necessary for well-being or flourishing. Accordingly, even if we suppose that the disabled person has a larger share of resources like income and wealth, she might nonetheless be deprived and far less well off than her nondisabled compatriots with considerably less wealth. To put the point in a different way, the capability approach insists that differences in individual *needs* entail crucial differences in individuals' ability to transfer resources into well-being; from this, the capability theorist concludes that achieving equality of resources is *insufficient* for showing equal regard for all citizens. Citizens with equal shares of key social resources may nonetheless be socially unequal, because they are unequally able to utilize their resource share as means to pursue and participate in activities that contribute to their overall well-being.

This sketch of the capability approach's critique of resourcism gives a sense of its positive program. The capability theorist holds that equal regard requires equality in *capability* to achieve some specified threshold level of human well-being. This might sound similar to the idea that justice requires equality of opportunity for welfare, but notice the crucial difference that, unlike the welfarist, the capability theorist does not identify well-being with preference satisfaction, or any other kind of psychological state; rather, the capability approach identifies well-being with certain central human *functions*. An individual's well-being is measured by the degree to which he functions in ways that characteristically contribute to human flourishing. Justice, according to the capabilities approach, requires that the *capability* to function in those ways be made equal among all citizens. Of course, the *capability* to function in flourishing ways is different from the actual functioning. The currency of egalitarian justice, then, is the *ability* to develop to some threshold degree certain distinctively human traits, to be able to adequately cultivate in oneself characteristically human ways of doing and being.

From what has been said, it should come as no surprise that one crucial task confronting the capability theorist is to develop a list of those capabilities that are necessary for human flourishing. To be sure, some constituents of such a list are obvious and noncontroversial. For example, it is clear that in order to live a flourishing and distinctively human life, one needs to be able to meet one's nutritional requirements, to be able to shelter and clothe oneself, to be able to live without crippling anxiety and fear of bodily assault, and to be able to develop the cognitive, affective, and emotional faculties that are distinctively human. Accordingly, it seems obvious that any individual who is deprived of these basic capabilities is living an undignified life, and any individual from whom these capacities are *withheld* is being treated unjustly.

Note that this list of basic capabilities contains nothing that cannot be captured by other forms of egalitarianism. The distinctiveness of the capabilities approach becomes more evident once one realizes that, although the above

list of basic capabilities may be obviously *necessary* for human flourishing, it is not *sufficient*. Arguably, in addition to capabilities for basic subsistence, one also needs to be able to live socially with others and to participate in distinctively human social activities. Perhaps, then, the list of capabilities needs to be expanded to include things like the ability to cultivate friendships and other intimate and loving relationships with others, to be able to socially interact with others in ways that are not based in domination or humiliation, to be able to play a role in the shaping of one's physical and social environment, to be able to exercise one's practical reason and devise one's own plan for one's life, to be able to explore the world of ideas, and so on. But even these additions might not be sufficient, for there are other abilities that seems necessary for a fully human life, including the ability to make art, to sing and dance, to express oneself freely, to enjoy sex, to engage in physical recreational activities, to play games and sports, to laugh, and to experience awe and wonder. Again, we tend to think that any individual who is *denied* opportunities to develop such capacities is being deprived of things that enrich and enhance human life. And for the capability theorist, such deprivation is unjust.

But there is the rub. In analyzing justice in terms not of resources but components of human well-being, the capability theorist appears to build into her conception of justice a distinctive and controversial conception of the good life. Recall from our earlier discussion in Chapter 2 that the state must be *impartial* among permissible but controversial conceptions of the good life. In order to do this, the state cannot endorse or promote any particular conception, but must instead secure and sustain the conditions under which individuals can determine for themselves (within broad constraints) how to live their lives, what kind of life is worth living, and what is truly valuable in life. As it derives its conception of justice from an ideal of human flourishing, the capabilities approach seems incompatible with state impartiality.

To be fair, the capability theorist will respond that her conception of justice requires only the provision of the *capability* to function in the specified ways; it does not require citizens to actually do anything. The capability theorist concludes from this that her view is consistent with state impartiality among permissible conceptions of the good life.

But this reply looks hollow. One may wonder what it could mean for the state to make equal the *capabilities* to make art, enjoy sex, play sports, express oneself, and explore the world of ideas without *encouraging* citizens to engage in such activities, even if only to experience what they are like. And if the state undertakes to *encourage* citizens to engage in such activities, it fails to be impartial among permissible conceptions of the good, for many such conceptions flatly *deny* that sex is something to be enjoyed, for example. Here the capability theorist might retrench and say that equalizing the capability for these components of human flourishing involves nothing as drastic as *encouraging* citizens to engage in the corresponding activities. All that is required, it may be claimed, is only that the state *makes available* occasions for acting in those ways. Yet this retrenchment looks suspiciously close to

saying that the state must provide each individual the *resources* necessary for developing capacities characteristic of human flourishing. The capabilities approach might not be distinctive after all.

### 5.3 Conclusion

We have traveled a great distance in this chapter; still, the foregoing discussion is merely the tip of the iceberg. In fact, there are many central issues concerning justice that we have not even mentioned. To cite only one glaring example, the foregoing discussion has proceeded as if justice were exclusively *local*, strictly a matter of how states treat their citizens. However, there is good reason to suspect that justice also has a *global* or *international* scope; that is, as many contemporary philosophers have argued, states can owe duties of justice to *other states* and *citizens of other states*. Once it is recognized that, in the global order, states often act in ways that impact lives across national borders, it becomes easy to see how the views we canvassed in this chapter can be reformulated into theories of *global* justice. And, as you may expect, there is consequently an ongoing debate over whether justice is exclusively local or also global.

The debates between localists and globalists cannot be pursued here. I simply leave open the question as to whether duties of justice obtain across state borders, for even the globalists hold that states owe duties of justice to their own citizens. That is, no theorist holds that justice is *exclusively* global. And, in any case, there may be more than a little wisdom in the idea that, in order to get clear about whether justice has a global dimension, one should first try to figure out what justice demands domestically.

So where are we, then? The overarching task throughout these chapters has been to see whether the state and its coercive institutions can be justified, and, if so, how. A result reached previously is that one condition of justifiability is that the state must secure for its citizens what justice demands; we began from the intuitive idea that justice demands that the state and its institutions treat each citizen as an equal, with equal concern. The different conceptions of justice we examined offer distinct interpretations of equal regard. Is any correct?

Now, one insight at the heart of democratic egalitarianism seems undeniable. Whatever else one might say about equal concern, it must involve the elimination of political or state-sanctioned subordination, hierarchy, and domination. A society composed of distinct social classes with accordingly different political entitlements, or a society in which only men can vote and only those with pale skin can hold property, is obviously unjust. To be sure, one might identify the injustice in such arrangements with the lack of individual liberty or the overall unhappiness that would prevail under such circumstances. And these features of the social arrangements we are considering surely render the societies that instantiate them seriously *bad*. But there is a distinctive and additional way in which such arrangements are condemnable.



Social orders that permit political subordination, hierarchy, and domination not only allow those favored by the arrangement to harm those who are not; such arrangements also serve to render those who are politically subordinated relatively *powerless* to object to, protest, and change the standing order. In other words, societies based in hierarchy, subordination, and domination not only establish an unequal political order, they also withhold and deny those at the bottom the tools to try to change things. This is a failure of the kind of equal regard that is central to democracy. A democratic society, then, must incorporate into its conception of justice the core of the democratic-egalitarian view.

This leads us to say that justice is centrally concerned with establishing and sustaining the social and material conditions required for democratic citizenship. Now, as I mentioned above, there are significant disputes over what democratic citizenship is really all about. However, there is nevertheless an intuitive core that is common to the competing conceptions of citizenship: equal basic political liberties, including not only the typical menu of individual basic rights, but also equal protection under the law, rights of due process, and equal access to political office and decision-making processes. Any proposed conception of democratic citizenship that did not recognize such provisions as essential would have no claim to being a *democratic* conception. Given this, it would be difficult to deny the further implication that, as severe disparities in material advantage causally produce inequalities in basic liberties, democratic citizenship requires some degree of material well-being, and this calls for provisions for things like public education, economic assistance of various kinds, and healthcare. Of course, all of this requires governmental infrastructure and, naturally, official systems of taxation.

This broadly democratic-egalitarian view is, of course, severely underspecified. We might call it a *minimal* democratic-egalitarian view (keeping in mind that it is quite distinct from the view we above called *minimalism*). It is difficult to see any proposed conception of citizenship that *denied* any of the above as a properly democratic conception. Thus it looks as if a minimal democratic-egalitarian conception is, at the very least, the right place to *begin* in thinking about justice for a liberal and constitutional democracy.

Note that minimal democratic egalitarianism looks decidedly resourcist in its conception of justice's currency. This is troubling, as surely there is *something* to the criticism of resourcism advanced by the capabilities approach. In order to achieve the kind of political equality sought by the democratic egalitarian, it is likely that we will have to look not only to each citizen's share of key social resources, but also to their ability to employ them. Can this central insight of the capability theorist be accommodated by the minimal democratic egalitarian without thereby inviting the difficulties that the capabilities approach invites?

Maybe so. Recall that the main problem we found with the capabilities approach has to do with the tendency of that view to continually expand its list of core human capabilities. This tendency is the result of the fact that

the capabilities approach treats capabilities as tied to human flourishing. Perhaps the minimal democratic egalitarian can adopt a view of core *democratic capabilities* or the basic political functioning of democratic citizens. Instead of talking about capabilities for things like play, dancing, feeling awe, and physical exercise, the minimal democratic egalitarian can limit herself to capabilities for political informedness, historical understanding, political participation, and public action; these would require the development of capacities for critically thinking, engaging in public discourse, weighing different considerations relevant to pressing political and social issues, imagining and understanding opposing viewpoints, and so on. In addition, the minimal democratic egalitarian could also adopt the capability theorist's concern with making public and political environments accessible to the disabled and accommodating for the elderly. In short, some such conception of the core *democratic capabilities* is available to the minimal democratic egalitarian.

But the crucial thought underlying the minimal democratic-egalitarian view I have just sketched is that it is able to recognize that, at some point, the specifics of justice—the precise design of the tax structure, the content and extent of public education, the forms of public assistance, and so on—must be topics of ongoing debate, criticism, and reevaluation. That is, one can establish in one's theory of justice a fairly elaborate minimal threshold that must be met in order for democracy to persist, and then leave the further specifics to ongoing democratic processes. It is fitting, then, that we turn next to the topic of democracy.

### For Further Reading

As always, the great texts in the historical tradition of political philosophy must be grappled with; these include, minimally, Plato's *Republic*; Book V of Aristotle's *Nicomachean Ethics* and his *Politics*; and the masterworks mentioned previously of Hobbes, Locke, Rousseau, Kant, Bentham, and Mill. All of the contemporary work on justice proceeds against the long shadow cast by John Rawls's landmark *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971). The secondary literature on Rawls is far too voluminous to catalogue here. For a comprehensive and synoptic treatment of the whole of Rawls's political philosophy, consult Samuel Freeman's *Rawls* (New York: Routledge, 2007). One of the best ways to enter into the contemporary debates over justice is to begin by looking at some of the more influential criticisms of Rawls; see the papers collected in Norman Daniels's *Reading Rawls* (Stanford: Stanford University Press, 1989) for early critical reactions, and the most current assessments can be found in Jon Mandle and David Reidy's edited volume *A Companion to Rawls* (Oxford: Wiley-Blackwell, 2014). Criticisms of Rawls that claim to stand outside of the liberal framework can be found in Michael Sandel's *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982); Iris Marion Young's *Justice and the Politics of Difference* (Princeton: Princeton

University Press, 1990); Michael Walzer's *Spheres of Justice* (New York: Basic Books, 1983); and G. A. Cohen's *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008). See Robert Nozick's *Anarchy, State, and Utopia* (New York: Basic Books, 1974) for a defense of minimalism; and for a utilitarian view, see Robert Goodin's *Utilitarianism as a Public Philosophy* (Cambridge: Cambridge University Press, 1995).

The literature on egalitarianism is vast. One place to begin is Ronald Dworkin's two seminal papers "What Is Equality, Part I" (*Philosophy & Public Affairs*, Volume 10, 1981) and "What Is Equality, Part II" (*Philosophy & Public Affairs*, Volume 10, 1981). From there, one should read Amartya Sen's Tanner Lecture, "Equality of What?," which is reprinted in Sterling MacMurrin's edited collection of *Tanner Lectures on Human Values* (Salt Lake City: University of Utah Press, 1980), Richard Arneson's "Equality and Equal Opportunity for Welfare" (*Philosophical Studies*, Volume 56, 1989), and G. A. Cohen's "On the Currency of Egalitarian Justice" (*Ethics*, Volume 99, 1989). Two influential critiques of luck egalitarianism are Susan Hurley's "Luck and Equality" (*Aristotelian Society Supplemental Volume* 75, 2011) and Samuel Scheffler's "What Is Egalitarianism?" (*Philosophy & Public Affairs*, Volume 31, 2003). As was mentioned above, Elizabeth Anderson's "What Is the Point of Equality?" (*Ethics*, Volume 109, 1999) remains the most trenchant critique of luck egalitarianism, and it is also a compelling defense of democratic egalitarianism; see also her *The Imperative of Integration* (Princeton: Princeton University Press, 2010). A version of luck egalitarianism is defended by Kok-Chor Tan in two excellent articles, "Justice and Personal Pursuits" (*Journal of Philosophy*, Volume 101, 2004) and "A Defense of Luck Egalitarianism" (*Journal of Philosophy*, Volume 105, 2008). The most forceful articulation and defense of the capabilities approach can be found in the work of Martha Nussbaum. See, especially, her "Human Functioning and Social Justice: In Defense of Aristotelian Essentialism" (*Political Theory*, Volume 20, 1992), and her books *Women and Human Development* (Cambridge: Cambridge University Press, 2000) and *Frontiers of Justice* (Cambridge, MA: Harvard University Press, 2006). For a series of recent papers examining the differences between resourcism and the capabilities approach, see Harry Brighouse and Ingrid Robeyns's edited collection *Measuring Justice: Primary Goods and Capabilities* (Cambridge: Cambridge University Press, 2010). Carl Knight and Zofia Stemplowska's collection on *Responsibility and Distributive Justice* (New York: Oxford University Press, 2011) provides a good guide to the state of the art in responsibilist views of justice.

## 6 Democracy

- The Familiarity of Democracy
- The Fundamental Ideal
- Classical Conceptions of Democracy
- Two Contemporary Trends
- Conclusion
- For Further Reading

### 6.1 The Familiarity of Democracy

It might strike some readers as odd that the discussion of democracy occurs so late in this book. We began with the methodological commitment to beginning with the social world as we encounter it, and, after all, unlike some of the ideas that have been discussed, democracy is familiar, perhaps obvious. We all know what democracy is, so why didn't the book begin there?

There is indeed a sense in which we are all already well acquainted with democracy. Chances are that if you are reading this book, you live in a democracy, and this means that democracy's major institutions and processes—elections, campaigns, debates, courts, systems of political representation, and so on—are close at hand. That you live in a democracy also means that the language of democracy pervades your life. From the time you were very young, you learned what it means to settle disputes "democratically," and even as a child many of your appeals to ideals of fairness and equality had a democratic flavor. This, of course, is to say nothing of the constant appeals to democracy in your everyday political talk. Judging from the facility with which you employ the concept, democracy seems rather simple.

Being familiar with a concept is different from understanding its content. In fact, familiarity can sometimes serve as a block to philosophical understanding. We do not often take the time to think about things that seem to us obvious; we tend to glide over what's familiar. However, despite appearances, democracy is a surprisingly complicated, even puzzling, idea. Moreover, our everyday attitudes toward democracy are complicated, perhaps even conflicted. Nothing is obvious about democracy.