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## Chapter 3

# Justice

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This essay surveys some of the most prominent positions, issues, and questions within contemporary discussions of justice. It addresses many key topics, but readers should bear in mind that this review was written explicitly for this volume and thus omits much of importance which will be covered in the other essays in this book, especially those focusing on democracy, equality, feminism, liberalism, and Marxism.

### Utilitarianism

One of the most powerful, systematic, and popular theories of justice is utilitarianism, the view that actions, policies, and institutions are to be judged in terms of the extent to which they maximize overall happiness or well-being. Utilitarians come in various shapes and sizes, but virtually all embrace consequentialism, impartiality, and maximization. Utilitarians are consequentialists insofar as they assess actions and policies solely in terms of the consequences they generate. So-called “backward-looking” considerations (such as what people deserve in light of their past behavior) are irrelevant on this view; all that matters is the future effects. Utilitarians are impartialists because the well-being of every person (where “person” sometimes includes not just humans but all sentient beings) matters equally. No special deference is paid to the interests of the agent or her close relations; consequences for everyone are to be counted, and no one’s well-being is given more weight than the others. Finally, utilitarians are maximizers because, among all the possible options, they single out that which results in the greatest overall well-being as the uniquely correct choice. There is considerable debate among utilitarians as to what good should be maximized (happiness is only one prominent answer), but all agree that the right action is that which maximizes the good.

Even this quick sketch is enough to indicate why utilitarianism is profoundly revisionary. Indeed, Jeremy Bentham, John Stuart Mill, and its other early adherents were radical reformers who worked to overhaul nineteenth-century England. In their view, the existing laws and customs were morally atrocious because they prevented, rather than promoted, overall happiness. In defiance of the status quo, utilitarians proposed new arrangements inspired by the importance of considering equally the welfare of each individual. Among other reforms, they sought to bring down property laws which unjustifiably privileged the upper classes. This leaning toward equal distribution stems from the twin assumptions of (1) impartiality, and (2) diminishing marginal returns. Impartiality, of course, is merely the above-mentioned moral stance that no one person's well-being is of greater intrinsic value than another's, and diminishing marginal returns is the economic principle that people derive a smaller amount of satisfaction from each additional increment of wealth (or other good) they obtain. To appreciate this principle, consider how much the happiness you gain by acquiring an additional pair of pants is affected by the number of pants you already own. If you have no pants and someone gives you a pair, for instance, it makes a huge difference because you can now clothe your legs. And if someone then gives you a second pair, these pants will likely have a substantial effect on your happiness (since you can now wear one pair while you wash the other) but will not make such a huge difference as the first pair. Similarly, you might be quite happy to receive the third pair of pants (because of the additional variety it introduces into your wardrobe), but the importance of adding this third pair pales in comparison with the significance of gaining your second pair. Finally, consider the additional satisfaction you derive from acquiring a fifteenth pair of pants. You might be pleased to get this additional pair, but its acquisition will be nowhere near as important to you as the first, second, or third was.

Presumably, all of this is intuitively plausible. But now consider how these observations might lead you (and the utilitarian) to distribute pants among a community of people. Imagine, for instance, that there are ten people and twenty pairs of pants. Would you arrange things so that one person had all twenty pairs and the remaining nine had none, so that four people had five pairs each, or so that each person had two pairs of pants? If you believed that the one of the four people deserved special consideration (because they were part of a higher, morally superior class, for instance) you might recommend the first or second option. But if you believe that each person's welfare is equally important – as the utilitarians do – then you are likely to recommend the last option, wherein each person gets two pairs of pants. It is this type of reasoning which led early utilitarians to lobby for sweeping legislative changes designed to redistribute wealth more equally, and it is also this logic which inspires some contemporary utilitarians to argue that we should dedicate much more to international aid. After all, where is the justice in using money to buy fancy new pairs of pants for ourselves when our closets are already filled and there are impoverished foreigners whose legs are bare? Unless we think there is some reason why our happiness is more important than theirs, it seems difficult to justify buying luxuries which will have minimal effect on our

happiness when the money spent on these amenities could have a life-altering effect on those who have so much less (Singer).

Although this story is plausible, not all utilitarians embrace its conclusion. Few doubt the logic of diminishing marginal returns, but many eschew egalitarian distributions because of the incentive structures they create. Some utilitarians acknowledge that, if we assume a given number of pants, happiness is generally maximized by distributing them equally. It is wrong to assume a fixed number of pants, however, because there are different arrangements that are more, or less, conducive to the production of pants (and other goods). In particular, the amount produced depends crucially on the incentives people have to engage in production. To see the importance of this, reconsider the community of ten people mentioned above. Given the law of diminishing marginal returns, it makes sense to distribute the twenty pairs of pants equally, giving two pairs to each person. The drawback to such egalitarian distributions, however, is that they reduce the incentives to work, by externalizing the costs of leisure. In other words, if each person knows that she will get only one-tenth of whatever she produces (since the total produced will be split into ten equal parts), then no one has much incentive to produce. Suppose, for instance, that if they worked hard, each could produce ten pairs of pants. If so, there would be 100 pairs, which, distributed equally, would give each person ten. But notice that if one person decided to play rather than work, there would be only 90 pairs of pants, or nine pairs each. Given this arrangement, we would expect this person to play rather than work. The key is that because produced goods are distributed equally, the person who elects not to work enjoys 100% of the benefits of her leisure but incurs only 10% of the costs (the other 90% is incurred – in equal parts – by the other nine with whom the fruits of production are shared). Thus, one has insufficient incentive to work; it is rational to choose leisure when one pays for only one-tenth of its cost.

The problem is that this logic does not apply to only one person; it applies to everyone under this distributive arrangement, so we should expect everyone to choose leisure over production. In other words, if all pants were distributed equally, no one would voluntarily produce pants, none would be produced, and thus there would be none to distribute (Schmidtz and Goodin). This reasoning leads some utilitarians to eschew egalitarian distributive policies. The better long-term strategy, they suggest, is to harness everyone's self-interest by arranging things so that each person is assured of keeping virtually all that she produces. The point is not that the best life involves accumulating produced goods rather than enjoying leisure. The important insight is instead that, when each person fully internalizes the costs and benefits of work and leisure, she chooses a production schedule which is best for her without displacing the costs of her leisure onto others. In this way, allowing each individual to decide which type of life best suits her, maximizes overall happiness.

As this discussion illustrates, many factors must be considered when designing a distributive arrangement which maximizes happiness, and it should come as no surprise that not all utilitarians endorse the same policies. But while there is

some disagreement among utilitarians, there is much more controversy over the approach as a whole. The objections to utilitarianism are many, but perhaps the most consistent worry is that, insofar as utilitarianism concerns itself exclusively with consequences, it cannot be squared with justice. Critics contend that because justice involves giving people their due, and because someone's due depends principally upon her previous actions, an ethical outlook which looks solely to the future cannot offer an account of justice. Perhaps the most popular way to express this concern is that utilitarianism cannot accommodate moral rights. For instance, if happiness would be maximized by killing a wealthy farmer and distributing her abundant crop among the starving masses, then utilitarianism would apparently recommend that we do so. The utilitarian responses to this charge are diverse and sophisticated, but the most frequent involve either (1) denying the divergence between utilitarianism and justice, (2) biting the bullet in favor of utilitarianism, or (3) distinguishing between right action and the best motivation. Consider each of these responses.

Some utilitarians insist that, in the real world at least, there is no significant divergence between what utilitarianism recommends and our ordinary moral thinking about justice. Utilitarians protest that their critics concoct radically counterfactual thought experiments which purport to highlight the divergence between justice and utility. According to defenders of utilitarianism, this tendency toward otherworldly examples is no coincidence; it is made necessary by the great concordance between maximizing utility and common convictions which occurs in real-world circumstances. (Killing wealthy farmers and redistributing their assets among the needy would never *in reality* maximize happiness, for instance, because one could not covertly implement such a plan, and public awareness of this type of redistributive policy would threaten everyone's sense of security and undermine our incentive to work and accumulate goods.) What is more, in those extremely rare situations in which utilitarianism would clearly recommend something different than what justice putatively demands (say, when one must torture an innocent baby in order to save the entire human race), we tend to side with utilitarianism – or, at the very least, our conviction that justice must trump concerns of utility is greatly diminished.

Another response – that of biting the bullet – occurs when staunch utilitarians acknowledge the incompatibility of utilitarianism and our convictions about justice, and then openly jettison justice. Often the thinking here is that, just as we would not abandon an elegant, powerful scientific theory the first time we came across outlying empirical data, we should not discard utilitarianism merely because it conflicts with a few miscellaneous moral intuitions. Given that utilitarianism is such a simple and powerful theory which so consistently generates correct answers in a wide variety of contexts, it seems wrong-headed to discard it merely because it fails to square with a random assortment of putative intuitions (Smart and Williams).

While both of the above responses are common, the most celebrated utilitarian move is to distinguish between right action and right motivation. Here utili-

tarians contest that, just because utilitarianism defines the right action as that which maximizes happiness, it does not follow that a utilitarian must recommend that we consciously try to maximize happiness each time we act (Mill). Utilitarians note that we often do a better job of actually maximizing happiness when we do not explicitly aim to. Because of the errors we commonly make in calculating utility, and because it is often an inefficient use of time to stop and compute the expected consequences, it is best to act from habits or rules. Perhaps the paramount reason we ought not to consider equally the happiness of all those potentially affected before we act, though, is because we know and care the most about ourselves. And since everyone is best positioned to take care of their own happiness, utilitarians can without contradiction urge us to worry principally about our own self-regarding affairs while simultaneously denying that an agent has any reason to treat her own happiness as of any greater intrinsic importance than that of the next person. Utilizing reasoning like this, many utilitarians argue that overall happiness would in fact be maximized if each of us acted as if the moral rights falsely posited by commonsense morality were genuine. In short, sophisticated utilitarians contend that over the long haul, right actions are more often performed when we are not explicitly motivated by utilitarian concerns (Hardin; Hare).

Of course, none of these three utilitarian responses quiets all critics. Those sympathetic to moral rights object that it is not enough that utilitarianism only rarely conflicts with justice in the real world or even that it plainly diverges from justice only in radically counterfactual circumstances. Detractors insist that even one hypothetical conflict between justice and utility demonstrates that utilitarianism must be rejected. Moreover, many are not satisfied that utilitarianism can approve of our acting as if we have moral rights; they insist that no theory is adequate unless it can affirm these rights themselves. The crucial point is that we *deserve* certain types of treatment, and, at best, utilitarianism can only say that we should typically act *as if* people deserve this treatment. Utilitarians standardly argue that, when one appreciates the limits of human reasoning, one sees how happiness is maximized by nonconsequential motivations. For many, this account involves “one thought too many” (Williams, p. 18).

## Rawls

For quite some time, the only alternative to utilitarianism seemed to be a miscelany of retributive intuitions. In his *Theory of Justice*, John Rawls set out to remedy this situation by devising a retributive theory of justice which could rival utilitarianism’s internal coherence and systematic comprehensiveness. In particular, he sought to develop an approach that was elegant and powerful like utilitarianism but which still accommodated retributive notions like fairness. In building his account of “Justice as Fairness,” he drew inspiration from a simple, paradigmatically fair distributive method. Specifically, imagine that Jill and Jack had to share

a pie; what would be the fairest way to divide it? One method, to which no one could object, would be to let Jill cut it into two pieces and then let Jack choose his piece first. Their pieces might not be exactly the same size, but neither could question the fairness of the distribution since Jill had the opportunity to cut the pie into equally desirable portions, and Jack could have chosen Jill's piece if he had so desired. In Rawls's view, the key to developing an adequate theory of distributive justice is to devise an analogous method which could be applied to the much more complicated division of the costs and benefits of social cooperation. To see how he attempted this, let us return to our imaginary community of ten.

To begin, suppose that ten people need a fair way to split their pie. Clearly, the best strategy would be for one person to divide the pie into ten pieces with the understanding that she will get the last piece. Naturally, the pie-cutter will do her best to divide the pie into ten equal pieces since any inequalities will result in the biggest pieces being taken first and, ultimately, the smallest piece being left for her. The only problem with this analogy is that, as we saw in the discussion of utilitarianism, we cannot assume that the size of the pie is constant. Taking the pie as analogous to the costs and benefits of social cooperation, we need to recognize that the size of the pie depends on how society's basic institutions are organized. Moreover, we have already seen how distributing products equally can inhibit the incentive to produce, and thus we see that dividing the communal pie into ten equal slices will lead to a smaller overall pie. And finally, since the pie-cutter would insist upon equal-sized slices at the expense of the absolute size of her own slice only if she were exceptionally envious, the cutter would happily allow any inequalities which would result in the last piece of pie being bigger than it would be otherwise. After all, the person who arranges the distribution of the ten pieces chooses last, and she can reasonably expect that her nine companions will leave the smallest piece for her. Thus, once we transpose the pie-cutting model to a larger group and then add the observation that our method of distribution has an effect on the size of the pie as a whole, we end up with the following recommendation: the costs and benefits of social cooperation are to be arranged so that the worst-off person has the best possible share.

Now that we have a sense of Rawls's overarching aim, let us look at how he explicates and defends his model of justice as fairness. Rawls writes of his theory involving two principles, but his second principle is two-pronged, so his account may be understood in terms of three distinct principles: the Principle of Greatest Equal Liberty, the Principle of Fair Equality of Opportunity, and the Difference Principle. The Principle of Greatest Equal Liberty, which enjoys priority over the other two, specifies that "each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others" (Rawls, 1971, p. 60). This principle proposes that each person is to have an equal right to such liberties as the freedom of conscience, freedom of speech, freedom of political participation, the right to private property, etc. as is compatible with everyone else equally enjoying these freedoms. The Principle of Fair Equality of Opportunity requires that offices and positions be genuinely open to all under conditions of

fair equality of opportunity. The idea here is simply that each person should be able to compete on an even playing field, so that those with the same talents and motivation enjoy equal opportunities to assume positions of power and prestige. And finally, the Difference Principle asserts that social inequalities are to be arranged so that they are of the greatest benefit to the least advantaged. In other words, deviating from equality is permissible only when it is to the maximal advantage of the worst-off.

It should be apparent how these principles derive their inspiration from the pie-cutting scenario, but notice that Rawls also seeks to support his theory with the same reasons which inspire our confidence in the fairness of the pie-cutting procedure. To appreciate this, it is important to remember that Jill and Jack will not necessarily get precisely equal pieces of pie. Thus, the method of division is not justified exclusively by the size of the portions; the distribution is also justified because it is the result of a procedure to which neither could reasonably object. Put simply, Jill and Jack both rationally agree to this method of division. Similarly, Rawls seeks to defend his principles by showing that they too would be agreed to by rational bargainers in a suitable-choice situation. There has been an enormous amount written about what constitutes a rational bargainer and what type of choice situation is most appropriate, but the basic idea is to construct a thought experiment which demonstrates that – like Jill and Jack with their respective pieces of pie – no one living in a society whose basic institutions are in accord with the principles of justice as fairness could reasonably contest her lot. (As Rawls points out, in a society whose basic institutions are governed by his principles, even those worst-off cannot righteously object since things could not have been ordered so as to improve their lot without reducing others to a position below that of the currently worst-off.) Thus, the description of the rational-choice situation (which Rawls labels the “original position”) is extremely important because Rawls seeks to justify his theory, not only on the grounds that it squares with our considered judgments of social justice, but also because it would be agreed to by rational bargainers in circumstances which we all agree are fair.

The first thing to notice about the rational bargainers is that we cannot use actual people who are aware of their circumstances because white, male Christians are liable to lobby for rules which favor white, male Christians, and black, female Muslims might seek rules privileging black, female Muslims and so on. Moreover, because the wealthy and powerful have greater bargaining power, the principles likely to emerge from any negotiations among actual contractors would reflect these power differentials. Such principles would not necessarily be fair, of course, since they stemmed from a morally arbitrary source. To derive principles to which no one could reasonably object, then, we must strip each contractor of any morally arbitrary advantages in bargaining power, and the best way to do this, Rawls suggests, is to put the contractors behind a “veil of ignorance” where they lack all knowledge of their personal characteristics and station in society. If each contractor has no idea whether she is black or white, rich or poor, female or male, Muslim or Christian, for instance, then she will not be concerned merely to protect people

of her own description. Thus, because we have reason to value principles upon which rational contractors would agree only if these contractors were unaware of their personal characteristics, Rawls wants to show that those behind the veil of ignorance would choose the principles which comprise justice as fairness.

Rawls proposes that the bargainers would reason as follows. First and foremost, they would insist on the Principle of Greatest Equal Liberty because, above all, each would want to ensure her freedom to live according to her own conscience. If a contractor knew that one was a Muslim, for instance, she might want a state which favors Muslims, but since the contractor is ignorant of her religious convictions and of which religion is dominant, her first priority will be to secure an arrangement wherein each person is at liberty to worship (or not) as she sees fit. Similarly, each rational bargainer would hope that all public offices and other positions of authority are effectively open to all. Again, unless one knew that one was a member of the privileged caste or class, one would want to make sure that everyone has an equal shot at all awards and posts of consequence. Finally, when it comes to distributing the basic goods of society, the best way to ensure that one has sufficient means to live a rewarding life is to arrange things so that one's worst-case scenario is as good as possible. In other words, one would distribute what Rawls calls "primary goods" (goods such as rights, liberties, wealth, power and opportunities, which virtually everyone needs to pursue their goals and projects) equally unless departing from equality would improve the smallest portion. Given the rationality of this reasoning, Rawls concludes that the contractors would opt for his principles of justice. And because the rational preferences of bargainers behind the veil of ignorance lend support to whichever arrangement they endorse, Rawls sees this thought experiment as compelling support for his conception of justice as fairness.

The critical response to Rawls's groundbreaking argument has been extraordinary in both its volume and its interdisciplinarity. Here I will briefly mention just two concerns: (1) not only do many question the moral significance of Rawls's thought experiment; but also (2) some suggest that it would not generate the principles he supposes. Regarding the first objection, detractors have protested that it is hard to see how the supposed preferences of hypothetical reasoners could have any moral implications for those of us living in the real world. As Ronald Dworkin says, a hypothetical contract "is not simply a pale form of a contract, it is no contract at all" (Dworkin, 1975: 18).

Of course, Rawls insists that it is important to determine which principles would be chosen behind the veil of ignorance because, insofar as he has specifically designed the original position to be a fair-choice situation, whichever principles emerge should be considered fair. Even if one agrees with Rawls on this point, however, it may not be enough to save his preferred theory because many question whether the rational bargainers would really favor Rawls's principles. Most commentators concede the Principle of Greatest Equal Liberty, and even the Principle of Fair Equality of Opportunity has not been too controversial, but there has been enormous dissatisfaction with the Difference Principle. In particular, many



wonder why Rawls thinks rationality requires the contractors to be so risk-averse that they would sacrifice potentially great gains in efficiency for increased security. Put another way, why concentrate so intently on the worst-off position to the detriment of the overall aggregate of costs and benefits? It makes sense for the pie-cutter to focus exclusively on the size of the smallest piece of pie because she knows that she will choose last, but this is not true of those behind the veil of ignorance. Rawls's rational bargainers do not know what their relative position will be, but their ignorance is very different from knowing that they will be the worst-off. Given their ignorance, it seems as though they should assume that they are as likely to be relatively wealthy as to be relatively poor. If so, the bargainers should prefer whichever distribution of goods is most efficient since that is most likely to increase the average share. In sum, many critics contend that, once the Principle of Greatest Equal Liberty and the Principle of Fair Equality of Opportunity are safely in place, it would be irrational to worry exclusively about making the worst-off position as good as possible. The more rational strategy would be to prefer whichever distributive policy would make the pie as a whole the biggest since this will improve the size of the average slice.

Rawls acknowledges that the policy of maximizing one's minimum, worst-case scenario (known as the "maximin" strategy) is not always preferable to maximizing one's expected outcome, but he insists that the bargainers behind the veil of ignorance have special reasons to weight security over efficiency. In particular, Rawls invokes the "strains of commitment" which weigh on the contractors. The argument here is that the bargainers' special concern with improving the condition of the worst-off is warranted because, in agreeing to a set of principles to govern the basic institutions of society, they are irrevocably committing themselves to the resulting distribution no matter where they may end up on the social hierarchy. What is more, the contractors would be irrational to gamble with the high stakes of such an outcome because the social conditions necessary for self-respect are on the line. Finally, Rawls emphasizes that the contractors understand that they must not only be able to endure their eventual stations in society; they must be able to embrace them as active, energetic citizens in a democratic community. Thus, Rawls concludes that the highly distinctive circumstances behind the veil of ignorance require the maximin strategy, which in turn leads to the Difference Principle. In sum, Rawls argues that his conception of justice as fairness is confirmed not only by our considered judgments about social justice but also because it would be selected by rational bargainers placed in a fair-choice situation.

Before closing our discussion of Rawls, it is worth pausing to note that he places much greater emphasis on stability and legitimacy in his more recent work. In *Political Liberalism*, Rawls takes it as an inevitable fact that a plurality of comprehensive moral, religious, and philosophical doctrines will exist unless uniformity is forcibly imposed by an oppressive regime. Assuming both that a political regime will enjoy stability only if the great majority of its constituents freely support it, and that a state cannot be legitimate if it imposes rules which its constituents can reasonably reject, the fundamental question arises as to how a state can legitimately

coerce all of its citizens when they subscribe to a plurality of reasonable comprehensive views. As Rawls puts it: “How is it possible that deeply opposed though reasonable comprehensive doctrines may live together and all affirm the political conception of a constitutional regime?” (Rawls, 1993, p. xviii). The solution, Rawls believes, lies in “public reason,” an overlapping consensus of fundamental political ideals which exist within the public political culture of enduring liberal democracies. Thus, a state can be legitimate and stable despite the ideological diversity of its citizens as long as it can ground its laws in this overlapping consensus of public reason, as opposed to appealing to a particular comprehensive doctrine which is not shared by all. It is important to recognize that Rawls does not seek to eliminate the plurality of reasonable comprehensive doctrines; he acknowledges that they might be relevant for various associations or institutions within a state (when deciding matters within one’s church, for instance). But when it comes to political decisions concerning the basic structure of society, Rawls insists that it is illegitimate to invoke anything other than public reason. Thus, in contrast to his earlier work, Rawls now emphasizes that his principles constitute a *political* conception of justice; he argues not that his theory is true but only that it is consistent with an overlapping consensus of political views which exist among the plurality of reasonable comprehensive doctrines of any longstanding democratic regime.

### Libertarianism

Many embrace libertarian policies for consequential reasons; as explained above, there is good reason to think that social systems which celebrate individual freedom and responsibility make everyone better-off. The more popular libertarian stance, however, stems from a respect for the inviolability of moral rights. Such libertarians offer an account of justice very different from those of utilitarianism or Rawls, and perhaps the best way to introduce their view is to explain why they reject the two previous accounts of justice.

Rights-based libertarians (hereafter simply “libertarians”) like John Locke and, more recently, Robert Nozick understand the temptation to slice pies or distribute pants so as to maximize overall happiness or improve the condition of the worst-off, but they nonetheless insist that such redistribution is typically unjust. The principal concern is that pies, pants, and other products do not merely fall from the heavens; they have to be produced and normally are the property of their producer. Reconsider our community of ten as an example. If one of the ten, Antonio, bakes a pie, then we might divide it in any number of ways, depending on what goals we seek to advance. No matter what good consequences would arise from these various divisions, however, it would be unjust from the perspective of libertarianism to take even the tiniest sliver on behalf of the hungriest person without Antonio’s permission. As the rightful owner of the pie, Antonio stands in

a privileged position of moral dominion over it. Of course, Antonio may share the pie with the others if he would like, but he may also eat the entire pie himself or even let it go to waste if he would prefer. Letting the pie spoil when others are hungry would admittedly be inefficient, wasteful, and perhaps even mean-spirited, but it need not be unjust. Assuming that Antonio has a property right to the pie, justice requires that he be allowed to use – or waste – it in any manner he sees fit. Efficiency, charity, and the maximization of happiness are worthwhile goals, but libertarian justice insists that none takes priority over moral rights. No matter how noble our intentions, the range of our permissible actions is always constrained by the rights of others.

Given this emphasis on rights, libertarians like Nozick insist that one cannot know whether a particular distribution is just – no matter what its pattern – unless one knows how it arose. A distribution wherein Antonio is wealthy and the other nine are relatively poor could be perfectly just as long as each of the ten is entitled to precisely what she has; and conversely, a scenario in which all ten have equal portions might be unjust if some have acquired their possessions via illegitimate means. Any distribution will be just as long as each possession was acquired either through a proper initial acquisition (as when one grows a crop on one's own land or bakes a pie with one's own ingredients) or through a just transfer (as when one either buys, trades for, or is given something from its rightful owner). It is the history of each particular initial acquisition and transfer rather than the resulting overall pattern of distribution which determines the justness of a particular distribution (Nozick). Force may permissibly be used to take something back from someone who has acquired it via illegitimate means (through fraud or theft, for instance), but it is always unjust to coerce someone to surrender something to which she is entitled. There may be loads of reasons to wish that property were distributed more equally or in conformity with some other pattern (and often these reasons will inspire people to act charitably), but as long as the existing distribution is the result of just initial acquisitions and transfers only, it would be strictly impermissible to force anyone to surrender her property.

Given this account of justice, it is not surprising that libertarians tend to follow Nozick in rejecting the welfare state in favor of (at most) a minimal, “night watcher” state. The idea here is that, just as it would be unjust for an individual to take Antonio's property, it would equally be wrong of all nine to band together and commandeer a portion of his pie. Antonio's property right is a position of moral dominion which holds against all others, whether they act as individuals or have been incorporated in the form of a state. Understood from this perspective, Nozick argues that there is a sense in which living in a welfare state is morally akin to something like slavery. Imagine, for instance, that the state “redistributes” one-tenth of Antonio's income to others; suppose it takes one of the ten pies Antonio bakes daily. In a sense, Antonio is one-tenth enslaved since he is forced to work for others for a portion of every day. Thus, while libertarians have no principled opposition to voluntary charity, they insist that coerced welfare redistribution is unjust regardless of whether it is perpetrated by an individual, by

Robin Hood and his merry men, or by a sophisticated modern state. Given this stance, libertarians typically argue for a minimal state, one which merely secures the peace, enforces contracts, and perhaps protects against aggressive foreign states. On this view, the state is needed to – and may permissibly do no more than – ensure that no one interferes with the moral rights of its citizens. Because libertarians posit only minimal rights against interference, they dislike all states which, in attempting to do more than protect these few rights, regularly trample all over them.

Libertarianism is attractive both because of the simplicity and intuitive plausibility of its emphasis on rights and because of its celebration of individual freedom and responsibility. Like all accounts, however, it has critics. Two prominent objections are that (1) there is no adequate foundation for libertarian rights, and (2) if libertarians were correct about our moral rights, we could not justify even a minimal state. Consider each of these worries in turn.

First, many concede that all forced welfare redistribution would be unjust if moral rights – especially property rights – took the form libertarians presume, but they contend that there is insufficient reason to believe in rights of this description. Most contemporary students of justice believe in moral rights, but they understand them differently than libertarians would like. According to libertarianism, there can be no “positive” rights to assistance because they are ruled out by our “negative” rights to be free from interference as long as we do not harm others. (Very roughly, negative rights protect one from being harmed, and positive rights entitle one to be benefited.) The obvious question emerges, however, as to why we must agree that our negative rights leave no space for positive rights. Negative rights would do so if they were entirely general and unfailingly absolute, but this rendering ill-fits our considered moral judgments. (To offer just one example of an exception to our right to liberty, most think there is a perfect duty to perform Samaritan rescues like saving a drowning baby from a swimming pool when such a rescue requires one only to reach down and pull the child from the water.) What is more, we should revise these substantive moral judgments only if there are compelling conceptual reasons for insisting that all rights are absolute and general. The problem for libertarians is that no one has been able to supply these reasons. (Moral rights might be perfectly general and absolute if they were derived directly from a few natural laws, for example, but most have abandoned the conception of moral rules upon which such an account depends.) In short, in the absence of a theoretical explanation of why rights must be general and absolute, we cannot conclude that our negative rights rule out the possibility of positive rights. And, given our considered belief in positive rights, it seems wrong to insist that all forced redistribution of wealth must be unjust.

A second problem emerges even if libertarians can generate a convincing explanation for why our negative rights leave no room for positive rights, because, while libertarians stress that their account of justice is incompatible with forced redistribution, it also appears to conflict with the minimal, “night watcher” state. The problem is that just as a welfare state cannot redistribute funds without first forcing

citizens to relinquish some of their wealth, a minimal state could not secure peace, enforce contracts, and provide military protection unless it coerced those within its territorial boundaries to both follow a single set of rules and contribute to the institutions required to draft, promulgate and enforce these rules. Albeit to a lesser extent and for fewer purposes, a minimal state is guilty of the same crime – non-consensual coercion and invasion of property rights – with which libertarians charge the welfare state. If so, libertarians must eschew even the minimal state in favor of anarchy. Of course, anarcho-libertarians urge us to embrace just such a conclusion, but most consider anarchy an unpalatable conclusion. Faced with either endorsing anarchism or abandoning libertarianism, many would opt for the latter.

### **Post-Rawlsian Egalitarianism**

Since the emergence of Rawls's theory of justice, a number of egalitarians have defended various interpretations of the ideal of equality. In this section I will briefly review three egalitarian approaches: (1) so-called "luck" egalitarians, (2) Michael Walzer's complex equality, and (3) Elizabeth Anderson's relational theory of equality.

Although egalitarians often disagree about how the ideal of equality should be realized, they are united in rejecting the libertarian critique of welfare redistribution. In their view, the problem with allowing individuals unlimited liberty to accumulate and transfer justly acquired property is that the cumulative result of many seemingly benign transactions can result in pernicious inequalities (Cohen). It is quite possible, for instance, that Bert's parents – through a combination of ambition, preferences, and luck – amass a fortune while Ernie's become quite poor. This disparity is morally problematic because it means that, through no fault of his own, Ernie has a much worse chance than Bert of living a rewarding life. There is nothing necessarily wrong with Bert working hard and accumulating more possessions because he values possessions more and leisure less than Ernie, but it seems unjust that Bert should enjoy both more possessions and more leisure than Ernie merely because Bert was lucky enough to have been born to wealthier parents. Just as we object to the injustice of whites having better life prospects than blacks or men having better life prospects than women, we should object to the disparity between the life prospects of Bert and Ernie when this divergence has nothing to do with differences in their character or behavior.

To avoid this form of injustice, some recommend that we should divide resources equally. The problem with this "equality of resources" approach, however, is that some people might need more resources to live an equally rewarding life (Dworkin, 1981b). Imagine, for instance, that I am paralyzed and cannot get around without a special living environment and a motorized wheelchair. If everyone were simply given an equal share of resources, my special expenses would

leave me with considerably less for the usual goods of life. To correct for this problem, some embrace “Equality of Welfare,” the view that resources are to be distributed in whatever fashion ensures that all are equally happy. This approach is also problematic, though, because it might be that I have unreasonably expensive tastes (Dworkin, 1981a). If I can only be pleased with champagne and caviar when most are perfectly content with chicken and dumplings, then the equality of welfare seems to require that I be given enough funds to compensate for my more expensive tastes. This conclusion is awkward, however, since it seems as though society at large should not have to pick up the tab for my peculiar cravings. A more promising approach would seem to be one which split the difference between equality of resources and equality of welfare, one which compensated people for expenses beyond their control but gave no extra resources to those with controllable, expensive tastes. In fact, however, even those who concur that we should eliminate the element of luck have found it extremely difficult to agree on just how this ideal of equality requires that the burdens and benefits of social cooperation be distributed.

Distinguishing himself from those who understand equality in terms of a single ideal, Michael Walzer develops an account he calls “complex” equality, which is dramatically pluralistic in two important senses. First, rather than search for a fundamental, universal concept of justice which can be uniformly applied in all contexts, Walzer regards justice as something which must be created by each particular community. Second, each distinct type of social good comprises its own “sphere of justice” with its own distinct criterion of distribution. The criterion which governs the distribution of political power, for example, may be different from the criterion which governs the distribution of medical care. What is more, there is no reason to assume that any particular criterion is more basic than the others or that there is some overarching principle to rank the various criteria of distribution. Rather, complex equality requires merely that no one be able to dominate over others, where domination is understood in terms of converting the advantages of one sphere of distribution into advantages in another. Thus, there is no problem with your having more political power than I as long as (1) you gained this greater power in accordance with our community’s criterion for who should have political power, and (2) you are not able to use your political power to get goods in other spheres like medical care. Indeed, it is not even clear how Walzer could object to your enjoying a greater amount of every good than I, as long as each particular advantage was gained in accordance with its own criterion of distribution and not because of the dominance of, say, wealth or power. (However, given the great variety of goods and the corresponding diversity of individual criteria, it would in practice be virtually impossible to achieve such uniform advantage without violating complex equality.) Thus, Walzer need not object to any given inequality which exists with respect to a particular good because Walzerian justice can coincide with various inequalities as long as (1) no one is able to dominate the rest, and (2) the inequalities are created in accordance with our social understandings of these goods.

While Walzer's complex equality has garnered a great deal of support, critics have expressed concern about his contention that particular conceptions of justice must be created by each community. If he were merely emphasizing that there are often morally relevant details which may vary from culture to culture, few would object. But Walzer does not simply mean to point out that the rules of distributive justice should not be construed in overly general terms; he embraces a brand of cultural relativism by alleging that each sphere of justice depends upon the social understandings of the community in which it exists. Most commentators shy away from this relativism, though, because it apparently leaves us unable to criticize objectionable distributive arrangements. If a community reserves the privileged religious or political posts exclusively for men, for instance, it is unclear how forcefully someone who follows Walzer in eschewing universal concepts of justice could criticize such an arrangement. Since most of us regard an inherently sexist distributive policy as unjust irrespective of its cultural pedigree, few are entirely comfortable with all elements of Walzer's pluralism.

In reaction to the "luck" egalitarians, Elizabeth Anderson offers a "relational" theory of equality. In her view, the key to developing an accurate theory of equality is understanding the point of equality. Luck egalitarians miss the mark, she suggests, because they mistakenly believe their chief concern to be eliminating the element of luck so that each person can get precisely the goods she deserves. The real reason to value equality, Anderson contends, is because inequality facilitates socially oppressive relationships. Thus, if we want to know what equality requires, we must think about what people need to avoid being oppressed by others. Adopting this view involves broadening one's focus from merely the distribution of goods themselves to a consideration of the relationships within which these goods are distributed. Anderson is particularly concerned with the relationship among fellow-citizens, and thus she develops a theory of "democratic equality." Regarding compatriots, she writes: "Negatively, people are entitled to whatever capabilities are necessary to enable them to avoid or escape entanglement in oppressive relationships. Positively, they are entitled to the capabilities necessary for functioning as an equal citizen in a democratic state." Thus, Anderson would insist that realizing the ideal of equality requires neither that Bert have no more than Ernie nor even that Ernie could have just as much as Bert if he were as talented and as willing to work. As long as Bert's privileged position does not place Ernie in an oppressive relationship, the moral ideal of equality gives us no cause to eliminate the disparity in wealth between the two.

Of course, not everyone is prepared to join Anderson in rejecting the more traditional accounts of equality. Luck egalitarians might agree with Anderson that we should condemn oppressive relationships but argue that there is more to equality than the absence of oppression. Regarding Bert and Ernie, a luck egalitarian is liable to protest that surely it remains problematic that Ernie's prospects for a rewarding life are – through no fault of his own – so much less promising than Bert's *even if these prospects will never lead to Ernie's being oppressed*. If so, then restricting our attention solely to oppressive relationships might cause us to over-

look worrisome forms of inequality. Moreover, one might question how much Anderson's focus on oppression really advances the discussion since (a) "oppression" may not be a sufficiently clear notion to resolve conflicts, and (b) to the extent that it is clear, it may be parasitic on notions like rights which more traditional egalitarians endorse.

### **The Bounds of Justice**

Assuming that justice consists of moral requirements whereas charity is morally good but not required, it is important to know where justice ends and charity begins. Exploring this issue is not only worthwhile in its own right, it is an important basis on which to evaluate theories of justice. As I will explain below, dissatisfaction with the traditional theories' accounts of the bounds of justice might lead some to adopt other approaches. A notorious difficulty for the standard theories is their divergence from ordinary moral thinking regarding the special duties we have toward those with whom we share special relationships. In particular, it is commonly presumed that while we have, at most, minimal Samaritan duties to strangers, we have much more robust obligations to friends, family members, neighbors, colleagues, and compatriots. To appreciate why many are dissatisfied with this aspect of traditional theories, consider the special obligations thought to exist among compatriots and the difficulty Rawlsians, utilitarians, and libertarians have accounting for them.

Most people believe that, while we might have minimal duties to help foreigners during times of crisis, we have much more demanding responsibilities to assist compatriots. We may have a duty to support humanitarian relief projects when other countries are struck with natural disasters, for instance, but we do not owe foreigners the same extensive welfare redistribution and social safety net which we provide to fellow citizens. Surprisingly, neither Rawls's theory, utilitarianism, nor libertarianism appears able to explain these special duties. Although some political theorists have tried to apply Rawls's methodology to international justice, his own account seems ill-equipped to shed light on redistribution between political communities because Rawls's "strains of commitment" argument requires that the bargainers in the original position assume they are designing principles to govern a self-contained community which will exist in perpetuity. In other words, because Rawls wants to ensure that the rational bargainers will not adopt too risky a strategy, he emphasizes that they are irrevocably committing themselves to whichever principles they adopt. To make this point, he requires that the bargainers understand that there is only one unit of social cooperation (i.e., they will not be able to defect later) and that the principles adopted cannot subsequently be amended if they do not like their position in society. And, if Rawls's model requires the bargainers to presume that there will be no other political states, it thereby appears



incapable of explaining what type of duties might exist between these states. This utilitarianism is at odds with extending compatriots preferential treatment because, insofar as it regards each person's interests as of equal intrinsic value, it implores us to do just as much for foreigners as for compatriots. (Indeed, because utilitarians deny even that the agent's interests are more important than those of distant strangers, they often insist that we owe more to everyone – irrespective of nationality – than we currently acknowledge is due even to special relations like compatriots.) A utilitarian might counter that her theory can accommodate these special obligations because considerations of efficiency entail that everyone would be better off if each attended principally to compatriots, but efficiency would seem to justify at most attending to fellow-citizens first; it could not justify addressing the considerably less dire needs of compatriots while foreigners remain in dramatically worse shape. Libertarianism suffers from the opposite problem because, while utilitarianism seems to exaggerate the valid claims of foreigners, libertarianism appears to underappreciate the connections among compatriots. According to libertarianism, each person is at liberty to keep her property unless she freely agrees to give, trade, or sell it to someone else. Thus, unless one has agreed to transfer funds to a foreigner, one owes nothing to noncitizens. However, because most of us have not agreed to share our wealth with our fellow-citizens (indeed, this is why libertarians object so vehemently to the welfare state), libertarians cannot account for the special responsibilities thought to be owed to compatriots.

This review of the traditional theories' capacities to explain the special obligations among compatriots has been quick, but hopefully it reveals why Rawls's approach is dismissed as inapplicable, utilitarianism stands accused of demanding too much, and libertarianism is thought to require too little. Let us now turn to "associativism" and "justice as mutual advantage," two distinctive accounts of justice which some tout as better able to explain the moral importance of special relations.

Associativists (sometimes called "particularists") urge us to recognize that relational facts have a basic moral significance; on their view, I have special obligations to my sister Lesley, and we need look no further than the fact that she is my sister to explain these extra duties. We need not tell sophisticated stories about the quasi-contractual nature of sibling relationships, for example, to explain why our connection is morally significant because any relationship wherein the parties identify with one another generates special moral obligations (Miller; Tamir). This view accords nicely with our conviction that there are special obligations among family, friends, colleagues, co-nationals and compatriots because we typically identify with these associates. In other words, we feel connected to these associates in such a way that, among other things, we root for them to flourish and feel proud when they succeed or ashamed when they fail.

Associativists can cite at least three reasons to regard relationships between those who identify with one another as morally basic. First and most obviously, this approach does a better job than the standard accounts of matching our com-

nonsense conviction that we owe more to our special relations. Second, associativism offers a direct connection between our motivations and moral requirements: given our personal investment in those with whom we identify, we have extra motivation to sacrifice on behalf of our associates, so associativism has a built-in mechanism linking our obligations to our motivations. Finally, associativists suggest that treating relational facts as morally basic accords with our moral phenomenology because it seems as though the mere fact that Lesley is my sister is what is morally significant. That is, even if we could tell a plausible story about how overall happiness is maximized when people attend principally to their siblings or about how there is a sense in which siblings can be said to have contracted with one another for special treatment, these accounts seem beside the moral point. To most of us, it is simply the fact that Lesley is my sister, and not these elaborate stories, which matters morally (Williams).

Although associativism accords well with our sentiments regarding the bounds of justice, it has other features which are more problematic. For starters, while it is plausible that those who identify with one another will be more likely to sacrifice on each other's behalf, it is not clear why it follows from this that they are specially obligated to do so. Until someone explains why the former, *psychological* claim should lead us to accept the latter, *ethical* assertion, skepticism seems warranted. Additional problems emerge because awkward implications can be derived from the principle that the relationships with which we identify generate special moral duties. Consider two examples. First, many sports fans fervently identify with a given team (just as most citizens identify with their country and compatriots), but we would hesitate to conclude that sports fans have special duties to support their team. (We might criticize a "fair weather fan" for capriciously turning her back on "her" team as soon as it loses, but here we indict her *character* rather than charge her with disrespecting a duty of *justice*.) A second, less benign example is the racist or sexist person who identifies with other whites or with men. Given that we would be loath to say that a white supremacist has extra duties toward other whites or that a misogynist has special obligations to other men, we ought not to embrace the view that all personal identifications create duties. Thus, while associativism conveniently matches our understanding of the bounds of justice, many find it unacceptable for other reasons (Wellman).

A second approach with promise on this score is "justice as mutual advantage," the view that justice is the set of those rules we would rationally follow for our own mutual advantage. On this view, the reason that justice includes prohibitions against lying, stealing, and killing, for example, is because each of us is better off speaking truthfully, respecting others' property rights, and refraining from killing others as long as everyone else follows these same rules. The principal attraction of this approach is its apparent ability to answer the question: "Why be just?" Most theories struggle mightily to explain the rationality of acting justly, but mutual-advantage theorists cite the benefits of reciprocity as the straightforward answer (Hobbes; Gauthier). Obeying the rules of justice admittedly involves opportunity

costs, but these are more than outweighed by the benefits each person receives from others respecting the same rules. In other words, while there are disadvantages to not lying, stealing, and killing, they do not compare to the great advantages of living in a community wherein others also do not lie, steal, or kill.

While many champion this approach for its ability to explain the rationality of justice, it might also be applauded for its compatibility with the special duties thought to exist among special relations. A core tenet of justice as mutual advantage is that each person's fair share of the benefits of justice depends on her contributing to the production of these benefits via her own cooperation. Given this emphasis on reciprocity, it is not difficult to see how justice as mutual advantage is well positioned to explain the extra duties we owe to our special relations. We owe more to compatriots than to foreigners, for instance, because our compatriots sacrifice reciprocally for us, and we might owe our colleagues special consideration only because they extend us the same extra concern. Indeed, justice as mutual advantage seems ideally suited to explain the extra duties among special relations because, the closer the association, the greater the consideration generally reciprocated.

Although mutual-advantage theory is in good shape regarding special relations, many object that it does not really demonstrate the rationality of being just; rather, it can show only why it is rational to *appear* just (since others are more likely to treat you justly as long as they *believe* that you are reciprocating). Moreover, justice as mutual advantage does considerably less well matching our convictions regarding other boundaries of justice. Most problematically, it appears to leave those who cannot reciprocate entirely beyond the scope of protection. Someone both unable to contribute to the social surplus and incapable of threatening others, for instance, would not be protected by justice because it is to no one's advantage to contract with her. Similar conclusions apply to nonhuman animals and persons mentally incapable of committing to rules. These implications undermine justice as mutual advantage because they go well beyond suggesting that these people deserve no special treatment; this theory implies that, because these parties cannot reciprocate, it is not possible to treat them unjustly. Thus, even if the powerful wanted to do something horrific like torture these people merely for the sake of amusement, justice as mutual advantage appears incapable of explaining the injustice of doing so.

Given that the traditional theories conflict with our common convictions about the bounds of justice and that neither associativism nor justice as mutual advantage offers a fully satisfactory alternative, it is not clear how to proceed. Some theorists suggest that we must revise our pretheoretic beliefs about the special obligations thought to exist among our associates, but most are unwilling to abandon these judgments. Those who cling to our commonsense convictions have much work to do, but perhaps Elizabeth Anderson's insights point to a fruitful strategy. Recall that Anderson develops a relational theory of equality inspired by her conviction that the chief evil of inequality is its role in creating socially oppressive relationships. If Anderson is on track, it may help explain why we owe more

to those with whom we share special relationships. Specifically, given that the moral significance of an inequality will depend on the nature of the relationship between the haves and have-nots, there might be greater cause for concern about the same inequalities when they exist among compatriots rather than foreigners or if they obtain between spouses as opposed to strangers. Clearly much of this story remains to be told, but it offers hope to those inclined to defend the commonsense conviction that justice requires we do more for our associates.

I have cited the special obligations among compatriots in this section to illustrate the difficulties various theories have accommodating our ordinary moral thinking about the bounds of justice, but it is worth pausing to note that this example is also emblematic of our limited understanding of international justice in general. Political theorists are increasingly focusing their attention on this subject, but the returns to this point have been modest because so many of our theoretical models are designed explicitly to speak to justice within a given political unit. Not only has there been too little systematic thinking about the responsibilities among states, political theorists are just beginning to face up to the fact that some of our most important international obligations are to non-sovereign entities such as oppressed minorities, and even imperiled individuals who are either neglected or actively persecuted by their own states. Once one questions the sanctity of each state's sovereignty over its territory – as international lawyers are beginning to do – one recognizes that our old moral road-maps may not be reliable. Matters are further complicated by the emergence of non-governmental organizations and international alliances like NATO and the United Nations, which now compete with states for the lead roles in the international drama. Finally, when one considers the extent to which increased economic and cultural interaction has eroded the significance of political sovereignty, it becomes clear how ill-equipped the traditional political models are for negotiating contemporary international politics. Of course, these same conditions make it an exhilarating time to be a student of global justice, but it is not for those uncomfortable working outside the traditional paradigms.

### **Beyond Justice as Distribution**

Thus far I have interpreted justice solely in terms of the distribution of social benefits and burdens. Although this interpretation is not uncommon, it is important to recognize that some contest the distributive paradigm. In this final section I will first look briefly at the controversy over minority cultural group rights and its implications for understanding justice, and will then review the work of Iris Marion Young, a prominent critic of the distributive paradigm.

In light of the increasingly emphatic demands of minority groups, political theorists have recently turned their attention to the issue of cultural group rights. Following the lead of authors like Will Kymlicka and Allen Buchanan, many now

believe that the best conceptions of justice provide room for some groups to have special collective rights designed to help strengthen and preserve their cultures. The basic idea here is that, because theorists like Rawls insist that justice requires that each person have an equal opportunity to lead a life of self-respect, and because one's self-respect depends crucially upon the health of the culture with which one identifies, no adequate theory of justice can ignore the health of minority cultures. Drawing on this type of reasoning, theorists increasingly allege that various groups should be extended special collective language and property rights, for instance, which give them dominion over the official languages to be used in schools and municipal buildings or over who may own property within a specified territory. Whether or not one is sympathetic to these types of group rights, it is interesting to note that the demands being made by cultural minorities (and the special rights being proposed as solutions) do not on their face fit neatly within the distributive model. To fully appreciate this point, consider the work of Iris Young.

Young begins her analysis with the grievances of victims of injustice and then concludes that these demands cannot be adequately addressed by simply redistributing the benefits and burdens among individuals in a society. Reviewing the claims of various social-justice movements leads Young to conceive of injustice in terms of oppression and domination, where oppression is understood to have the five faces of exploitation, marginalization, powerlessness, cultural imperialism, and violence. Especially key is her contention that people are oppressed not as individuals but as members of groups. Young's analysis of violence nicely illustrates her point. She writes:

What makes violence a face of oppression is less the particular acts themselves, though these are often utterly horrible, than the social context surrounding them, which makes them possible and even acceptable. . . . Violence is systemic because it is directed at members of a group simply because they are members of that group. Any woman, for example, has a reason to fear rape. Regardless of what a Black man has done to escape the oppression of marginality or powerlessness, he lives knowing he is subject to attack or harassment. The oppression of violence consists not only in direct victimization, but in the daily knowledge shared by all members of oppressed groups that they are liable to violation, solely on account of their group identity. Just living under such a threat of attack on oneself or family or friends deprives the oppressed of freedom and dignity, and needlessly expends their energy. (Young, pp. 61–2)

Young urges us to reform those pervasive social institutions which permit or even encourage violence against specific groups, and she emphasizes that the necessary changes would involve much more than merely redistributing goods between various individuals in society. Among other things, they would require measures such as reforming those media like television, movies and pornography which play such a prominent role in producing the stereotypes and images that shape how we understand ourselves and each other.

In the end, Young's main dissatisfaction with the distributive paradigm is twofold. First, by focusing so narrowly on material goods, the distributive paradigm neglects important matters concerning power relations within the social context, which often determine the ultimate patterns of distribution. Second, when theorists try to expand the distributive paradigm beyond material things to other crucial goods, they tend to misrepresent these nonmaterial social goods as though they were static, material things which could be distributed in a manner akin to the way we divvy up income.

Young's attack on the distributive paradigm has been influential, but critics contend that, even if portions of her critique are right on target, it does not follow that the entire distributive model must be jettisoned. For instance, two of Young's strongest points are that: (1) justice involves much more than material goods, and (2) individuals are often oppressed as members of groups. But advocates of the distributive model could seemingly accept both of these claims without abandoning their overall approach. One might argue that Young's points demonstrate only that we must be aware of the distribution of nonmaterial goods like cultural influence and political power and that we need to be vigilant as to how these and other goods are distributed among groups. Of course, Young believes that we necessarily misrepresent these nonmaterial goods when we try to distribute them like income, but defenders of the distributive paradigm object that there is nothing about their model which requires one to treat all goods as akin to income or other material goods. Thus, while many join Young in rejecting the distributive paradigm, others claim that there is ample room to incorporate Young's most important insights into more sophisticated distributive models, which attend to nonmaterial goods and their distribution among groups.

### Conclusion

Readers may be disappointed that I have not touted one theory of justice as uniquely correct. As much as I would like to single out one account as fully adequate, I must confess that I find many of the standard objections compelling. All of the traditional approaches have attractive elements (indeed, they would not have garnered such broad support unless they had captured important insights), but each wrongly supposes that its kernel of truth can tell the whole story. As a staunch defender of the importance of individual self-determination and individual responsibility, I am drawn to libertarianism, but it strikes me that there is insufficient reason to conclude that our rights must trump all claims which do not also stem from the core value of liberty; conversely, while utilitarianism is surely right that the welfare of others creates moral reasons for us to act, it just seems wrong-headed to conclude that future welfare is all that matters morally. Assuming that no existing theory is beyond criticism, where do we go from here?

I suspect that there are no simple answers to this question, but, for several reasons, I think we would do well to follow the lead of Elizabeth Anderson, Michael Walzer, and Iris Young. First, just as Anderson was able to advance the discussion of equality by refocusing on why we worry about inequality, it strikes me that the best way to better understand justice is to become more clear about why we care about injustice, and the best way to do this is to come out of our academic libraries and listen carefully to what actual victims of injustice are saying. In this regard, Young's work stands as a shining example of how the best theories of justice can be crafted only if we remain sensitive to the actual frustrations of those who long for justice. Another reason to take our cue from Young's work is that, like Walzer, she does not give excessive priority to theoretical simplicity. Given that justice rears its head in many forms, it should come as no surprise that Young concludes that oppression has multiple faces. It is striking, however, that – just as Walzer eschews a simple approach in favor of his pluralistic account – Young does not assume that all the faces must belong to a single, many-headed beast. In other words, Young does not insist that one face is basic and the others are derivative, nor does she presume that all must be explained in terms of the same value. While the appeal of building elegant theories which explain all of injustice in terms of a solitary value is understandable, Young is content to stay with a messy, multi-pronged approach. As a consequence, Young's account is neither as elegant nor as clean as many would like, but it has the much more important advantage of being truer to the regrettable facts of injustice. And if so, her theory stands a better chance of showing the way toward an accurate theory of justice and, most importantly, toward the promotion of justice in the real world.

Ultimately I remain hopeful that substantial progress can be made on the question of justice, but it strikes me that we must return to the traditional approaches with a new attitude. Rather than selecting a pet value and ignoring all others, we need to appreciate the real insights which attract people to each of these standard theories and then remain open to combining these various insights into a new whole. Above all, we should resist the temptation to assemble them in an oversimplified fashion. Injustice is not only lamentably pervasive, it is theoretically messy, so perhaps our best chance of explaining justice will come only when we can be content with a similarly untidy, pluralistic account of justice. Seventy years ago, W. D. Ross wrote the following in defense of his positing multiple, non-derivative sources of prima facie duties: "Loyalty to the facts is worth more than a symmetrical architectonic or a hastily reached simplicity" (Ross, p. 23). The preceding survey of contemporary theories of justice convinces me that students of justice would do well to embrace his sentiment.

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