On the Messy "Utopophobia vs Factophobia" Controversy: A Systematization and Assessment[·]

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In recent years, political philosophers have been fiercely arguing over the virtues and vices of utopian vs realistic theorizing. Partly due to the lack of a common and consistently used vocabulary, these debates have become rather confusing. In this chapter, I attempt to bring some clarity to them and, in doing so, I offer a conciliatory perspective on the "utopian vs realistic theorizing" controversy. I argue that, once the notion of a normative or evaluative theory is clearly defined and distinguished from the desiderata that any good theory should satisfy, many of the disagreements between supporters and opponents of "utopian" or "ideal" theorizing can be easily dissolved. I conclude that, in general, political philosophers should be cautious when theorizing at the extreme ends of the "utopian-realistic" spectrum, but that, setting extremes aside, the correct level of realism or idealism depends on the particular question a theory aims to address.

Keywords: Ideal theory, non-ideal theory, utopianism, realism, idealisations, fact-insensitivity, feasibility.

Introduction

David Estlund (2008, chap. 14; 2011; 2014) has recently argued against an attitude in political philosophy he calls "utopophobia." Utopophobes, in Estlund's understanding, problematically compromise normative principles in order to accommodate empirical realities. If it turns out that people are unlikely to conform with what morality requires, utopophobes let them off the moral hook.

While Estlund worries about utopophobia, other political philosophers are concerned about an altogether different pathology within the discipline: what one might call "factophobia." By "factophobia," I mean the tendency to elaborate normative principles under deeply counter-factual assumptions. This tendency, it is argued, results in the development of normative principles that are either misguided or counter-productive in real-world circumstances (e.g. Farrelly 2007; Mills 2005; Galston 2010; for an overview see Valentini 2009).

"Utopophobia" and "factophobia" have in fact been at the heart of recent methodological debates in political philosophy: specifically, though not exclusively, debates about *justice*.[1] These debates—to which I have myself contributed (so, I suppose, I am not excused!)—have become rather messy.[2] My aim in this chapter is

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[1] In the rest of the chapter, I too shall be focusing on justice. Several of the conclusions I reach, though, can be applied, *mutatis mutandis*, to other areas of political philosophy.

[2] The relevant debates are often referred to as those concerning "ideal vs non-ideal" or "realistic vs idealistic" theorizing.

to bring some clarity to them, by systematizing and evaluating the different ways in which a theory of justice might be "utopophobic" (and, conversely, "factophobic").

I suggest that much of what I have called the "messiness" of current debates stems from the fact that these debates—and the discipline of political theory/philosophy more generally—lack a well-defined notion of what a *theory* of *justice* is. Once such a notion is developed, and clearly distinguished from the desiderata that any *good theory* of justice should satisfy, we will be in a better position to both establish what charges of utopophobia (and factophobia) actually mean and assess them. In other words, we will be in a better position to determine what utopophobes (and, conversely, factophobes) are afraid of, and to evaluate if and when their "phobias" are justified.

The chapter is structured as follows. In Section I, partly drawing on joint work with Christian List, I offer a definition of a theory of justice, and lay out a number of desiderata that a good theory of justice should meet. In the subsequent sections, I distinguish and evaluate six different ways in which a theory of justice might be called "utopophobic" (or, conversely, "factophobic") and assess them. I conclude that, for most of the lines of debate I discuss, utopophobes and factophobes are *either* quarrelling for no good reason, since their views are ultimately compatible, *or* both wrong in holding uncompromising positions located at one or the other end of the methodological spectrum. This conclusion, in turn, points in the direction of a more balanced approach to theorizing about justice which, following Rawls (1999b), we might call "realistically utopian."

I. What Is a Theory of Justice?

The notion of a theory of justice, or of a theory more generally, is often invoked in contemporary discussions in moral and political philosophy. What exactly this notion refers to, however, remains unclear. When mentioning the idea of a theory of justice, most think of Rawls's (1971/1999a) "justice as fairness" or Nozick's (1974) "historical entitlement theory of justice," but a clear picture of what makes something (i) "a theory" and (ii) "of justice" is missing.

I.i *Descriptive, normative, and evaluative theories*

So, what is a theory? Christian List and I have recently argued that a theory may be best characterized as *a set of propositions playing a given functional role in an agent's conceptualization of the world* (List and Valentini forthcoming).[3] This functional role varies from theory to theory.

Theories that are explanatory or predictive—e.g. positive physical, biological, or social-scientific theories—aim to account for or predict empirical phenomena. For instance, Newton's theory of physics is explanatory in this sense. Theories that are evaluative or normative, by contrast, aim to evaluate empirical phenomena, or guide our actions in the light of normative principles.[4] Specifically, a theory is *normative* when its constitutive propositions contain deontic operators like "ought," "should," "must," "may"; and it is *evaluative* when its propositions contain evaluative predicates like "just," "unjust," "good," "bad," "fair," "unfair." Rawls's theory of justice, for example, is arguably both evaluative and normative in this sense: it tells us

[3] The present subsection draws on this joint work.

[4] For recent discussion of the normative/prescriptive vs evaluative contrast, see Gilabert (2011) and Tomlin (2012, 42).

under what conditions society is just (evaluation), and sets out duties falling on society's major institutional structures, namely "the state" (prescription).

Finally, it is customary for theories—whether evaluative or normative—to be expressed in axiomatic form or, more informally stated, in the form of general principles—as opposed to a long list of propositions. For example, if we again consider Rawls's theory of justice, this is constituted by all the propositions implied by the equal liberty, fair equality of opportunity and difference principles, in conjunction with empirical assumptions about the society to which the principles are applied in any given instance.

I.ii *Theories of justice*

As anticipated, theories of justice naturally fall within the normative or evaluative realm. In its more general form, justice concerns what *agents are owed*. More specifically, (many of) the theories of justice developed in contemporary political philosophy tend to focus on individuals' *rightfully enforceable entitlements*, namely those entitlements (rights[5]) that may be legitimately enforced by the state or other coercive bodies.

Theories of justice so conceived may be domain-specific. We can meaningfully talk, for instance, about justice at the international level, and justice within the state; justice within the family and justice at the workplace. I am here assuming that the greatest common denominator of all such discussions about justice is reference to what the agents involved are entitled to.

In addition, the propositions constituting a theory of justice may be formulated in either normative terms (e.g. "Each agent *ought to* X") or in evaluative terms (e.g. "A state of affairs *is just* if and only if X is the case").

An illustration of these different types of theories of justice, already expressed in "axiomatized" form, is offered in the table below.

	Evaluative	**Normative**
Domestic justice	"Socio-economic inequalities among members of society are just if, and only if, they are to the greatest benefit of the least well off."	"The state ought only to allow those socio-economic inequalities that are to the greatest benefit of the least-well off."
Global justice	"The global order is just if, and only if, nobody in the world is worse off through no fault of their own."	"Each individual in the world ought to do what they can to ensure that nobody is worse off through no fault of their own."

I.iii *Desiderata on a good theory of justice*

Theories of justice need to be carefully distinguished from the desiderata that they should satisfy. A completely absurd theory of justice—one we would never adopt—still qualifies as a theory of justice if it exhibits the formal characteristics described in the previous section (List and Valentini forthcoming).

A good theory of justice is not merely one displaying those formal characteristics, but one that also meets a number of important desiderata. In what follows, I outline a few candidate desiderata that—at least for most theorists—a good

[5] By a "right" here I mean a Hohfeldian "claim right," always correlative to directed duties (Hohfeld 1917).

account of justice should meet. The list is not exhaustive, but suffices for illustrative purposes.

- **Internal coherence**: A good theory of justice must be internally coherent; namely, it must not contain contradictory propositions.

- **Consistency with "ought implies can"**: A good normative (though not a purely evaluative) theory of justice must set out demands that its addressees can fulfil. For example, arguably, a *normative* theory of justice that required each state not only to minimize the incidence of crime, but to eliminate it altogether, would fail to satisfy this desideratum. It is in fact not within the power of any existing (or realistically possible) state to control its citizens to such an extent as to guarantee that no crime is ever committed.

- **Fit with evidence**: A good theory of justice must "fit" the relevant evidence. For many theorists, the evidence in question is constituted by our most strongly held considered judgements about what people are owed. For example, a theory of justice according to which convicting the innocent turned out to be sometimes just would fail to fit our evidence, namely our strongly held judgement that convicting the innocent is always unjust. This, in turn, would count against the theory (cf. McDermott 2008).

- **Explanatory power:** A good theory of justice must not only "fit" the relevant evidence, but do so in an explanatorily powerful way, namely for the right reasons. For instance, a theory that fits the judgement that convicting the innocent is always unjust, but *explains* this injustice solely by reference to the associated "unnecessary" costs to the penal system is unsatisfactory. Surely, it is the violation of the rights of the innocent that explains the wrong of convicting them.

- **Parsimony**: All other things being equal, a very parsimonious theory (i.e. one with simpler propositions/a less complex system of axioms) is better, namely more useful and tractable, than a less parsimonious one.

With these preliminary remarks in hand, I now proceed to survey some of the claims made in the debate on ideal/utopian vs non-ideal/realistic political theory, interpret them in the light of the above characterization of a theory, and assess their cogency.

II. Utopophobia and Factophobia

As anticipated, by "utopophobia" and "factophobia" I refer to two broad attitudes in political theorizing. But who, exactly, may be said to display the former, and who the latter, attitude?

Utopophobes: This amusing label has been coined by Estlund (2008, chap. 14), in the context of his discussion of democratic theory. I am here borrowing it, and giving it a less technical, broader meaning, to refer to a wide variety of theorists who share a general attitude in thinking about justice—or anyway have been perceived to do so in the literature. Utopophobes—the label says it—"fear the impossible, idealistic, and highly unlikely." In their views, theorizing about justice should be anchored to existing factual realities. Grand theories that abstract away from the messiness, limitations, and pathologies of the world in which we live, so utopophobes

argue, are either useless or counterproductive. The group of utopophobes includes critics of Rawlsian ideal theory such as Charles Mills (2005) and Thomas McCarthy (2004), proponents of a comparative, social-choice theoretic approach such as Amartya Sen (2009), realists about political theory such as William Galston (2010) and Bernard Williams (2005), and political philosophers with conventionalist leanings such as David Miller (2013, chap. 1).[6]

Factophobes: The theorists I label "factophobes" fear that, by remaining anchored to existing real-world facts, theories of justice might either fail to capture what justice fundamentally is, or become a-critical, and defend the status quo rather than offer a perspective from which to evaluate it. Once again, factophobes are a disparate group of thinkers, and their claims are equally diverse: they range from G.A. Cohen's (2003; 2008) defence of fact-free principles of justice, to Estlund's (2011) denial that facts about human motivation should constrain political philosophy, to Ronald Dworkin's (2000) appeal to "the ideal ideal world" in his design of principles of justice.

Interestingly, John Rawls does not seem to fit either of these two categories neatly. Neither factophobes, nor utopophobes would consider him "one of their own." Utopophobes have vehemently criticised his theory of justice—whether in *A Theory of Justice* or in *Political Liberalism*—for being excessively idealised, and insufficiently attentive to the nature of real-world politics (Farrelly 2007; Galston 2010; Williams 2005). Factophobes have equally attacked Rawls for his alleged excessive reliance on facts—about pluralism, human motivation and selfishness—in the design of his normative theories (e.g. Cohen 2000; Pogge 2001).

This shows how the line between the two stances in political philosophy is not an easy one to draw. Still, many contemporary debates operate on the assumption that a meaningful line can, and should, be drawn. In what follows, I too engage in line-drawing, by considering various claims made by theorists in both camps, and relating them back to my definition of a theory of justice. This will allow me to clarify the nature of the disagreement between the two camps, and establish which side is, in relation to any given dimension of the disagreement, closest to the truth. I organize my discussion in two parts. In section III, I consider lines of disagreement between utopophobes and factophobes concerning *the nature and structure* of a plausible theory of justice. In section IV, I turn to disagreements concerning the *desiderata* a good theory of justice should satisfy.

III. Utopophobia, Factophobia and the Nature of a Theory of Justice

Three important lines of debate between utopophobes and factophobes can be helpfully recast as concerning the nature and structure of a theory of justice, and specifically of its underlying principles. These lines of debate focus on: (i) the *scope* of a theory of justice (i.e., wide vs narrow); (ii) the function of a theory of justice (evaluative vs normative); and (iii) the form of a theory of justice (categorical vs comparative).

III.i *The scope of a theory of justice*

[6] What most fundamentally marks out "realism in political theory"—defended by theorists like Galston and Williams—though, is not its sensitivity to real-world facts, but its attempt to establish the political realm as a *sui generis* domain of normative analysis. In the case of political realism (strictly conceived), then, sensitivity to real-world political facts comes as a byproduct of the attempt to establish the normative autonomy of the political. For discussion, see Rossi and Sleat (2014, 690).

Some of the disagreements between "utopophobes" and "factophobes" are ultimately traceable to differences in what theorists in each camp believe the *scope* of a normative or evaluative theory of justice should be (see the discussion in Elster 2011). By "scope" I mean the range of possible circumstances to which the prescriptions (or evaluations) contained in the theory *apply*.[7] To clarify, let us take a normative principle, expressed in conditional form: "Whenever circumstance X obtains, one ought to Y." The consequent of the conditional expresses the principle's *prescription (p)*. The *scope* of the principle is set by the content of the antecedent, which determines when its prescriptions apply.

Consider the following three principles.

- P1: "Whenever a state is marked by deep-seated racial prejudices, (*p1*) it ought to adopt affirmative-action policies."
- P2: "Whenever there is a state, (*p2*) it ought to secure equality of opportunity for its members."
- P3: "Whenever there are agents, (*p3*) they ought to do what they reasonably can to ensure that nobody is worse off through no fault of their own."

Principles P1, P2 and P3 are universal: the truth of the relevant *conditionals* (assuming they are true) is independent of whether their respective antecedents are satisfied or not. But what I have called their *scopes* differ. Prescription *p1* only applies in circumstances where states exist and are marked by deep-seated racial prejudices. Prescription *p2* applies to any existing state, whether marked by prejudices or not. Prescription *p3* applies to *any* set of agents, independently of whether any state exists. In other words, the scope of P1 is narrower than that of P2, which is in turn narrower than that of P3.

The scope of a theory of justice—namely, the range of circumstances to which its prescriptions apply—then, is a matter of degree. On one end of the spectrum lie those who believe that theorizing about justice should deliver prescriptions that are applicable across all possible configurations of facts—namely, closer to P3 (Cohen 2008; for elaboration on this, see the helpful discussion in Pogge 2008, 463). On this view, *fundamentally*, principles of justice should not contain demanding factual antecedents. The presence or absence of certain facts should make no difference to the applicability of their prescriptions. The prescriptions delivered by scope-restricted principles are mere applications of fundamental, "fact-free" principles.

The three principles offered above illustrate this: P3 is the more "fundamental/fact-free" principle which, in conjunction with a certain set of factual assumptions, supports, respectively, prescriptions *p2* and *p1*. For instance, a state's duty to institute affirmative action policies may be described as following from a more fundamental principle of luck-equality (P3), applied to circumstances characterized by racial prejudices. Those who insist that the scope of theories of justice should be maximally wide believe that only principles of wide scope can tell us what justice *really* demands. For them, a theory of justice that contains only heavily scope-restricted principles is superficial and explanatorily deficient: it does not tell us *why* we ought to act in this or that way (Cohen 2003).

On the other end of the spectrum lie those who argue that theories of justice should concentrate on reducing "local" injustices, by proposing feasible

[7] In the rest of this subsection I discuss this distinction focusing on normative theories, but the same conclusions would follow for evaluative ones.

improvements of *existing* institutions, when these exhibit obvious moral failures (Wiens 2012; cf. Sen 2009). For these scholars, the scope of theories of justice is rather narrow—closer to P1. Their proposed prescriptions are meant to apply only to specific situations. By their very construction, such narrow-scope theories tend to be normatively silent about cases that are factually different from those they are explicitly meant to address. From this perspective, the primary aim of a theory of justice is to tell us what to do to make *our world* more just, and the search for principles of wide scope—whose prescriptions apply to worlds different from ours—is simply unnecessary for this task.

Should we favour one end of the spectrum, i.e. either a wide scope or a narrow one? I believe not. Theories of justice—namely, theories about what agents are owed—may legitimately have different scopes, depending on the particular question they ask. For instance, a good theory of "justice between states" is, by definition, one whose scope is restricted to a world of states. It would be surprising if its prescriptions were applicable even in worlds where the state, as an institution, no longer existed. Similarly, a theory setting out prescriptions aimed at improving the justice of the health-care system of the UK is probably not going to deliver prescriptions applicable to contexts different from the British one. By contrast, a general theory of social justice (like Rawls's) is going to set out prescriptions the applicability of which extends beyond a particular context, encompassing a variety of different societies.

Since all of the questions motivating these theories are meaningful and important, so are the theories answering them. The suggestion, or implication, that there might be a "correct scope" for a theory of justice seems misguided. Having said that, I would like to express a word of caution in relation to myopic engagement with theorizing on the two extreme ends of the spectrum only.

Theorizing on the most ambitious extreme, by wanting the prescriptions contained in a theory of justice to be applicable "independently of the facts," is risky. Specifically, it is likely to deliver empty or uninformative normative principles—a charge that critics of G. A. Cohen's style of political philosophy have often levelled against their target (Pogge 2008). For example, P3—"Whenever there are agents, (*p3*) they ought to do what they reasonably can to ensure that nobody is worse off through no fault of their own"—says very little about what people should do in the real world, such as what immigration policies a state should adopt, what system of redistributive taxation it should implement and so on. And giving this principle more concrete content is not merely a matter of "automatic application" to given contexts, it requires first-order moral theorizing—e.g. about where the line between choice and chance is to be drawn, what welfare amounts to, and so forth. What Cohen calls first or fundamental principles of justice are thus likely to be somewhat empty or uninformative.[8] Note that this is not just a "practical" concern, but a theoretical one: a normative principle whose articulation across various circumstances is underspecified has no "full" meaning (cf. Ronzoni 2010, 93ff.).[9]

Conversely, a narrow focus on how specific institutions might be improved, or made more just, without reference to principles of wide scope, might be explanatorily deficient as well as practically counter-productive. For example, in order to know how to best design affirmative action policies, and when to discontinue them, we need

[8] Cf. Sangiovanni's (forthcoming, online early, 18) remarks about the open-textured nature of "higher level values and principles."

[9] I will further qualify this conclusion towards the end of section IV.iii.

to know *in virtue of what* general principle of justice they should be adopted. One such principle could be P2 (demanding equal opportunities), but other candidate principles could be "the state ought always to maximize aggregate happiness" (on the assumption that, when prejudices are deep-seated, affirmative action contributes to doing just that), or "whenever there is a state, it ought to ensure that every social group is equally, or proportionately, represented in positions of advantage." Theories of justice with narrow scope, then, do well to keep "wider" principles in sight, in order to offer better-informed prescriptions.

In sum, the narrow-wide dichotomy is a matter of degree, and there are as many "admissible scopes" in theorizing about justice as there are interesting questions about justice. Except for cautioning theorists of justice not to gravitate exclusively around one end of the spectrum or the other—which is precisely what "extreme" utopophobes and factophobes do—no real "winners" or "losers" can be identified in relation to this line of debate.

III.ii *The function of a theory of justice*

Another line of disagreement between utopophobes and factophobes concerns the function of a theory of justice, and specifically whether this can be purely evaluative, or whether it must also be normative. The "disagreement" most often traces back to disputes about the meaning of the concept of justice (Gheaus 2013). For some theorists (on the utopophobic side), invocation of the idea of justice always requires reference to *actual* rights and duties. Saying that a certain state of affairs is unjust, for them, implies that (i) someone's rights have been violated and (ii) some agent has failed to act on the duties correlative to those rights. In other words, statements about justice taking an evaluative form can be straightforwardly translated into statements about justice taking a normative one (and vice versa).

For other theorists, this is not so. A state of affairs may be meaningfully described as unjust, with nobody having culpably caused it, and nobody being in a position to remedy it. In this case, there are claims about injustice that carry no normative implications, but only evaluative ones. To see this, consider the following two-people world:

> *Tim and Tom*: Tim and Tom are stranded on two separate islands. Tim has plenty of food, water and resources. Tom lives in conditions of dire need. Their difference in resources and wellbeing is a sheer matter of luck. What is more, it is literally physically impossible for Tim to transfer resources over to Tom, or for Tom to move to Tim's island.

What should we say about Tim and Tom's situation? For theorists who believe that justice can be purely evaluative, it makes sense to say that Tim and Tom's situation is *unjust*. What this means is that there is something to be regretted in the status quo, such that, if it could be remedied, it ought to be, as a matter of justice—namely of "right" (cf. Gilabert 2011, 56).[10] For theorists who believe that claims about justice by necessity involve reference to actual (as opposed to counterfactual) rights and duties, Tim and Tom's situation might be regrettable, but not unjust (cf. Gheaus 2013; for further discussion see Mason 2004, 254; Farrelly 2007).

Is there a genuine debate to be had here? Probably not—both positions are plausible, and the "disagreement" between them revolves around a stipulation about

[10] Again, throughout, I am assuming that claims about justice have to do with rights.

what might plausibly fall under the label "justice." To be sure, there may be *strategic* reasons for wanting to use justice only in relation to key rights and duties, without over-expanding its reach. If matters of justice are meant to be particularly serious, and are typically thought to convey wrongdoing, in order not to rob this term of its moral force, we should probably use it only sparingly in a purely evaluative sense.[11] Still, as long as one is clear about the *sense* in which one is using the notion of justice and why, I find it unnecessary to take a stand on whether this notion may *only* refer to normative, or also to purely evaluative, claims. Relatively little hinges on terminological legislation after all.[12]

III.iii *The form of a theory of justice*

Another line of debate, initiated by Amartya Sen (2006; 2009), concerns the form that an *evaluative* theory of justice—and specifically its underlying principles—should have. In his recent critique of mainstream, Rawlsian political theory, Sen has argued (in a "utopophobic fashion") for an approach to political philosophy in which theories of justice do not focus on the ideal of a perfectly just society, but instead provide tools for *comparing* different social states. Comparisons, Sen plausibly argues, are what we need most when it comes to making the world more just. The ideal of a perfectly just society is irrelevant for this purpose.

Setting aside the question of whether Sen's prime target (Rawls) is indeed guilty of what Sen accuses him of (for critiques see Valentini 2011; Gilabert 2012), the distinction he points to, namely that between "transcendental" (which I shall label "categorical") and "comparative" theories is a real one.[13] Specifically, a categorical theory of justice takes the form: "A society is perfectly just if and only if it satisfies the following requirements." A comparative theory, by contrast, takes the form: "Society X is more/less just than society Y if and only if it satisfies the following requirements." On the categorical account, society is either just or unjust. On the comparative one, there are many degrees of justice and injustice.

Is there a "correct" way of thinking about justice? Once again, and perhaps disappointingly by now, I do not think there is. Let me explain. Of course, on some views the form of principles of justice is necessarily "comparative." For instance, a classical utilitarian theory says: "The greater the sum-total utility, the more just society is." In principle, there is no limit to how just a society can be—at least from a purely evaluative point of view (Valentini 2011, 305).[14]

However, to the extent that we take rights and duties to be central to justice—as I have done in this chapter—we have reason to believe that there is in principle such a thing as a "fully just" state of affairs such that we could not *conceive* of an even more just one. This is a state of affairs in which everyone's rights are

[11] One possibility might be to refer to "purely evaluative justice" as "proto-justice."

[12] In this respect, I have somewhat softened my views compared to Valentini (2012), although I would still insist that ceasing to associate justice with "rights" (whether actual or hypothetical) would be unhelpful and deprive the term of its distinctiveness.

[13] I find the notion of "transcendental theorizing" misleading in this context, since it suggests that the theories in question appeal to, or presuppose, a reality beyond the empirical world. This, however, is not what Sen has in mind, despite his choice of terminology. Sen's targets are theories for which the world is either (fully) just or (fully) unjust, as opposed to being characterized by "degrees" of (in)justice.

[14] There are, of course, "practical" limits to the total utility that may be achieved at any given time, and hence to how just we can *make* society (in a *normative* sense) at any given time.

respected.[15] And if justice is a matter of rights, then it is important for a theory of justice to set out the conditions under which everyone's rights are respected, such that we can call *that* state of affairs *fully just*.

Having said that, though, Sen and other critics of "categorical/ideal" theorizing are right in emphasizing that the "categorical" can only take us so far, and that a complete, informative, and helpful theory of justice should also enable us to make comparisons between states of affairs and identify justice-improvements. Knowing what a fully just society would look like is clearly not *sufficient* for that. If theorizing about justice remained only categorical, then, it would be of little use—though certainly of theoretical, and some practical, interest.

Where Sen goes wrong, however, is in suggesting that an interest in comparisons can do without *any* reference to the ideal. In order to decide which "local" improvements in justice we should favour, and how they should be brought about, we need to make reference to the underlying, general, and "categorical" principles of justice telling us what people's rights and duties are. Again, our comparative theory might tell us that: "A state marked by a past of racial injustice that adopts affirmative action policies is *more* just than an identical society that does not." Yet, to understand why this is the case, and in turn make sure that our reforms lead us in the right direction, we need a rough idea of what more general principle of justice underpins this comparative statement (on this see Simmons 2010, 35); this will give our theory greater explanatory robustness. What counts as a full justice-improvement will vary depending on whether "full justice" demands equal representation of groups, substantive equality of opportunity for individuals, or formal equality of opportunity coupled with rectification for its past denial.

Here too, then, there are no winners and losers. Both categorical and comparative stances are meaningful, and a good theory of justice should ideally embrace both—or focus on one, while not completely losing sight of the other.

IV. Utopophobia, Factophobia and the Desiderata on a Theory of Justice

In this section, I consider lines of disagreement between utopophobes and factophobes pitched at the level of the desiderata that a good theory of justice should satisfy. Of the desiderata outlined above, I assume that parsimony, consistency and explanatory power are relatively uncontroversial. Instead, the lines of debate I focus on concern: (i) whether "ought implies can" is a desideratum on a *normative* theory; (ii) if it is, how the "can" should be interpreted; and (iii) whether the *evidence* we offer in support of our theories of justice should involve idealization.

IV.i *"Ought implies can"*

Factophobe theorists, contrary to utopophobes, might believe that "ought implies can" is *not* a desideratum on a plausible theory of justice (Cohen 2008, 250–52). As the previous section already showed, there is a very simple way of explaining this disagreement, by tracing it back to the distinction between evaluative and normative theories. As we saw earlier in the chapter, theories of justice that are *purely* evaluative do not set out duties, that is, they do not imply any "oughts." The desideratum of "ought implies can" is thus irrelevant for them.

[15] I am assuming, in addition, that in this state of affairs individuals have all the rights we think are desirable. This contrasts with the earlier case of Tim and Tom, where Tom's rights to resources were only counterfactual.

If the disagreement between those who defend and those who question the "ought implies can" desideratum is traceable to the earlier one about evaluative vs normative theories of justice, nothing more needs to be said about it. Both positions are plausible, and (substantively) not mutually exclusive: what matters is clearly defining what one means by justice, and why.

A deeper disagreement, however, could occur if theorists differed on whether "ought implies can" was a plausible constraint on *normative* theories of justice. To my knowledge, nobody in what I have called the factophobes-utopophobes controversy explicitly denies that it is. There seems to be general agreement that, from a normative perspective, valid "oughts" presuppose "can-s." There is, however, considerable disagreement about how this "can" should be interpreted. In other words, there are controversies about what type of "possibility" matters for the elaboration of principles of justice. It is to these disagreements that I now turn.

IV.ii *Ought implies what sense of "can"?*

"Ought implies can" is typically treated as a constraint on any plausible normative theory of justice. If the theory's prescriptions violate this requirement, they are invalid. For instance, imagine again that our theory of justice contained the prescription "The state ought to eliminate crime altogether." On a plausible interpretation of "ought implies can," this prescription is not valid, since, given the limits in power and capabilities any imaginable state has, guaranteeing an altogether crime-free society is arguably impossible—even for the best of states. Note that the imperative at hand, addressed to states, differs from the prescription "Every mentally sane member of society ought not to commit crimes." As a demand on individuals, this prescription does not exceed the limits of possibility; but, arguably, it is not within the power *of a state* to make sure that no-one ever commits any crimes. If this is right, imposing on a state the duty to eliminate crime is a "moral" mistake, because it violates "ought implies can."[16]

As I have anticipated, there is disagreement about how the "can" in "ought implies can" should be interpreted. Utopophobes are often accused of favouring too narrow an interpretation, factophobes too permissive an interpretation. This, in turn, may be either (i) because, despite focusing on the same *sense* of possibility in interpreting "can," utopophobes and factophobes hold substantively different views about what is possible for human beings in that sense or (ii) because utopophobes and factophobes focus on different *senses* of possibility. In what follows, I consider both options in turn.

On its broadest interpretation, the "can" in "ought implies can" refers to overall *human agential possibility*, the limits of which are established by reference to *human nature and the human condition*. Theorists who "agree" that this sense of "can" is the correct one when it comes to issuing normative prescriptions, may disagree on what, substantively, the limits of human agential possibility are (cf. the distinction between "hard" and "soft" constraints in Gilabert and Lawford-Smith 2012, 813).[17]

For instance, it is possible that both Rawls and his political realist critics agree on what *sense* of possibility matters in the interpretation of "ought implies can"—i.e. overall human agential possibility—but have different views about human nature and its limits. Rawls (1996) thinks that human beings living under free institutions are

[16] **Cf. Weinberg's contribution [ask Editors]**

[17] For further discussion of feasibility, see Räikkä (1998) and Mason (2004).

bound to develop different, conflicting conceptions of the good, but may still be able to agree on a conception of political justice. In addition, Rawls seems to suppose that it is possible for citizens to conduct political affairs in a non-corrupt manner. Realist critics of Rawls disagree. They believe it is in the nature of politics—and, presumably, human beings—that any set of principles for governing society will be deeply contested, that power corrupts, and that the best a political theory can do is offering principles for managing conflict and corruption (e.g. Galston 2010; Williams 2005; Mouffe 2005). From this realist perspective, one could argue, Rawls's principles are problematic in that they fail to meet the "ought implies can" requirement—they presuppose possibilities that are simply ruled out by the nature of politics. From the perspective of a Rawlsian scholar, realist principles are equally problematic, not because they fail to meet the "ought implies can" constraint, but because they are excessively conservative.

Similarly, the "international" Rawls and his cosmopolitan critics might agree on how "ought implies can" should be interpreted—i.e. as referring to general constraints of human nature and the human condition—but disagree about what human beings, by their nature, *can* do. In Rawls's (1999b) view, a free international order is a pluralistic one, containing not only liberal societies. In addition, Rawls believes it virtually impossible to implement demanding redistributive principles across borders, on the assumption that, psychologically, human solidarity has limits. Cosmopolitans, by contrast, disagree, and seem to imply that it is possible to have both a fully liberal international order and one governed by egalitarian distributive principles (e.g. Pogge 2001). For them, Rawls's principles are unduly conservative, while for a Rawlsian, cosmopolitan principles set out prescriptions that human beings simply cannot realize.

Who is correct? It is hard to tell. It is extremely difficult to establish what the limits of human possibility are: any such attempt is bound to be speculative. As Rawls himself acknowledges:

> … [T]he limits of the possible are not given by the actual, for we can to a greater or lesser extent change political and social institutions and much else. Hence we have to rely on conjecture and speculation, arguing as best we can that the social world we envision is feasible and might actually exist, if not now then at some future time under happier circumstances (Rawls 1999b, 12).

There are, however, important moral reasons for continuing to do work on the more utopian end of the spectrum—where the limits of possibility are "thinnest"—at least so long as the possibility of realizing justice in this more utopian form has *not been conclusively excluded*. This is because we do not want non-conclusively-justified pessimism about human nature to make our theories of justice less ambitious, and our ideals more status-quo biased. Charles Beitz has put the point particularly well, in his defence of cosmopolitan justice:

> Unless international cooperation according to the principles of justice can be *shown to be infeasible*, limiting the scope of the principles to national societies on the grounds that international cooperation does not exist today … would arbitrarily favour the status quo (Beitz 1983, 595, added emphasis).

If prescriptions have not been *proven* impossible, and they strike us as highly morally desirable, then we have good reasons to continue to defend them. Abandoning them on the grounds that "they *might* be impossible" would run the risk of turning this alleged impossibility into a self-fulfilling prophecy (Valentini 2014; cf. Brownlee

2010; Gheaus 2013). For example, giving up on the ideal of global distributive justice on the grounds that it is (allegedly) motivationally impossible for human beings to sustain a global redistributive system—something only speculative at this point—would make the realization of global distributive justice all the more remote.

In sum, *if* utopophobes and factophobes agree that the "can" in "ought implies can" refers to overall human agential possibility, but disagree about what is possible for humans, I provisionally side with factophobes. To the extent that the *impossibility* of X (where X is a justice-based prescription) has not been conclusively proven, we have good moral reasons for assuming optimism, and continue to theorize on the more utopian end of the spectrum.

But what if utopophobes and factophobes disagree about what *types* of constraints should count when interpreting the "can" in "ought implies can"? Some utopophobes, in particular, may be tempted to deliberately include "soft constraints," namely those institutional, cultural and motivational constraints that "place limits on what people are comparatively more likely to do, but the limits are neither permanent nor absolute" (Gilabert and Lawford-Smith 2012, 813). By doing so, however, utopophobes would be abandoning "ought implies can" strictly conceived, and subscribe to a weaker alternative, such as "ought implies reasonably likely" (for discussion see Estlund 2008, 265; 2014, 124). I am not so sure I have personally encountered theorists who *explicitly* adopt this alternative, but if they do, I suspect this is for purely strategic reasons. At any rate, I agree with David Estlund's (implicit) suggestion that assuming "ought implies reasonably likely" is a legitimate move only to the extent that it is made for strategic purposes (Estlund 2011, 217–18).

For example, the "egalitarian party" might firmly believe that high-earners ought to pay 75% tax on income in excess of 250000 GBP on grounds of justice. However, members of the party also know that such a tax proposal would (i) scare the electorate and (ii) not work. Even if the party won, any attempt to implement the reform would result in capital flowing away from the country, with egalitarian aims remaining even more unfulfilled than with a lower tax rate. In those circumstances, it makes *strategic* sense to act as if "ought implies reasonably likely," and propose a tax rate on high income that the rich are likely to tolerate and comply with. This, however, would not imply that the wealthy ought not to pay 75% tax, only that their likely weakness of will, or immorality, makes a policy conforming with their real duties destined to fail. Estlund is thus correct that ought—strictly conceived—does not imply reasonably likely. If utopophobes hold this view, or something in its vicinity, they are mistaken.[18]

Finally, there are disagreements between factophobes and utopophobes that, despite seemingly reflecting different interpretations of "can" in the "ought implies can" desideratum, most likely amount to substantive moral disagreements. Consider, in this respect, the Rawls-Cohen debate on incentives (Cohen 2000, chap. 8). In Rawls's view, inequalities necessary to incentivize talented individuals to be more productive—thereby benefitting the worst off overall—are consistent with the difference principle. Cohen disagrees. In his view, individuals committed to the difference principle ought not to selfishly seek additional rewards to use their talents most productively. Now, one might think that the disagreement between Rawls and Cohen is ultimately traceable to different interpretations of "ought implies can." For

[18] Estlund's (2011) discussion is built around an analogous example, and focuses on Joseph Carens' "Pretax Max" scheme, which involves a requirement on individuals to maximize their pretax income even under a tax regime involving full egalitarian redistribution.

Cohen, ought implies "can" in the strict sense, for Rawls ought implies "reasonably likely"—i.e. since the talented are unlikely to be maximally productive without incentives, maximal productivity without incentives cannot be a demand of justice. Consequently, Rawls's stance is implausible, unless looked at from a strategic perspective.

But a different, and perhaps more accurate, interpretation of this disagreement sees it as a moral one, whereby—for Rawls, but not Cohen—even though it would be *possible* for individuals to act in the spirit of the difference principle, asking them to do so would be *undesirable*. This is because, in their private lives, individuals should be in a position to *freely* choose their occupation on the basis of personal preference, as opposed to a "comprehensive" commitment to benefiting the worst off (Meckled-Garcia 2002, 788). On this reading, the Cohen-Rawls disagreement is similar to the disagreement between, say, Peter Singer (1972) and his opponents. The reason why many object to the idea that we are obligated to prevent bad things from happening when doing so does not involve a sacrifice of equivalent moral weight is not that it is *impossible* to act on this principle, but that acting on it would make one's life much less rewarding and valuable: it would be morally undesirable. When disagreements hinge on such desirability considerations, we are leaving the "meta-level" of what desiderata a good theory of justice should meet, and going back to the first-order substantive level of what would make the world (more) just (for similar considerations, see the discussion of personal prerogatives in Estlund 2011, 222–23).[19]

In sum, the only plausible interpretation of "ought implies can" (for non-strategic reasons) refers to agential possibility. To be sure, there is disagreement about what is possible for human beings to do. In such cases of disagreement, I have argued, we have moral reasons for taking an optimistic stance on human possibility, namely for siding with more "utopo-phile" theorists.

IV.iii *Idealization*

Another line of discussion dividing utopophobes and factophobes concerns the use of idealizations in theorizing about justice. What are "idealizations"? Technically speaking, they are falsities (O'Neill 1996, 40–41). A proposition is idealized with respect to a particular domain if it implies falsehoods about that domain. For example, the claim that "everyone in society pays their taxes" is an idealization, to the extent that, in any society I am aware of, at least a minimum of tax evasion exists.

The use of false—counterfactual—assumptions (i.e. idealizations) in theorizing about justice abounds. Consider the following examples: (i) Rawls's original position thought-experiment, with its assumption of full compliance and its carefully crafted characterization of the "parties"; (ii) Dworkin's shipwreck scenario, where individuals stranded on an island have to bid for resources using clamshells as their currency; (iii) assumptions about full knowledge or lack of uncertainty made in discussions about just-war theory and the justifiability of torture; (iv) reference to "manna from heaven," twin earths, four-eyed human beings, and utility monsters in theorizing about justice.

Utopophobes worry that appeal to such idealizations is problematic in that it renders theories of justice either useless or counter-productive. Factophobes, on the other hand, insist on such idealizations being a necessary component of any good

[19] Estlund (2011, 223) explains that Carens himself would reject a duty to maximize one's pre-tax income under an egalitarian tax scheme on grounds of overdemandingness (see the previous **footnote**).

theory of justice—their function is to either simplify our subject matter (a necessary theoretical move), or to make sure that theories of justice do not simply reproduce the status quo (Stemplowska 2008).

In order to assess the idealization-anti-idealization debate, we first need to understand at what level of theorizing the use of idealizations occurs. This is typically at the level of the provision of evidence in support of a theory, as opposed to the theory itself. Rawls's original position thought experiment, for example, is not "part of his theory of justice," i.e. of the body of propositions following from his principles, but part of the evidence brought forward in support of it. It is evidence in favour of his two principles—Rawls claims—that they are the output of the original position (List and Valentini forthcoming; Sangiovanni forthcoming, online early, 20). Similarly, Ronald Dworkin's shipwreck scenario is not "part of his theory" of equality of resources, but is instead offered as evidence in support of that theory.

This is an important point. Literally speaking, the claim that *a theory* of justice is problematic because it is idealized is uninformative: it means that the theory is problematic because it is false. When critics of idealization make this claim, what they implicitly suggest is that the use of idealizations (often in the form of counter-factuals) *in the evidence* backing theories of justice *inevitably* causes the theories in question to deliver false recommendations for the world in which we live (Mills 2005; McCarthy 2004; Farrelly 2007; cf. O'Neill 1996, 41). The latter is a more informative claim, but is it correct? Does the use of judgements about idealized scenarios as evidence in support of a theory of justice *inevitably* make that theory implausible "for us"?

I believe not. Whether the use of idealized scenarios in supporting theories of justice is problematic or not depends on the particular case at hand. There are examples in which the relevant idealizations do not lead to problematic prescriptive (or evaluative) judgements, and examples in which they do.

For the former case, consider Rawls's "full compliance" assumption. Its function, as A. John Simmons (2010, 8–9) explains, is to make sure that the choice between different principles of justice is genuinely determined by the merits of these principles, and not influenced by concerns about citizens not acting in line with them. These concerns, as we have seen, should be "strategically" taken into account when designing effective institutions, but not when choosing principles of justice. Similarly, consider Rawls's idealized description of the parties in the original position as rational, mutually disinterested and ignorant of their social class, talents and conceptions of the good. The role of these idealizations is to lend support to Rawls's principles by demonstrating that they would be selected under conditions that model a fully fair agreement.

Do these idealizations undermine the plausibility of Rawls's theory, when this is applied to the real world? It seems not. Rawls's principles appear to deliver plausible prescriptions for institutions governing partially compliant, flesh-and-blood human beings. For instance, some utopophobes' protestations that, by abstracting away from the injustices of race and gender discrimination, Rawls's arguments in support of his principles make his theory unable plausibly to address racial and gender injustice is poorly substantiated (Mills 2005; McCarthy 2004). In a society characterized by considerable informal racial discrimination, Rawls's "fair equality of opportunity principle" might well demand the introduction of affirmative action policies or a quota system, namely (at least prima facie) plausible remedies (Valentini 2009). The complaints of the critics, *in Rawls's case*, are ill founded.

More generally, it is not clear why the fact that certain principles are *chosen* under idealized assumptions should make those principles *morally* (as opposed to strategically) ill-suited for real-world circumstances. By way of analogy, consider a real-world negotiation between parties with different bargaining power, which delivers an agreement heavily skewed in favour of the powerful. Now ask what agreement *would have* resulted from a *fair* negotiation, under conditions of equal bargaining power, and without concerns about actors' likely non-compliance with the agreed terms and conditions. Why should the outcome of the latter (hypothetical) negotiation not offer a plausible moral yardstick for evaluating the results of the counterpart, real-world negotiation?

This, however, is not to say that anti-idealization theorists' complaints are *always* without substance. It is also not difficult to see how resort to idealized scenarios, and our moral convictions in them, might give rise to problematic prescriptions for real-world circumstances. This tends to happen when the nature of the evidence in support of a theory does not match its advertised scope. Let me offer one example. Consider a theory of the just conduct of war (jus in bello), whose prescriptions are supported on the basis of our considered judgements in somewhat counter-factual scenarios, i.e. scenarios that would not normally obtain in wars as we know them.[20] The scenarios in question involve, e.g. no uncertainty about (i) who is a soldier and who isn't; (ii) who is going to fire and when; (iii) the effects of one's own actions, and no special psychological distress compared to "normal" circumstances in which one's life is not at risk.

Prescriptions ("oughts") of jus in bello that fit our considered judgements in these kinds of counter-factual scenarios, and are only tested by reference to them, may be problematic if applied to real-world war situations, which are characterized by considerable uncertainty, as well as psychological distress. Using evidence exclusively derived from such "sanitized" war scenarios to support a theory the official scope of which includes real-world cases is thus *risky*. Note, however, that this difficulty can be avoided without altogether abandoning the use of idealized scenarios, but rather by making sure that *the official scope of a theory*—i.e. the set of circumstances to which its prescriptions (or evaluations) are meant to apply—and the evidence used in support of it "match."

My arguments so far suggest that, contrary to what utopophobes argue, appeal to evidence developed in "idealized scenarios" *need not* undermine the validity of a theory of justice. This conclusion, I believe, needs to be somewhat qualified. Specifically, it holds with respect to "highly idealized" scenarios, but not with respect to "outlandish" ones. "Highly idealized" scenarios are ones that, despite not reflecting reality, are in principle compatible with it. They depict the highly unlikely, but not the straightforwardly impossible.

"Outlandish" scenarios, as Jakob Elster (2011) describes them, instead present us with worlds that simply exceed the limits of what we believe is possible, given the limits of human nature. They involve, for instance, people with four eyes, hundreds of legs, utility monsters, and omniscient beings.[21] Do the intuitions developed in these

[20] Some contemporary just-war theorists (especially from the so-called "revisionist" camp) are sometimes criticized for not fully acknowledging the realities of war. My discussion, here, is purely illustrative: I do not have any specific just-war theorist in mind. For discussion of the relationship between contemporary methodological debates in political theory and just-war theory see Lazar and Valentini (n.d.).

[21] As Elster (2011, 244) explains, the humanly impossible features of these scenarios need to be "essential" to them for the scenarios to count as properly outlandish. If reference to "manna from

scenarios constitute sound evidence for the development of a theory of justice? Here I side with Elster (2011, 250), and conclude that they do not, simply because I doubt that it is even possible for us plausibly to *imagine* and *understand* what the scenarios depict. We just do not know what it would be like to have one hundred legs or four eyes. We do not know what society would look like in that case, how much value we would attach to our bodies, and how we would relate to them.

Idealizations in general are not to be avoided—only treated with care—but idealizations that result in outlandish scenarios are not to be trusted. This conclusion feeds back into our previous discussion about the appropriate scope of an account of justice. Whether normative or evaluative, a plausible theory of justice should limit itself to covering *humanly possible* combinations of facts (even if these combinations are far from being instantiated in the actual world). Given how wide the scope of human possibility is, this does not appear to be such a concession for "utopo-phile" theorizing to make.

Conclusion

In this chapter, I have surveyed the utopophobia vs factophobia controversy, and systematized the disagreements between different groups of theorists by reference to (i) a given notion of a theory of justice and (ii) an illustrative account of the desiderata any good theory of justice so defined should meet. My discussion has revealed that, for many of the most prominent lines of this controversy, neither utopophobes nor factophobes are "right": both positions are plausible and not mutually exclusive. In fact, only "extreme" versions of utopophobia and factophobia are to be avoided.

I have also argued that, when it comes to deciding how to interpret the "ought implies can" proviso constraining normative theories of justice, we should take human nature as definitive of the limits of possibility, and adopt an optimistic stance of what these limits are. In other words, the burden of proof of showing that something morally desirable is in fact impossible falls on the sceptic. In this respect, we should thus not be utopophobic, namely we should not be afraid of theorizing under assumptions that appear highly unlikely. I have also argued that the use of idealizations in the evidence supporting a theory of justice is not problematic so long as the idealizations appealed to (i) match the "official scope" of the theory in question and (ii) are not outlandish.

Taken together, the latter two conclusions may be said to suggest an orientation in political philosophy which, following Rawls (1999b), could be described as "realistically utopian," stretching the limits of human possibility far and wide, without falling into "the outlandish."

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heaven" in a scenario can be easily replaced with "natural resources," that scenario does not qualify as genuinely outlandish.

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