

Justice in General: An Introduction

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This is the first volume of *Equality and Justice*, a six-volume collection of the most important articles of the twentieth century on the topic of justice and equality. This volume addresses the following three (only loosely related) issues:

- (1) What is the concept of justice?
- (2) Is justice primarily a demand on individuals or on societies?
- (3) What are the relative merits of conceptions of justice based on equality, based on priority for those who have less, and based on ensuring that everyone has a basic minimum, of the relevant goods?

Other volumes of this collection address the following issues: the general demands of equality (Volume 2); the question of who (animals, members of other societies, future people, etc.) is owed justice (Volume 3); the question of what kinds of goods (welfare, initial opportunity for welfare, resources, capabilities, etc.) are relevant for justice (Volume 4 and part of Volume 5); contractarian conceptions of justice (part of Volume 5); and desert and entitlement conceptions of justice (Volume 6).

1. The Concept of Justice

Justice is a moral concept that has been construed in many different ways. It is most typically construed deontically (e.g., some things are permitted by justice and others are not), but it is also sometimes construed axiological (e.g., some things are more just than others). The object that

justice is taken to assess varies. It is usually taken to assess social institutions, basic social structures (e.g., constitutions), and distributions of goods, but it also taken to assess actions and character-traits.

There are many competing conceptions of justice: libertarian, contractarian, egalitarian, and so on. Each of these theories purports to give an account of the features that determine whether an action, character-trait, social structure, and so on, is just. If these theories are genuine competitors, they must understand the concept of justice in the same way and offer different conceptions (or grounds) of justice. Our first question thus concerns the nature of the concept of justice. Once that is clear, we can consider different conceptions thereof.

I shall suggest that there is no single determinate concept of justice that philosophers (or laypeople) refer to by the term “justice”. There are rather several related, but fundamentally different concepts of justice. If this is right, it is somewhat of an embarrassment for moral and political philosophy. For it suggests that much of the debate over justice is at cross-purposes. If Theory X is a theory of justice¹ and Theory Y is a theory of justice², they are not competitors. They address different topics.

What then is meant by “justice” when philosophers defend theories of justice? The term “justice” is sometimes understood to mean *moral permissibility* as applied to distributions of benefits and burdens or as applied to social structures (e.g., legal systems). In this *first sense*, the specific content of justice is determined by the objects assessed rather than by the set of moral concerns relevant for the assessment. This sense is perhaps best abandoned, given that (1) it makes the term redundant, since it just means “morally permissible”, (2) and there is an established usage (see below) for using “justice” to refer to a particular subset of moral concerns.

A *second sense* of “justice” is concerned with *what we morally owe others*. It is concerned with personal wrongs to others, but not with personal wrongs to self (e.g., failing to

develop one's capacities) or impersonal wrongs (i.e., actions that are wrong but wrong no one; e.g., entertaining certain sexual fantasies, or destroying cultural relics one owns, when this harms no one). What we owe others is roughly what they can claim from us, and this is at least roughly that to which they have a right against us. Duties of justice in this sense are often contrasted with duties of charity. This understanding of "justice" seems fairly useful. It makes justice a particular, but fairly broad, kind of moral concern.¹

A *third sense* of "justice" is concerned with *the limits of legitimate coercion*—with those moral duties we have that others are morally permitted to force us to fulfill. Justice in this sense is concerned only with legitimately enforceable duties (e.g., our duty not to kill others). It is not concerned with those moral duties that are not legitimately enforceable by others (e.g., our duty to keep non-commercial promises to friends). This understanding also seems useful, since it makes justice a particular, but reasonably broad, kind of moral concern. Indeed, on some views, this sense of justice is intimately connected with the preceding one. For some would argue that a duty is legitimately enforceable if and only if it is a duty owed to someone else. This, of course, could be challenged on the ground that some duties to others are too trivial to be legitimately enforceable and on the ground that some duties to self or some impersonal duties are sufficiently important to be legitimately enforceable.

A *fourth sense* of "justice" is as *giving each his due*, where this is here stipulatively understood as meeting the demands of *desert*. This differs from the second sense (what we owe others) in at least three ways. One is that justice in this sense is necessarily based on desert, whereas justice as what we owe others need not be (but may be, if individuals have a right to what they deserve). Second, justice as meeting the demands of desert allows that agent's own desert is relevant to justice (whereas it is not relevant for what we owe others). Third, this sense allows impersonal concerns to be relevant (although it does not require this). For example, it

allows that justice may be purely non-comparative and hold that it is unjust when everyone gets more than she deserves. Justice as what we owe others, on the other hand, does not allow for this kind of impersonal concern. It would hold that such a situation is just, since everyone's claims have been met. This fourth sense of justice—justice as the demands of desert—is perfectly bona fide, but its application is limited to views that recognize issues of desert.

A *fifth sense* of justice is as *fairness*, where this is understood as a purely comparative concern for ensuring that individuals get what they are owed to an appropriate extent. This sense differs from the second sense (what we owe others) in two ways. One is that it includes a concern for ensuring that the agent—as well as others—get what she is owed. A second, and more important, difference is that its concern is purely comparative. It is not concerned with ensuring that individuals get what they are owed independently of what others get, but only with ensuring that the extent to which individuals gets what they are owed is as equal as possible. (The formal requirement that individuals with equal claims be treated equally is a special case of this concern.) Thus, if we are each owed 20 units of benefit, and each currently has zero units of benefit, then it is unjust to give me 10 and you nothing. It is not, however, unjust, in this sense, to give us each nothing. The former is unfair, but the latter is not. This fifth sense of justice—justice as fairness (in the purely comparative sense)—is perfectly bona fide, but its scope of concern is quite limited (since it is not concerned with impersonal duties, nor with giving people what they are owed, nor with making people's lives better).

Justice construed as fairness is necessarily purely comparative, whereas the previous concepts of justice are not necessarily so. The latter, however, usually admit conceptions (particular interpretations) that are purely comparative, purely non-comparative, or mixed. Justice as meeting the demands of desert, for example, can be construed (a) in a purely comparative manner (e.g., calling for equal benefit to desert ratios), (b) in a purely non-

comparative manner (e.g., calling for giving a deserving person a benefit, even though others are more deserving, when the alternative is giving no one any benefit), or (c) in a mixed manner (e.g., always favoring giving a deserving person a benefit rather than giving no one the benefit, but favoring the person with the lower benefit to desert ratio, when the benefit will go to one person or another). Most conceptions of justice are probably of this last mixed sort.

The above list of some common senses of “justice” is not meant to be exhaustive. It is merely meant to highlight the importance of being clear about what we mean before entering debates about what makes something just (the grounds of justice).

2. Individual vs. Social Justice

The second topic addressed in this volume concerns the demands that justice places on individuals (in their actions) and their relation to just social institutions. One extreme, and implausible, view is that the justice of institutions has no relevance for the justice of individual actions. A slightly less extreme view is that justice requires individuals to comply with just institutions when they exist (e.g., to pay the taxes required by an existing just political system) but does not require individuals to promote the existence of just institutions. A more moderate and fairly common, view—one defended by John Rawls in *A Theory of Justice*—is that justice requires only that individuals comply with just institutions when they exist and promote the existence of just institutions *in their formal political behavior* (e.g., voting for or financially supporting political candidates, pressuring political officeholders to vote in a certain way, and voting in certain ways if one is a political office holder). Justice, on this view, does not require individuals to make personal sacrifices in their daily living (e.g., contributing time or money to reduce poverty or taking less pay than they could obtain), if there is no existing just institution that requires them to do so. At the other extreme is the view that justice requires individuals to

do whatever is necessary (within the general constraints of morality) to maximally promote the justness of institutions. Like any maximizing act-consequentialist theory with a fine-grained goal, this is an extremely demanding view.

One question, then, concerns what duties of justice individuals have to promote just institutions. A second question concerns the kinds of institutions that, when they exist and are just, are relevant for determining the duties of justice of individuals. One possibility is that one is only required to comply with just coercive rules (i.e., rules that permit the use of force to ensure compliance or that specify punishments for non-compliance). Alternatively, and somewhat more broadly, the relevant rules may be restricted to those that are capable of sufficiently reliable public verification (e.g., rules requiring the payment of taxes based on one's income, but not rules based on how happy one is). One's duties to comply with just rules, on either of these views, will be much more limited than they would be if there were no such restrictions (of coerciveness or publicness) on the relevant rules. The just rules might simply be those that would be best in some specified sense if they were generally followed. In this case, one's duties to comply with just institutions might include very onerous duties, such as the duty, in certain circumstances, to work in one's most productive capacity or to give up most of the wealth one acquires for distribution to others who are worse off.

A third question concerns how one's duties of justice are affected by the extent to which others are fulfilling their duties of justice. If one's duties of justice are based on the maximization of some goal (e.g., total happiness, or equality of some sort), then, if others don't do their part, one's duties may indeed be more onerous. For example, suppose that, if everyone made a small sacrifice, equality of the relevant sort would be achieved. No one else, however, is doing her part, and it would require an enormous sacrifice from you to achieve (or even just maximize feasible) equality. Do you have a duty of justice to do so? One way of blocking this

implication is to view justice as being collective (or social) in a certain important respect. One could hold, for example, that justice requires that *we* jointly maximize equality as much as we can, but holds that each individual is required to sacrifice only as much as she would be required to sacrifice if everyone were doing as justice required. On this view, the sacrifice that justice requires of one does not depend on that extent to which others fulfill their duties of justice.

A fourth question is whether individuals have any non-institutionally-mediated duties of justice. In a state of nature, for example, do individuals have duties of justice to others (e.g., to relieve poverty)? The question is whether individual duties of justice are all derivative from the justness of social structures or whether at least some duties of justice apply to individuals directly independently of considerations of just social institutions.

3. Equality vs. Priority vs. Sufficiency

The third topic address in this volume contrasts egalitarianism with two closely related views. Egalitarianism in the strict sense is a purely comparative theory: it is only concerned with how one person's benefits compare with those of others. It judges $\langle 0,0 \rangle$ as equally just as $\langle 90,90 \rangle$. If justice is understood as concerned with more than fairness (the purely comparative concern with the extent to which people get what they are owed), then pure egalitarianism is implausible. *Pace* pure egalitarianism, if each person is owed 90, then $\langle 90,90 \rangle$ is more just in this sense than $\langle 0,0 \rangle$. Indeed, $\langle 89,90 \rangle$ is arguably more just than $\langle 0,0 \rangle$. Pure egalitarianism, however, holds that the former are less just, and requires "leveling down" to $\langle 0,0 \rangle$ in each case. The fact that pure egalitarianism can require that everyone be made worse off (e.g., $\langle 0,0 \rangle$ instead of $\langle 89,90 \rangle$) is a powerful objection against pure egalitarianism of justice, if justice is understood as something more than fairness, but not, of course, if it is understood simply as fairness.

The leveling down objection against pure egalitarianism applies, if justice requires some

kind of efficiency. The objection is not applicable to a moderate form of egalitarianism that takes both equality and efficiency into account. A weak and generally accepted kind of efficiency is *Pareto optimality*, which requires that no alternative feasible distribution makes someone better off and no one worse off. For example, if $\langle 1,2 \rangle$, $\langle 1,3 \rangle$, and $\langle 9,1 \rangle$ are the only feasible options, then the second two, but not the first, are Pareto optimal. (Note that sum-total efficiency entails Pareto optimality, but not vice-versa: in the above example, for example, $\langle 1,3 \rangle$ and $\langle 9,1 \rangle$ are both Pareto optimal, but only $\langle 9,1 \rangle$ produces the greatest total.) Another way of ensuring that justice guarantees Pareto optimality is to hold a moderate (or Paretian) form of egalitarianism: a distribution is just if and only if it is a most equal Pareto optimal distribution. In the above example, this theory would favor $\langle 1,3 \rangle$, since it is more equal than $\langle 9,1 \rangle$.

A different way combining a special concern for those who are worse off with a concern for making people's lives better (efficiency) is prioritarianism. Prioritarianism holds that the moral importance of getting the specified goods is greater for those who have less. The moral importance of increasing a miserable person's happiness by one unit, for example, may be deemed much greater than that of increasing a happy person's happiness by one unit. Prioritarianism is typically understood as a theory of value for the distributions of benefits (what is morally better, or more just, than what). It is typically combined with a directive to maximize moral value to produce a theory of justice (e.g., a distribution is just if and only if it is maximally good from the point of view of justice).

One version of prioritarianism is leximin (for "lexically maximize the minimum"), which holds that (1) the worst off person(s) should be made as well off as possible, (2) to the extent compatible with the first dictate (i.e., in cases of ties), the second worst of person(s) should be made as well off as possible, and so on for the third, fourth, etc. worst off person(s). It holds, for example, that $\langle 2,4 \rangle$ (two for the first person and four for the second) is more just than $\langle 2,2 \rangle$.²

Leximin gives, in effect, infinitely greater weight to a worse off person. It holds that giving any benefit—no matter how small—to a worse off person is better than giving a benefit—no matter how large—to a better off person. Many object to this view on the ground that justice sometimes requires giving large benefits to many others rather than a small benefit to one worst off person. Another form of prioritarianism, finitely weighted prioritarianism, gives only *finitely* more weight to benefits for those who are worse off. Like leximin, it judges it better to give a benefit to a worse off person rather than to benefit a better off person by the same amount. Unlike leximin, however, it will sometimes judge it better to give *larger* benefits to those are better off rather *smaller* benefits to those who are worse off (e.g., it could judge $\langle 1, 10 \rangle$ as better than $\langle 2, 2 \rangle$). It will do this when the extra weight assigned to the worse off is offset by the larger benefit that the better off will get.

Pure egalitarianism is concerned with the purely comparative concern of giving people equal shares, whereas prioritarianism is concerned with making peoples lives go better, with greater importance assigned to lives that are going less well. A third view, the sufficiency view, holds that justice requires that everyone get a sufficient (or adequate) amount of the specified goods, but equality is not required. This view agrees with egalitarianism that, when an average share is more than adequate, justice requires that goods be transferred from those who have more than an average share to those who have less than an adequate share. The two views disagree about whether any transfer is required to those who have less than an equal share but more than adequate share. The sufficiency view is closely related to the view that justice requires merely that needs be satisfied. For a natural specification of the adequacy level is as the level at which all basic needs are satisfied. This, of course, raises the question of what needs (as opposed to wants) are.

Suggested Further Reading

1. On the Concept of Justice:

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Steiner, Hillel. *An Essay on Rights* (Cambridge, MA: Blackwell Publishers, 1994).

Walzer, Michael. *Spheres of Justice* (New York: Basic Books, 1983).

2. On the Issue of Individual vs. Social Justice:

Carens, Joseph H. *Equality, moral incentives, and the market: an essay in Utopian politico-economic theory* (Chicago: University of Chicago Press, 1980).

Cohen, G.A.. "Incentives, Inequality, and Community," in *The Tanner Lectures on Human Values*, Volume 13, edited by Gerthe B. Peterson (Salt Lake City: University of Utah Press, 1992).

Cohen, G.A.. "The Pareto Argument for Inequality," *Social Philosophy and Policy* 12 (1995): 160-185.

Pogge, Thomas W.. "On the Site of Distributive Justice: Reflections on Cohen and Murphy," *Philosophy and Public Affairs* (2000): 137-69.

Wolff, Jonathan. "Fairness, Respect, and the Egalitarian Ethos," *Philosophy and Public Affairs* 27 (1998): 97-122.

3. On the Issue of Equality vs. Priority vs. Sufficiency

Braybrooke, David. *Meeting Needs* (Princeton, Princeton University Press, 1987).

Raz, Joseph. *The Morality of Freedom* (Oxford: Clarendon Press, 1986).

Temkin, Larry. *Inequality* (Oxford: Oxford University Press, 1993).

Weirich, Paul. "Utility Tempered with Equality," *Nous* 17 (1983): 423-39.

¹ Of course, on some conceptions of morality, there are no wrongs to self and no impersonal wrongs. On such views, justice in this sense just is morality.

² Closely related to leximin is maximin. It requires that the worst off person in society be made as well off as possible. It gives, however, absolutely no consideration to others in society. Thus, in a two person society it holds that both $\langle 2,3 \rangle$ (two units for the first person, and three for the second person) and $\langle 2,4 \rangle$ are just when the only alternative is $\langle 1,5 \rangle$. It does not require $\langle 2,4 \rangle$, because it gives no consideration to the benefits of the second person (who is not the worst off). For this reason, few people endorse maximin. It is not a version of prioritarianism in the core sense, since it gives no extra priority to a worse off person if that person is not the worst off person.